

**Negotiated Rule Draft No. 2.0**  
**Docket No. 58-0125-1401, Dated February 13, 2015**

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**58.01.25 – RULES REGULATING THE IDAHO POLLUTANT  
DISCHARGE ELIMINATION SYSTEM PROGRAM  
DRAFT 2.0 PERMIT PROCESS, APPLICATION, AND PUBLIC PARTICIPATION  
DRAFT SUBMITTED FOR REVIEW AT FEB 20, 2015 NEGOTIATED RULEMAKING MEETING**

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## **100. EFFECT OF A PERMIT – PURPOSE**

**01.** The issuance of a permit does not convey any property rights or any exclusive privilege nor does it authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations. The issuance of a permit does not constitute authorization of the permitted activities by any other state or federal agency or private person or entity, and does not excuse the permit holder from the obligation to obtain any other necessary approvals, authorizations, or permits.

**02.** Except for any toxic effluent standards and prohibitions imposed under 33 U.S.C. 1317, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with 33 U.S.C. 1311, 1312, 1316, 1317, 1328, and 1345. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set out in Sections 201 and 203.

## **101. DURATION**

**01. Permit Term.** IPDES permits shall be issued for a fixed duration not to exceed 5 years.

**a.** The Department may issue a permit for a period of less than 5 years. An explanation of the reasoning behind issuing a permit for a shorter period shall be provided in the fact sheet.

**b.** The duration of a permit may not be modified to lengthen the effective term of the permit past the maximum 5 year duration.

**02. Continuation of Expiring Permits.** The conditions of an expired permit, whether a federal NPDES permit or a state-issued IPDES permit, will remain fully effective and enforceable until the effective date of a new permit or the date of the Department's final decision to deny the application for the new permit, if:

**a.** The permittee has submitted a timely application for a new permit under Section 105, and the Department determines the application is complete under Section 106; and

**b.** The Department, because of time, resource, or other constraints, but through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit.

**03. Continuation of Expiring Permits During an Appeal.** Whether the conditions of an expired permit remain effective and enforceable during an appeal of a new permit or an appeal of the denial of a permit application is governed by section 204.

## **102. OBLIGATION TO OBTAIN AN IPDES PERMIT**

**01. Persons Who Must Obtain a Permit.**

**a.** Any person who discharges or proposes to discharge a pollutant to a surface water in Idaho and who does not have an IPDES or NPDES permit in effect, shall submit a complete IPDES permit application to the Department, unless the discharge or proposed discharge:

i. Is covered by one or more general permits in compliance with Section 130;

ii. Is excluded from IPDES permit requirements under Subsection 102.02; or

iii. Is by a user of a privately owned treatment works and the Department, under Section 470, does not otherwise require the person to apply for a permit

**b.** Any person who discharges from a permitted facility with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit.

i. Permission may be granted by the Director for submission of an application in less than 180 days. The Director's prior approval must be sought and obtained in advance of the 180 days before expiration of the existing permit.

ii. In no instance shall the application be accepted after the expiration date of the existing permit as an application for renewal of the permit. Any applications received after the expiration of the permit will be received and reviewed as an application for a new source or new discharger.

**02. Exclusions from Permit.** A person shall not discharge pollutants from any point source into waters of the state without first obtaining an IPDES permit from the Department, unless the discharge is excluded from IPDES permit requirements or the discharge is authorized by an IPDES or NPDES permit that continues in effect. Point source discharges excluded from IPDES permit requirements include:

**a.** Any sewage discharge from a vessel, effluent from a properly functioning marine engine, laundry, shower and galley sink wastes, or any other discharge incidental to the normal operation of a vessel as that term is defined in Section 010; however, this exclusion does not apply to:

i. Rubbish, trash, garbage or other material discharged overboard, or

ii. Other discharges when the vessel is operating in a capacity other than as a means of transportation, including when the vessel is:

- (1) Used as an energy or mining facility, a storage facility;
- (2) Secured to a storage facility; or
- (3) Secured to the bed of the waters of the state for the purpose of mineral or oil exploration or development;

**b.** Any discharge of dredged or fill material into waters of the state that is regulated under 33 U.S.C. 1344 (Clean Water Act, sec. 404).

**c.** Sewage, industrial wastes, or other pollutants discharged into publicly owned treatment works (POTWs) by an indirect discharger who has received a "will serve" letter authorizing the discharge to the POTW.

**d.** Any discharge in compliance with the instructions of an on-scene coordinator under 40 C.F.R. Part 300 (The National Oil and Hazardous Substances Pollution Contingency Plan), as revised as of July 1, 2014, or 33 C.F.R. Part 153 (Control of Pollution by Oil and Hazardous Substances, Discharge Removal), as revised as of July 1, 2014.

**e.** Any introduction of pollutants from non-point source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands; however, this exclusion does not apply to discharges from concentrated animal feeding operations (CAFO), discharges from concentrated aquatic animal production (CAAP) facilities, discharges to aquaculture projects, and discharges from silvicultural point sources.

**f.** Any return flow from irrigated agriculture.

**g.** Discharges into a privately owned treatment works, except as the Director may otherwise require under Section 300.

**h.** Discharges from a water transfer. This exclusion does not apply to pollutants introduced by the water transfer activity itself to the water being transferred.

### **103. PERMIT PROHIBITIONS.**

The Department will not issue an IPDES permit for a discharge:

**01.** Unless the conditions of the permit provide for compliance with the applicable requirements of 33 U.S.C. 1251 – 1387 (Clean Water Act), this Chapter, and IDAPA 58.01.02; or

**02.** When the Department has received from the EPA Regional Administrator written objection to issuance of the permit; or

**03.** When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states; or

**04.** When, in the judgment of the Secretary of the United States Army Corp of Engineers, anchorage and navigation in or on any of the waters of the United States would be substantially impaired by the discharge; or

**05.** Of any radiological, chemical, or biological warfare agent or high level radioactive waste; or

**06.** That is inconsistent with a plan or plan amendment approved under 33 U.S.C. 1288(b); or

**07.** From a new source or new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards.

**a.** When the owner or operator of a new source or new discharge proposes to discharge into a water segment that does not meet applicable water quality standards, or that is not expected to meet those standards even after the application of the effluent limitations required by 33 U.S.C. 1311(b)(1)(A), and for which the state or interstate agency has performed a pollutants load allocation for the pollutant to be discharged, then the owner or operator must demonstrate that:

i. There are sufficient remaining pollutant load allocations to allow for the discharge, and

ii. The existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards.

**b.** The Director may waive the submission of the information by the permit applicant required in Subsection 103.07.a103.07.a.ii. if the Director determines that the Department already has adequate information to evaluate the request.

**c.** An explanation of the development of limitations to meet the criteria of this paragraph is to be included in the fact sheet to the permit.

#### **104. PRE-APPLICATION PROCESS.**

Any person who intends to apply for a permit or who proposes to discharge a pollutant into the waters of the state should contact the Department to schedule a meeting prior to submitting an application to discuss:

**01.** whether the actions or proposed facility will require an IPDES permit, and whether other suitable permitting options are available;

**02.** IPDES permit application requirements; and

**03.** IPDES permit application submittal schedule.

#### **105. APPLICATION FOR AN IPDES PERMIT.**

**01. Electronic Submittals.** The applicant may submit information required by this Section electronically if the Department approves an electronic method of submittal.

**02. Application Retention Schedule.** An applicant shall keep records of all data used to complete a permit application and any supplemental information submitted for a period of at least three years from the date the application is signed.

**03. Time to Apply.** Any person required under Subsection 102.01 to obtain a permit under the IPDES program shall submit to the Department a complete application for a permit in compliance with the requirements of this Subsection. For an IPDES general permit, an application is not required but a Notice of Intent (NOI) must be submitted as set out in Section 130 Administration of General Permits. A permit application must be signed and certified as required by Subsection 105.04.

**a.** A person proposing a new discharge shall submit an application at least 180 days before the date on which the discharge is to commence, unless the Department has granted permission to submit the application on a later date as specified in Subsection 102.01.b.i. A facility proposing a new discharge of storm water associated with industrial activity shall submit an application 180 days before that facility commences industrial activity that may result in a discharge of storm water associated with that industrial activity, unless the Department has granted permission to submit the application on a later date as specified in Subsection 102.01.b.i.

**b.** A storm water discharge facility described under 40 C.F.R. 122.26(b)(14)(x) or (b)(15)(i), incorporated by reference, shall submit an application at least 90 days before the date on which construction is to commence unless otherwise required by the terms of an applicable general permit. A storm water discharge facility permitted under an expiring general permit shall submit a new notice of intent to obtain permit authorization under the new general permit.

**c.** A person discharging from a permitted facility with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit.

**04. Signature Requirements for Permit Applications and Reports.**

**a.** An IPDES permit application must be signed as follows:

**i.** for a corporation, a responsible corporate officer shall sign the application; in this Subsection, a responsible corporate officer means

(1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

(2) the manager of one or more manufacturing, production, or operating facilities, if

(a) the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental statutes and regulations;

(b) the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and

(c) authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

**ii.** for a partnership or sole proprietorship, the general partner or the proprietor, respectively, shall sign the application; and

**iii.** for a municipality, state, or other public agency, either a principal executive officer or ranking elected official shall sign the application; in this Subsection, a principal executive officer of an agency means

- (1) the chief executive officer of the agency; or
- (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit or division of the agency.

**b.** Any report required by an IPDES permit, and a submittal with any other information requested by the Department, must be signed by a person described in Subsection 105.04.a., or by a duly authorized representative of that person. A person is a duly authorized representative only if

- i. the authorization is made in writing by a person described in Subsection 105.04.a.;
- ii. the authorization specifies either
  - (1) an individual or a position having responsibility for the overall operation of the regulated facility or activity, including the position of plant manager, operator of a well or a well field, superintendent or position of equivalent responsibility; or
  - (2) an individual or position having overall responsibility for environmental matters for the company; and
- iii. the written authorization is submitted to the Department.

**c.** If an authorization is no longer accurate due to a change in staffing or personnel for the overall operation of the facility, a new authorization satisfying the requirements of Subsection 105.04.a. must be submitted to the Department before or together with any report, information, or application to be signed by an authorized representative.

**d.** Any person signing a document under Subsections 105.04.a. or 105.04.b. shall certify as follows: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

**05. Permit Application Forms.** An applicant must submit an application on one or more Department-approved forms appropriate to the number and type of discharge or outfall at the applicant's facility

**a.** A person required by Subsection 102.01 to obtain an IPDES permit shall submit an application to the Department providing the information required by this Subsection and Subsections 105.06 – 105.17, if applicable. The application must be submitted on one or more of the EPA forms listed in this Subsection, or on the Department equivalent of the listed EPA form:

i. for an applicant other than a POTW and other treatment works treating domestic sewage, EPA Form 1, revised as of August 1, 1990, incorporated by reference, and the following additional forms, if applicable:

- (1) all applicants shall complete the appropriate parts of EPA Form 2A, revised January 14, 1999, containing basic and supplemental application information;
- (2) for an applicant that is a concentrated animal feeding operation (CAFO) or concentrated aquatic animal production (CAAP) facility, EPA Form 2B, revised as of November 2008, incorporated by reference;
- (3) for an applicant that is an existing industrial facility, including manufacturing facilities, commercial facilities, mining activities, and silviculture activities, EPA Form 2C, revised as of August 1, 1990, incorporated by reference;

(4) for an applicant that is a new industrial facility that discharges process wastewater, EPA Form 2D, revised as of August 1, 1990, incorporated by reference;

(5) for an applicant that is a new or existing industrial facility that discharges only non-process wastewater, EPA Form 2E, revised as of August 1, 1990, incorporated by reference;

(6) for an applicant that is a new or existing facility whose discharge is composed entirely of storm water associated with industrial activity, EPA Form 2F, revised May 31, 1992, unless the applicant is exempted by 40 C.F.R. 122.26(c)(1)(ii), incorporated by reference; if the applicant's discharge is composed of storm water and non-storm water, EPA Forms 2C, 2D, or 2E, as appropriate;

(7) for an applicant that operates a sludge-only facility, that currently does not have and is not applying for, an IPDES permit for a direct discharge to a surface water body, EPA Form 2S, revised January 14, 1999;

ii. for an applicant that is a new or existing POTW

(1) EPA Form 1, revised as of August 1, 1990, incorporated by reference;

(2) EPA Form 2A, revised January 14, 1999, incorporated by reference;

(3) EPA Form 2S, revised January 14, 1999, incorporated by reference, if applicable.

**06. Required Permit Application Information for Treatment Works Treating Domestic Sewage Other than a POTW.** An applicant for an IPDES permit other than a POTW and other treatment works treating domestic sewage, shall provide the following information to the Department, using the appropriate forms specified in Subsection 105.05.a.:

a. the applicant's activity that requires an IPDES permit;

b. the name, mailing address, electronic mail address, and location of the facility for which the application is submitted;

c. up to four North American Industry Code System (NAICS) codes that best identify the principal products or services provided by the facility;

d. the operator's name, mailing address, electronic mail address, telephone number, ownership status, and status as federal, state, private, public, or other entity;

e. a statement that the facility is located in Indian country, if applicable;

f. a listing of all permits or construction approvals received or applied for under any of the following programs:

i. hazardous waste management program under IDAPA 58.01.05 (Resource Conservation and Recovery Act);

ii. underground injection control (UIC) program under the Idaho Department of Water Resources UIC program at IDAPA 37.03.03 (Safe Drinking Water Act);

iii. IPDES or NPDES program under IDAPA 58.01.25 (Clean Water Act, sec. 402);

iv. prevention of significant deterioration (PSD) program under IDAPA 58.01.01 (Clean Air Act);

v. nonattainment program under IDAPA 58.01.01 (Clean Air Act);



vi. national emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01 (Clean Air Act);

vii. dredge or fill permits under 33 U.S.C. 1344 (Clean Water Act, sec. 404);

viii. other relevant environmental permits, programs or activities, including those subject to state jurisdiction, approval, and permits;

**g.** a topographic map, or other map if a topographic map is unavailable, extending one mile beyond the property boundaries of the source, depicting

i. the facility and each of its intake and discharge structures;

ii. the location of the facility's hazardous waste treatment, storage, or disposal areas;

iii. the location of each well where fluids from the facility are injected underground; and

iv. the location of wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known by the applicant to exist in the map area;

**h.** a brief description of the nature of the business.

**07. Required Permit Application Information for Existing Manufacturing, Commercial, Mining and Silviculture Dischargers.**

**a.** Except for a facility subject to the requirements in Subsection 105.08, an applicant for an IPDES permit for an existing discharge from a manufacturing, commercial, mining, or silviculture facility or activity shall provide the following information to the Department, using the applicable forms specified in Subsection 105.05.

i. the latitude and longitude of each outfall location to the nearest 15 seconds and the name of each receiving water;

ii. for each outfall:

(1) a narrative identifying each type of process, operation, or production area that contributes wastewater to the effluent from that outfall, including process wastewater, cooling water, and storm water runoff; processes, operations, or production areas may be described in general terms, such as "dye-making reactor" or "distillation tower";

(2) the average flow that each process contributes and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

(3) for a privately owned treatment works, the identity of each user of the treatment works;

(4) the average flow of point sources composed of storm water; for this sub-paragraph, the average flow may be estimated, and the basis for the rainfall event with the method of estimation must be submitted;

iii. a description of the frequency, duration, and flow rate of each discharge occurrence for any of the discharges described in Subsection 105.07.a.ii. that are intermittent or seasonal, except for storm water runoff, spillage, or leaks;

iv. a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline, if an effluent guideline promulgated under 33 U.S.C. 1314 applies to the applicant and is expressed in terms of production or other measure of operation; the reported measure must reflect the actual production of the facility as required by Section 302, Calculating Permit Provisions;

v. if the applicant is subject to any present requirements or compliance schedules for construction, upgrading, or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates;

vi. a listing of any toxic pollutant that the applicant currently uses or manufactures as an intermediate or final product or byproduct, except that the Department may waive or modify this requirement

(1) if the applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant;  
and

(2) the Department has adequate information to issue the permit;

vii. an identification of any biological toxicity tests that the applicant knows or has reason to believe have been made within the last three years on any of the applicant's discharges or on a receiving water in relation to a discharge;

viii. the identity of each laboratory or firm and the analyses performed, if a contract laboratory or consulting firm performed any of the analyses required by Subsection 105.07.c.

**b. Line drawing.** The owner or operator of a facility subject to this Section shall submit with an application a line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. In the line drawing, similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under Subsection 105.07.a.ii. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units. If a water balance cannot be determined for certain activities, the applicant may instead provide a pictorial description of the nature and amount of any sources of water and any collection and treatment measures.

**c. Effluent characteristics.** In addition to the items of information listed in Subsections 105.07.a. and 105.07.b, and except for information on storm water discharges required by 40 C.F.R. 122.26, incorporated by reference, an applicant for an IPDES permit for an existing facility described in Subsection 105.07.a. shall

i. collect, prepare, and submit information regarding the discharge of pollutants specified in this Section and effluent characteristics; and

ii. when quantitative data for a pollutant are required, collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 C.F.R. Part 136, incorporated by reference, except that when no analytical method is approved, the applicant may use any suitable method but must describe the method.

**d. Sampling and data collection.** An applicant for an IPDES permit under this Section shall:

i. use grab samples in providing information regarding, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform (including E. coli), Enterococci (previously known as fecal streptococcus), and volatile organics. Temperature, pH, and residual chlorine effluent data may be obtained from grab samples or continuous monitoring, as specified in Subsection 105.07.d.iii. may be used;

ii. For all other pollutants, the applicant shall use 24-hour composite samples, except that a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours.

iii. Continuous sampling or monitoring may be used for pH, temperature, flow, and residual chlorine.

iv. For discharges other than storm water discharges, the Department may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is not feasible and that a minimum of four grab samples will be a representative sample of the effluent being discharged.

e. Exceptions to testing and data provision requirements for effluent characteristics. For purposes of Subsection 105.07.c.,

i. when an applicant has two or more outfalls with substantially identical effluents, the Department may allow the applicant to test only one outfall and report that the quantitative data also apply to the substantially identical outfall;

ii. an applicant's duty under Subsections 105.07.j., k, and l to provide quantitative data for certain pollutants known or believed to be present does not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant shall report that those pollutants are present.

f. Storm water discharges. For storm water discharges associated with an existing facility described in Subsection 105.07.a.,

i. all samples must be collected from the discharge resulting from a storm event and shall be collected at least 72 hours from the previously measurable storm event, and, where feasible, from a storm event that does not exceed the duration and total rainfall of the average or median storm event in that area by more than 50 percent;

ii. a flow-weighted composite sample must be taken for either the entire discharge or for the first three hours of the discharge, except for the following:

(1) the sampling may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of 15 minutes; if the Department approves, an applicant for a storm water discharge permit under 40 C.F.R. 122.26(d), incorporated by reference, may collect flow-weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots;

(2) a minimum of one grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than 24 hours;

(3) for a flow-weighted composite sample, only one analysis of the composite of aliquots is required;

iii. for samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first 30 minutes, or as soon thereafter as practicable, of the discharge for all pollutants specified in 40 C.F.R. 122.26(c)(1), incorporated by reference, except that for all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants specified in 40 C.F.R. 122.26, incorporated by reference, but not for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus;

iv. the Department may, on a case-by-case basis, allow or establish appropriate site-specific sampling procedures or requirements, including

(1) sampling locations;

(2) the season in which the sampling takes place;

(3) the minimum duration between the previous measurable storm event and the sampled storm event;

(4) the minimum or maximum level of precipitation required for an appropriate storm event;

- (5) the form of precipitation sampled, whether snow melt or rain fall;
- (6) protocols for collecting samples under 40 C.F.R. Part 136, incorporated by reference; and
- (7) additional time for submitting data;

v. an applicant is deemed to know or have reason to believe that a pollutant is present in an effluent if an evaluation of the expected use, production, or storage of the pollutant, or any previous analyses for the pollutant, show that pollutant's presence.

**g. Reporting requirements.** Unless a reporting requirement is waived under Subsection 105.07.h., every applicant subject to this Section shall report quantitative data for the following pollutants for every outfall:

- i. 5-day biochemical oxygen demand (BOD5);
- ii. chemical oxygen demand (COD);
- iii. total organic carbon (TOC);
- iv. total suspended solids (TSS);
- v. ammonia, as N;
- vi. temperature (both winter and summer);
- vii. pH

**h. Waiver.** The Department may waive the reporting requirements for individual point sources or for a particular industry category for one or more of the pollutants listed in Subsection 105.07.g. if the applicant demonstrates that information adequate to support issuance of a permit can be obtained with less stringent requirements.

**i.** Processes in one or more primary industry categories. Except as provided in Subsection 105.07.n., an applicant with an existing facility described in Subsection 105.07.a. that has processes that qualify in one or more of the primary industry categories shown in Appendix A to 40 C.F.R. Part 122, incorporated by reference, contributing to a discharge, must report quantitative data for pollutants in each outfall containing process wastewater as follows:

i. data for the organic toxic pollutants listed in Table II of Appendix D to 40 C.F.R. Part 122, incorporated by reference, in the fractions designated in Table I of Appendix D to 40 C.F.R. Part 122, incorporated by reference; for purposes of this paragraph:

(1) Table II of Appendix D to 40 C.F.R. Part 122, lists the organic toxic pollutants in each fraction; the fractions result from the sample preparation required by the analytical procedure that uses gas chromatography/mass spectrometry;

(2) if the Department determines that an applicant falls within an industrial category for the purposes of selecting fractions for testing, that determination does not establish the applicant's category for any other purpose; see Notes 2, 3, and 4 to 40 C.F.R. 122.21, as revised as of July 1, 2005;

ii. data for the toxic metals, cyanide, and total phenols listed in Table III of Appendix D to 40 C.F.R. Part 122, incorporated by reference.

**j.** Disclosure regarding conventional and nonconventional pollutants. An applicant for an IPDES permit under this Section must disclose in an application whether the applicant knows or has reason to believe that any of the conventional and nonconventional pollutants in Table IV of Appendix D to 40 C.F.R. Part 122,

incorporated by reference, are discharged from each outfall. If an applicable effluent limitations guideline limits the pollutant either directly or indirectly by express limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged that is not limited in an effluent limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

**k.** Disclosure regarding organic toxic pollutants, toxic metals, cyanide, or total phenols. An applicant for an IPDES permit under this Section must disclose in an application whether the applicant knows or has reason to believe that any of the organic toxic pollutants listed in Table II or the toxic metals, cyanide, or total phenols listed in Table III of Appendix D to 40 C.F.R. Part 122, incorporated by reference, for which quantitative data are not otherwise required under Subsection 105.07.i., are discharged from each outfall. Unless an applicant qualifies as a small business under Subsection 105.07.n., the applicant must

i. report quantitative data for every pollutant expected to be discharged in concentrations of 10 parts per billion or greater;

ii. report quantitative data for acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4, 6 dinitrophenol, if any of these four pollutants are expected to be discharged in concentrations of 100 parts per billion or greater;

iii. for every pollutant expected to be discharged in concentrations less than 10 parts per billion, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and 2- methyl-4, 6 dinitrophenol, in concentrations less than 100 parts per billion, either submit quantitative data, or briefly describe the reasons the pollutant is expected to be discharged and submit any supporting documentation.

**l.** Disclosure regarding asbestos or hazardous substances in discharge. An applicant for an IPDES permit under this Section must disclose in an application whether the applicant knows or has reason to believe that asbestos or any of the hazardous substances listed in Table V of Appendix D to 40 C.F.R. Part 122, incorporated by reference, are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged and report any quantitative data it has for any pollutant.

**m.** Disclosure regarding certain chlorinated compounds. An applicant for an IPDES permit under this Section must disclose in an application and report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7, 8-tetrachlorodibenzo-p-dioxin (TCDD) if the applicant

i. uses or manufactures the following:

- (1) 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T);
- (2) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP);
- (3) 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon);
- (4) o,o-dimethyl o-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel);
- (5) 2,4,5-trichlorophenol (TCP);
- (6) hexachlorophene (HCP); or

ii. knows or has reason to believe that TCDD is or may be present in an effluent.

**n.** Small business exemption. An applicant under this Section is exempt from the quantitative data requirements in Subsections 105.07.i.i. or 105.07.k. for the organic toxic pollutants listed in Table II of Appendix D to 40 C.F.R. Part 122, incorporated by reference, if that applicant qualifies as a small business under one of the following criteria:

i. the applicant is a coal mine with an expected total annual production of less than 100,000 tons per year;

ii. the applicant has gross total annual sales averaging less than \$287,300 per year in 2014 dollars.

**o. Additional information.** In addition to the information reported on the application form, an applicant under this Section shall provide to the Department, at the Department's request, any other information that the Department may reasonably require to assess the discharges of the facility and to determine whether to issue an IPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and information required to determine the cause of the toxicity.

**p.** Definition: In this Section, "storm water event" means a rainfall greater than .1 inch.

**08. Required Permit Application Information for existing manufacturing, commercial, mining, and silviculture facilities that discharge only non-process wastewater.**

**a.** Information requirements. An applicant for an IPDES permit that is a manufacturing, commercial, mining, or silvicultural discharger that discharges only non-process wastewater not regulated by an effluent limitations guideline or new source performance standard shall provide the following information to the Department for all discharges, except for storm water discharges, using the applicable forms specified in Subsection 105.05:

i. the number of each outfall, the latitude and longitude to the nearest 15 seconds, and the name of each receiving water;

ii. for a new discharger, the date of expected commencement of discharge;

iii. an identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, restaurant or cafeteria wastes, or non-contact cooling water;

iv. an identification of cooling water additives, if any, that are used or expected to be used upon commencement of operations, along with their composition if existing composition is available;

v. effluent characteristics prepared and submitted as described in Subsections 105.08.b. and 105.08.c.;

vi. a description of the frequency of flow and duration of any seasonal or intermittent discharge, except for storm water runoff, leaks, or spills;

vii. a brief description of any treatment system used or to be used;

viii. any additional information the applicant wishes to be considered, such as influent data for the purpose of obtaining net credits under Subsection NNN.NN.;

ix. the signature of the certifying official under Subsection 105.04.

**b.** Effluent characteristics. Except as otherwise provided in Subsections 105.08.d., e, or g, an IPDES permit application for a discharger described in Subsection 105.08.a must include quantitative data for the following pollutants or parameters:

i. 5-day biochemical oxygen demand (BOD5);

ii. total suspended solids (TSS);

iii. fecal coliform, if believed present or if sanitary waste is or will be discharged;

- iv. total residual chlorine (TRC), if chlorine is used;
  - v. oil and grease;
  - vi. chemical oxygen demand (COD), if non-contact cooling water is or will be discharged;
  - vii. total organic carbon (TOC), if non-contact cooling water is or will be discharged;
  - viii. ammonia, as N;
  - ix. discharge flow;
  - x. pH;
  - xi. temperature, both in winter and summer, respectively.
- c.** Sampling and data collection. For purposes of the data required under Subsection 105.08.b.,
- i. grab samples must be used for oil and grease, fecal coliform, and volatile organics. Temperature, pH, and TRC effluent data may be obtained from grab samples or continuous monitoring, as specified in Subsection 105.08.c.iii., may be used;
  - ii. 24-hour composite samples must be used for pollutants listed in Subsection 105.08.b. other than those specified in Subsection 105.08.c.i. 24-hour composite samples must, at a minimum, be composed of 4 grab samples, equally spaced through the 24-hour period, unless specified otherwise at 40 DFR Part 136, incorporated by reference ;
  - iii. continuous sampling or monitoring may be used for pH, temperature, flow, and TRC.
  - iv. the quantitative data may be collected over the past 365 days, as long as the data is representative of current operations, and must include maximum daily value, average daily value, and number of measurements taken; and
  - v. the applicant shall collect and analyze samples in accordance with 40 C.F.R. Part 136, incorporated by reference.
- d.** Waiver. The Department may waive the testing and reporting requirements for any of the pollutants or flow listed in Subsection 105.08.b. if the applicant requests a waiver with its application or earlier, and demonstrates that information adequate to support permit issuance can be obtained through less stringent requirements.
- e.** Additional information if applicant is a new discharger. If the applicant is a new discharger, the applicant shall
- i. complete and submit Item IV of EPA Form 2E, or the Department equivalent, as required by Subsection 105.05.a.i(4), by providing quantitative data in compliance with that Section no later than two years after the discharge commences, except that the applicant need not complete those portions of Item IV requiring tests that the applicant has already performed and reported under the discharge monitoring requirements of its IPDES or NPDES permit; and
  - ii. include estimates and the source of each estimate instead of sampling data for the pollutants or parameters listed in Subsection 105.08.b.;
- f.** Reportable measurements of pollutants. For purposes of the data required under this Section, all pollutant levels must be reported or estimated as concentration and as total mass, except for flow, pH, and temperature. Submittal of all estimated data shall be accompanied by documents supporting the estimated value.

**g.** Exemption. An applicant's duty, under Subsections 105.08.b. and 105.08.e. to provide quantitative data or estimates of certain pollutants does not apply to pollutants present in a discharge solely as a result of their presence in intake water. However, an applicant shall report the presence of those pollutants. If the requirements of Subsection NNN.NN are met, net credit may be provided for the presence of pollutants in intake water.

**09. Permit Application Requirements for new and existing Concentrated Animal Feeding Operations (CAFO).**

**a.** An applicant for an IPDES permit for a new or existing CAFO, as defined in 40 C.F.R. 122.23(b) and incorporated by reference, shall provide the following information to the Department, using the applicable forms specified in Subsection 105.05.a.:

- i. the name of the owner or operator;
- ii. the facility location and mailing addresses;
- iii. latitude and longitude of the production area, measured at the entrance to the production area;
- iv. instead of the map or alternative information required by Subsection 105.06.g, a topographic map of the geographic area in which the concentrated animal feeding operation is located, showing the specific location of the production area;
- v. specific information about the number and type of animals, including if applicable: beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, or other animals, whether in open confinement or housed under roof;
- vi. the type of containment and total capacity in tons or gallons of any anaerobic lagoon, roofed storage shed, storage pond, under-floor pit, above-ground storage tank, below-ground storage tank, concrete pad, impervious soil pad, or other structure or area used for containment and storage of manure, litter, and process wastewater;
- vii. the total number of acres available and under the applicant's control for land application of manure, litter, or process wastewater;
- viii. estimated amounts of manure, litter, and process wastewater generated per year in tons or gallons;
- ix. estimated amounts of manure, litter, and process wastewater transferred to other persons per year in tons or gallons;
- x. certification that a nutrient management plan has been completed and will be implemented upon the date of permit coverage.

**10. Permit Application Requirements for new and existing Concentrated Aquatic Animal Production (CAAP) facilities.** An applicant for an IPDES permit for a new or existing CAAP facility shall provide the following information to the Department, using the applicable forms specified in Subsection 105.05.a:

- a.** the maximum daily and average monthly flow from each outfall;
- b.** the number of ponds, raceways, and similar structures;
- c.** the name of the receiving water and the source of intake water;
- d.** for each species of aquatic animal, the total yearly and maximum harvestable weight;
- e.** the calendar month of maximum feeding and the total mass of food fed during that month.



**11. Permit Application Requirements for new and existing POTWs and other dischargers designated by the Department.**

**a.** Permit application. Except as provided in Subsection 105.11.b., an applicant that is a POTW and any other discharger designated by the Department shall provide the information in this Section to the Department, using the applicable forms specified in Subsection 105.05.a. A permit applicant under this Section shall submit all information available at the time of permit application; however, an applicant may provide information by referencing information previously submitted to the Department. Industries proposing to discharge to a POTW that does not have an established and effective pretreatment program shall submit an IPDES permit application after receiving a “will serve” letter from the POTW. The applicant shall complete the necessary forms stipulated in Subsection 105.05.

**b.** Waiver. The Department may waive any requirement of this Section if the Department has access to substantially identical information, or if that information is not of material concern for a specific permit,

**c.** Information requirements. An applicant under this Section must provide the following information:

- i. name, mailing address, and location of the facility for which the application is submitted;
- ii. name, mailing address, electronic mail address, and telephone number of the applicant, and a statement whether the applicant is the facility's owner, operator, or both;
- iii. a list of all environmental permits or construction approvals received or applied for, including dates, under any of the following programs or types of activities:
  - (1) hazardous waste management program under IDAPA 58.01.05 (Resource Conservation and Recovery Act);
  - (2) underground injection control (UIC) program under the Idaho Department of Water Resources UIC program at IDAPA 37.03.03 (Safe Drinking Water Act);
  - (3) IPDES or NPDES program under IDAPA 58.01.25 (Clean Water Act, sec. 402);
  - (4) prevention of significant deterioration (PSD) program under IDAPA 58.01.01 (Clean Air Act);
  - (5) nonattainment program under IDAPA 58.01.01 (Clean Air Act);
  - (6) national emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01 (Clean Air Act);
  - (7) dredge or fill permits under 33 U.S.C. 1344 (Clean Water Act, sec. 404);
  - (8) Sludge Management Program under IDAPA 58.01.16.650;
  - (9) other relevant environmental permits, programs or activities, including those subject to state jurisdiction, approval, and permits;
- iv. the name and population of each municipal entity served by the facility, including unincorporated connector districts, a statement whether each municipal entity owns or maintains the collection system and, if the information is available, whether the collection system is a separate sanitary sewer or a combined storm and sanitary sewer;
- v. a statement whether the facility is located in Indian country and whether the facility discharges to a receiving stream that flows through Indian country;

vi. the facility's design flow rate, or the wastewater flow rate the plant was built to handle, annual average daily flow rate, and maximum daily flow rate for each of the previous three years;

vii. a statement identifying the types of collection systems, either separate sanitary sewers or combined storm and sanitary sewers, used by the treatment works, and an estimate of the percent of sewer line that each type comprises;

viii. the following information for outfalls to waters of the state and other discharge or disposal methods:

(1) for effluent discharges to waters of the state, the total number and types of outfalls including treated effluent, combined sewer overflows, bypasses, constructed emergency overflows;

(2) for wastewater discharged to surface impoundments, the location of each surface impoundment, the average daily volume discharged to each surface impoundment, and a statement whether the discharge is continuous or intermittent;

(3) for wastewater applied to the land, the location of each land application site, the size in acres of each land application site, the average daily volume in gallons per day applied to each land application site, and a statement whether the land application is continuous or intermittent;

(4) for effluent sent to another facility for treatment prior to discharge, the means by which the effluent is transported, the name, mailing address, electronic mail address, contact person, and phone number of the organization transporting the discharge; if the transport is provided by a party other than the applicant, the name, mailing address, electronic mail address, contact person, phone number, and IPDES or NPDES permit number, if any, of the receiving facility, and the average daily flow rate from this facility into the receiving facility in million gallons per day;

(5) for wastewater disposed of in a manner not included in Subsections 105.11.c.viii(1) through (4) , including underground percolation and underground injection, a description of the disposal method, including the location and size of each disposal site, if applicable, the annual average daily volume in gallons per day disposed of by this method, and a statement whether disposal by this method is continuous or intermittent; and

ix. the name, mailing address, electronic mail address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the POTW facility.

**d.** Additional information for design flow greater than 0.1 million gallons per day. In addition to the information described in Subsection 105.11.c., an applicant under this Section with a design flow greater than or equal to 0.1 million gallons per day must provide the information required in this Subsection:

i. the current average daily volume in gallons per day of inflow and infiltration, and a statement describing steps the facility is taking to minimize inflow and infiltration;

ii. a topographic map, or other map if a topographic map is unavailable, extending at least one mile beyond property boundaries of the treatment plant including all unit processes, and showing

(1) the treatment plant area and unit processes;

(2) the major pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant, including outfalls from bypass piping, if applicable;

(3) each well where fluids from the treatment plant are injected underground;

- (4) wells, springs, and other surface water bodies listed in public records or otherwise known to the applicant within 1/4 mile of the property boundaries of the treatment works;
  - (5) sewage sludge management facilities including on-site treatment, storage, and disposal sites; and
  - (6) each location at which waste classified as hazardous under 42 U.S.C. 6921 – 6939e (Resource Conservation and Recovery Act) enters the treatment plant by truck, rail, or dedicated pipe;
- iii. a process flow diagram or schematic as follows:
    - (1) a diagram showing the processes of the treatment plant, including all bypass piping and all backup power sources or redundancy in the system, including a water balance showing all treatment units, including disinfection, and showing daily average flow rates at influent and discharge points and approximate daily flow rates between treatment units; and
    - (2) a narrative description of the diagram;
  - iv. the following information regarding scheduled improvements:
    - (1) the outfall number of each affected outfall;
    - (2) a narrative description of each required improvement;
    - (3) scheduled dates for commencement and completion of construction, commencement of discharge and attainment of operational level, and actual completion date for any event listed in this sub-paragraph that has been completed;
    - (4) a description of permits and clearances concerning other federal and state requirements.
- e. Outfall information.** An applicant under this Section must provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable:
- i. for each outfall,
    - (1) the outfall number;
    - (2) the borough, and city or town in which the outfall is located;
    - (3) the latitude and longitude, to the nearest 15 seconds;
    - (4) the distance from shore and depth below surface;
    - (5) the average daily flow rate, in million gallons per day;
    - (6) if the outfall has a seasonal or periodic discharge, the number of times per year the discharge occurs, the duration of each discharge, the flow of each discharge, and the months in which discharge occurs; and
    - (7) a statement whether the outfall is equipped with a diffuser and the type of diffuser used, such as high-rate;
  - ii. for each outfall discharging effluent to waters of the state, the following receiving water information, if the information is available,
    - (1) the name of each receiving water;

(2) the critical flow of each receiving stream and total hardness of the receiving stream at critical low flow;

iii. for each outfall discharging to waters of the state, the following information describing the treatment of the discharges:

(1) the highest level of treatment, including primary, equivalent to secondary, secondary, advanced, or other treatment level provided for

(a) the design biochemical oxygen demand removal percentage;

(b) the design suspended solids removal percentage;

(c) the design phosphorus removal percentage;

(d) the design nitrogen removal percentage; and

(e) any other removals that an advanced treatment system is designed to achieve; and

(2) a description of the type of disinfection used, and a statement whether the treatment plant de-chlorinates if disinfection is accomplished through chlorination.

**f.** Testing and effluent monitoring. In addition to Subsection 105.12, and except as provided in Subsection 105.11.h., an applicant under this Section shall undertake sampling and analysis and submit effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the state, except for combined sewer overflows, including the following if applicable:

i. sampling and analysis for the pollutants listed in Appendix J, Table 1A to 40 C.F.R. Part 122, incorporated by reference;

ii. for an applicant with a design flow greater than or equal to 0.1 million gallons per day, sampling and analysis for the pollutants listed in Appendix J, Table 1 to 40 C.F.R. Part 122, incorporated by reference, except that a facility that does not use chlorine for disinfection, does not use chlorine elsewhere in the treatment process, and has no reasonable potential to discharge chlorine in the facility's effluent, is not required to sample or analyze chlorine;

iii. sampling and analysis for the pollutants listed in Appendix J, Table 2 to 40 C.F.R. Part 122, incorporated by reference, and for any other pollutants for which the state or EPA has established water quality standards applicable to the receiving waters if the facility is

(1) a POTW that has a design flow rate equal to or greater than one million gallons per day (1 MGD);

(2) a POTW that has an approved pretreatment program;

(3) a POTW that is required to develop a pretreatment program; or

(4) any POTW, as required by the Department to ensure compliance with this chapter.

iv. sampling and analysis for additional pollutants, as the Department may require, on a case-by-case basis;

v. data from a minimum of three samples taken within four and one-half years before the date of the permit application; to meet this requirement,

(1) samples must be representative of the seasonal variation in the discharge from each outfall;

(2) existing data may be used, if available, in lieu of sampling done solely for the purpose of this application;

(3) additional samples may be required by the Department on a case-by-case basis; and

vi. all existing data for pollutants specified in Subsections 105.11.f.i. through iv. collected within four and one-half years of the application; this data must be included in the pollutant data summary submitted by the applicant, except that if the applicant samples for a specific pollutant on a monthly or more frequent basis, only the data collected for that pollutant within one year of the application must be provided.

**g.** Sampling methods. To meet the information requirements of Subsection 105.11.f., an applicant must

i. collect samples of effluent and analyze the samples for pollutants in accordance with analytical methods approved under 40 C.F.R. Part 136, incorporated by reference, unless an alternative is specified in the existing IPDES or NPDES permit;

ii. use the following methods:

(1) grab samples for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and volatile organics. Temperature and residual chlorine data may be obtained from grab samples or continuous monitoring, as specified in Subsection 105.11.g.ii(3);

(2) twenty-four hour composite samples for all other pollutants; for a composite sample, only one analysis of the composite of aliquots is required;

(3) continuous monitoring may be used for temperature, flow, and residual chlorine.

iii. provide at least the following information for each parameter:

(1) maximum daily discharge, expressed as concentration or mass, based upon actual sample values;

(2) average daily discharge for all samples, expressed as concentration or mass, and the number of samples used to obtain this value;

(3) the analytical method used;

(4) the threshold level, such as the method detection limit, minimum level, or other designated method endpoint for the analytical method used; and

iv. report metals as total recoverable, unless the Department requires otherwise.

**h.** Outfall samples. When an applicant under this Section has two or more outfalls with substantially identical effluent discharging to the same receiving water segment, the Department may, on a case-by-case basis, allow the applicant to submit sampling data for only one outfall. The Department may also allow an applicant to composite samples from one or more outfalls that discharge into the same mixing zone.

**i.** Signature. An application under this Section must be signed by a certifying official in compliance with Subsection 105.04.

## **12. Whole Effluent Toxicity (WET) Monitoring for POTWs and other designated dischargers.**

**a.** An applicant for a permit under Subsection 105.11. shall submit information on effluent monitoring for WET, including an identification of any WET tests conducted during the four and one-half years before the date of the application on any of the applicant's discharges or on any receiving water near the discharge.

**b.** An applicant under Subsection 105.11. shall submit to the Department, in compliance with Subsections 105.12.c. through g, the results of valid WET tests for acute or chronic toxicity for samples taken from each outfall through which effluent is discharged to surface waters, except for combined sewer overflows, if the applicant

- i. has a design flow rate greater than or equal to one million gallons per day (1 MGD);
- ii. has an approved pretreatment program or is required to develop a pretreatment program; or
- iii. is required to comply with this Section by the Department, based on consideration of the following factors:

(1) the variability of the pollutants or pollutant parameters in the POTW effluent based on chemical-specific information, the type of treatment plant, and types of industrial contributors;

(2) the ratio of effluent flow to receiving stream flow;

(3) existing controls on point or non-point sources, including total maximum daily load calculations for the receiving stream segment and the relative contribution of the POTW;

(4) receiving water characteristics, including possible or known water quality impairment, and whether the POTW discharges to a water designated as an outstanding natural resource water; and

(5) other considerations, including the history of toxic impacts and compliance problems at the POTW that the Department determines could cause or contribute to adverse water quality impacts.

**c.** When an applicant under Subsection 105.11 has two or more outfalls with substantially identical effluent discharging to the same receiving water segment, the Department may, on a case-by-case basis, allow the applicant to submit whole effluent toxicity data for only one outfall. The Department may also allow an applicant to composite samples from one or more outfalls that discharge into the same mixing zone.

**d.** An applicant under Subsection 105.12.b. that is required to perform WET testing must provide

i. results of a minimum of four quarterly tests for a year, from the year preceding the permit application; or

ii. results from four tests performed at least annually in the four and one half year period before the application, if the results show no appreciable toxicity using a safety factor determined by the Department.

**e.** An applicant under Subsection 105.12.b. must conduct tests with no less than two species, including fish, invertebrate, or plant, and test for acute or chronic toxicity, depending on the range of receiving water dilution. Unless the Department directs otherwise, an applicant shall conduct acute or chronic testing based on the following dilutions:

i. acute toxicity testing if the dilution of the effluent is greater than 1000:1 at the edge of the mixing zone;

ii. acute or chronic toxicity testing, if the dilution of the effluent is between 100:1 and 1000:1 at the edge of the mixing zone; acute testing may be more appropriate at the higher end of this range (1000:1), and chronic testing may be more appropriate at the lower end of this range (100:1);

iii. chronic testing if the dilution of the effluent is less than 100:1 at the edge of the mixing zone.

**f.** An applicant required to perform WET testing under Subsection 105.12.b. shall provide

- i. the number of chronic or acute whole effluent toxicity tests that have been conducted since the last permit reissuance;
  - ii. the results using the form provided by the Department, or test summaries, if available and comprehensive, for each WET test conducted under this Section for which the information has not been reported previously to the Department;
  - iii. for WET data submitted to the Department within four and one-half years before the date of the application, the dates on which the data were submitted and a summary of the results; and
  - iv. any information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if any WET test conducted within the past four and one-half years revealed toxicity.
- g.** For purposes of the WET testing required by this Section, an applicant must conduct testing using methods approved under 40 C.F.R. Part 136, incorporated by reference.

**13. Information Requirements for POTWs Receiving Industrial discharges.**

**a.** An applicant for a permit as a POTW under Subsection 105.11 shall state in its application the number of significant industrial users (SIU) and categorical industrial users (CIU) discharging to the POTW. A POTW with one or more SIUs shall provide the following information for each SIU that discharges to the POTW:

- i. the name and mailing address of the SIU;
- ii. a description of all industrial processes that affect or contribute to the SIU's discharge;
- iii. the principal products and raw materials of each SIU that affects or contributes to that SIU's discharge;
- iv. the average daily volume of wastewater discharged by the SIU, indicating the amount attributable to process flow and non-process flow;
- v. a statement whether the SIU is subject to local limits;
- vi. a statement whether the SIU is subject to one or more categorical standards, and if so, under which category and subcategory;
- vii. a statement whether any problems at the POTW, including upsets, pass-through, or interference have been attributed to the SIU in the past four and one-half years.

**b.** The information required in Subsection 105.13.a may be waived by the Department for a POTW with a pretreatment program if the applicant has submitted either of the following that contains information substantially identical to the information required in Subsection 105.13.a:

- i. an annual report submitted within one year of the application;
- ii. a pretreatment program.

**14. Information Requirements for a POTW Receiving Hazardous or Corrective Action Wastes.**

**a.** A POTW receiving hazardous or corrective action wastes or wastes generated at another type of cleanup or remediation site must provide the following information:

- i. if the POTW receives, or has been notified that it will receive by truck, rail, or dedicated pipe, any wastes that are regulated as hazardous wastes under 42 U.S.C. 6921 - 6939e (Resource Conservation and Recovery Act) and IDAPA 58.01.05., Rules and Standards for Hazardous Waste, the applicant must report the following:

- (1) the method of delivery, including by truck, rail, or dedicated pipe, by which the waste is received;
- (2) the applicable hazardous waste number designated in 40 C.F.R. Part 261, incorporated by reference in IDAPA 58.01.05. for the transported waste, and the amount received annually of each hazardous waste;

ii. if the POTW receives, or has been notified that it will receive, wastewater that originates from remedial activities, including those undertaken under 42 U.S.C. 9601 – 9675 and 42 U.S.C. 6924(u) or 42 U.S.C. 6928(h), the applicant must report the following:

- (1) the identity and description of each site or facility at which the wastewater originates;
- (2) the identity of any known hazardous constituents listed in Appendix VIII to 40 C.F.R. 261, incorporated by reference, in the wastewater;
- (3) the extent of any treatment the wastewater receives or will receive before entering the POTW.

**b.** An applicant under this Section is exempt from the requirements of Subsection 105.14.a.ii. if the applicant receives no more than 15 kilograms per month of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. 261.30(d) and 40 C.F.R. 261.33(e), incorporated by reference in IDAPA 58.01.05., Rules and Standards for Hazardous Waste.

#### **15. Information Requirements for a POTW with Combined Sewer Systems and Overflows.**

**a.** A POTW applicant with a combined sewer system must provide the following information on the combined sewer system and outfalls:

- i. a system map indicating the location of
  - (1) all combined sewer overflow discharge points;
  - (2) any sensitive use area potentially affected by combined sewer overflows including beaches, drinking water supplies, shellfish beds, sensitive aquatic ecosystems;
  - (3) outstanding national resource waters potentially affected by combined sewer overflows; and
  - (4) waters supporting threatened and endangered species potentially affected by combined sewer overflows;
- ii. a system diagram of the combined sewer collection system that includes the locations of
  - (1) major sewer trunk lines, both combined and separate sanitary;
  - (2) points where separate sanitary sewers feed into the combined sewer system;
  - (3) in-line and off-line storage structures;
  - (4) flow-regulating devices; and
  - (5) pump stations;
- iii. information on each outfall for each combined sewer overflow discharge point covered by the permit application, including
  - (1) the outfall number;
  - (2) the borough and city or town in which the outfall is located;



- (3) the latitude and longitude, to the nearest second;
- (4) the distance from shore and depth below surface;
- (5) a statement whether the applicant monitored any of the following in the past year for a combined sewer overflow:
  - (a) rainfall;
  - (b) overflow volume;
  - (c) overflow pollutant concentrations;
  - (d) receiving water quality;
  - (e) overflow frequency; and
  - (6) the number of storm events monitored in the past year;
- iv. information regarding the number of combined sewer overflows from each outfall in the past year and, if available,
  - (1) the average duration per event;
  - (2) the average volume for each event; and
  - (3) the minimum rainfall that caused a combined sewer overflow event in the last year;
- v. the name of each receiving water according to the National Hydrography Dataset (NHD); and
- vi. a description of any known water quality impact caused by the combined sewer overflow operations, including permanent or intermittent beach closings, permanent or intermittent shellfish bed closings, fish kills, fish advisories, other recreational loss, or the exceedance of any applicable state water quality standard, on the receiving water.

**16. Permit Application Requirements for new sources and new discharges.**

**a.** An applicant for an IPDES permit for a new manufacturing, commercial, mining, or silviculture discharge, except for a new discharge from a facility subject to the requirements of Subsection 105.08 or a new discharge of storm water associated with industrial activity that is subject to the requirements of 40 C.F.R. 122.26(c)(1), incorporated by reference, except as provided by 40 C.F.R. 122.26(c)(1)(ii), incorporated by reference, shall provide the following information to the Department, using the applicable forms specified in Subsection 105.05.

- i. the latitude and longitude to the nearest 15 seconds of the expected outfall location and the name of each receiving water;
- ii. the expected date the discharge will commence;
- iii. the following information on flows, sources of pollution, and treatment technologies:
  - (1) a narrative describing the treatment that the wastewater will receive, identifying all operations contributing wastewater to the effluent, stating the average flow contributed by each operation, and describing the ultimate disposal of any solid or liquid wastes not discharged;

(2) a line drawing of the water flow through the facility with a water balance as described in Subsection 105.07.b.;

(3) if any of the expected discharges will be intermittent or seasonal, a description of the frequency, duration, and maximum daily flow rate of each discharge occurrence, except for storm water runoff, spillage, or leaks;

iv. if a new source performance standard promulgated under 33 U.S.C. 1316 or an effluent limitation guideline applies to the applicant and is expressed in terms of production or other measure of operation, a reasonable calculation of the applicant's expected actual production reported in the units used in the applicable effluent guideline or new source performance standard, as required by Section 302, for each of the first three years; the applicant may submit alternative estimates if production is likely to vary;

v. the effluent characteristics information as described in Subsection 105.16.b.;

vi. the existence of any technical evaluation concerning the applicant's wastewater treatment, along with the name and location of similar plants of which the applicant has knowledge;

vii. any optional information the permittee wishes the Department to consider;

viii. the signature of the certifying official under Subsection 105.04.

**b.** An applicant under this Section must provide the following effluent characteristics information:

i. estimated daily maximum, daily average, and the source of that information for each outfall for the following pollutants or parameters:

- (1) biochemical oxygen demand (BOD<sub>5</sub>);
- (2) chemical oxygen demand (COD);
- (3) total organic carbon (TOC);
- (4) total suspended solids (TSS);
- (5) flow;
- (6) ammonia, as N;
- (7) temperature, in both winter and summer; and
- (8) pH;

ii. estimated daily maximum, daily average, and the source of that information for each outfall for all the conventional and nonconventional pollutants in Table IV of Appendix D to 40 C.F.R. Part 122, incorporated by reference, if the applicant knows or has reason to believe any of the pollutants will be present or if any of the pollutants are limited by an effluent limitation guideline or new source performance standard either directly or indirectly through limitations on an indicator pollutant;

iii. estimated daily maximum, daily average, and the source of that information for the following pollutants for each outfall if the applicant knows or has reason to believe the pollutants will be present in the discharge from any outfall:

- (1) all pollutants in Table IV of Appendix D to 40 C.F.R. Part 122;

(2) the toxic metals, total cyanide, and total phenols listed in Table III of Appendix D to 40 C.F.R. Part 122, incorporated by reference;

(3) the organic toxic pollutants in Table II of Appendix D to 40 C.F.R. Part 122, incorporated by reference, except bis (chloromethyl) ether, dichlorofluoromethane, and trichlorofluoromethane; however, this requirement is waived for

(a) an applicant with expected gross sales of less than \$287,300 per year in 2014 dollars for the next three years; and

(b) a coal mine with expected average production of less than 100,000 tons of coal per year;

iv. the information that 2,3,7, 8-tetrachlorodibenzo-p-dioxin (TCDD) may be discharged if the applicant uses or manufactures one of the following compounds, or if the applicant knows or has reason to believe that TCDD will or may be present in an effluent:

(1) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); Chemical Abstract Service (CAS ) #93-76-5;

(2) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #93-72-1);

(3) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136-25-4);

(4) o,o-dimethyl o-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel) (CAS #299-84-3);

(5) 2,4,5-trichlorophenol (TCP) (CAS #95-95-4);

(6) hexachlorophene (HCP) (CAS #70-30-4);

v. the potential presence any of the pollutants listed in Table V of Appendix D to 40 C.F.R. Part 122, incorporated by reference, if the applicant believes these pollutants will be present in any outfall, except that quantitative estimates are not required unless they are already available at the time the applicant applies for the permit.

c. No later than two years after the commencement of discharge from the proposed facility, the applicant is required to complete and submit Items V and VI of EPA application Form 2C or the Department equivalent. The applicant need not complete those portions of Item V or the Department equivalent requiring tests already performed and reported under the discharge monitoring requirements of its permit.

d. The effluent characteristics requirements in Subsections 105.08.b., d, and e that an applicant must provide estimates of certain pollutants expected to be present do not apply to pollutants present in a discharge solely as a result of their presence in intake water. However, an applicant must report that a pollutant is present. For purposes of this Subsection,

i. net credits may be provided for the presence of pollutants in intake water if the requirements of Subsection NNN.NN are met; and

ii. (except for discharge flow, temperature, and pH) all levels must be estimated as concentration and as total mass.

e. The Department may waive the reporting requirements for any of the pollutants and parameters in Subsection 105.16.b.i. if the applicant requests a waiver with its application, or earlier, and demonstrates that information adequate to support issuance of the permit can be obtained through less stringent reporting requirements.

#### **17. Permit Application Requirements for facilities with cooling water intake structures.**

**a.** An applicant for an IPDES permit for a new facility with a cooling water intake structure (CWIS) as defined in 40 C.F.R. Part 125, Subpart I, incorporated by reference, must submit to the Department as part of its application the information required under this Subsections, and under 40 C.F.R. 125.86, incorporated by reference.

**b.** An applicant for an IPDES permit for a new CWIS may submit a request for alternative requirements under 40 C.F.R. 125.85, incorporated by reference, to the Department with the permit application.

**c.** An applicant for an IPDES permit for a Phase II existing facility as defined in 40 C.F.R. Part 125, Subpart J, incorporated by reference, must submit the information required under this Subsection, and all applicable provisions of 40 C.F.R. 125.95, incorporated by reference, to the Department as part of the application, except that the applicant's proposal for information collection must be submitted in compliance with 40 C.F.R. 125.95(b)(1), incorporated by reference.

**d.** The applicant shall submit source water physical data to the Department with its application, including:

i. a narrative description and scaled drawings showing the physical configuration of all source water bodies used by the facility, including areal dimensions, depths, salinity, temperature regimes, and other documentation that supports the determination of the water body type where each cooling water intake structure is located;

ii. information identifying and characterizing the source water body's hydrological and geomorphological features, as well as the methods used to conduct any physical studies to determine the intake's area of influence within the water body and the results of the studies; and

iii. locational maps.

**e.** The applicant shall submit cooling water intake structure data to the Department with its application, including

i. a narrative description of the configuration of each cooling water intake structure and its location in the water body and in the water column;

ii. latitude and longitude in degrees, minutes, and seconds for each cooling water intake structure;

iii. a narrative description of the operation of each cooling water intake structure, including design intake flows, daily hours of operation, number of days of the year in operation, and seasonal changes, if applicable;

iv. a flow distribution and water balance diagram that includes all sources of water to the facility, recirculating flows, and discharges; and

v. engineering drawings of each cooling water intake structure.

**f.** An applicant under this Subsection shall provide source water baseline biological characterization data to document the biological community in the vicinity of each cooling water intake structure. The Department may use the source water baseline biological characterization data in subsequent permit renewal proceedings to determine if the design and construction technology plan required under 40 C.F.R. 125.86(b)(4), must be revised. Supporting information required under this Subsection must include existing data if available. However, the applicant may supplement existing data using newly conducted field studies if the applicant chooses to do so. The information the applicant submits must include

i. a list of the data in Subsection 105.17.f.ii. through vi. that are not available and efforts made to identify sources of the data;

- ii. a list of species or relevant taxa for all life stages and their relative abundance in the vicinity of each cooling water intake structure;
  - iii. identification of the species and life stages that would be most susceptible to impingement and entrainment; species evaluated should include the forage base as well as those most significant to commercial and recreational fisheries;
  - iv. identification and evaluation of the primary period of reproduction, larval recruitment, and period of peak abundance for relevant taxa;
  - v. data representative of the seasonal and daily activities such as feeding and water column migration of biological organisms in the vicinity of each cooling water intake structure;
  - vi. identification of all threatened, endangered, and other protected species that might be susceptible to impingement and entrainment at each cooling water intake structure; and
  - vii. documentation of any public participation or consultation with federal or state agencies undertaken in development of the plan.
- g.** If an applicant supplements the information requested in Subsections 105.17.f.i. through vi. with data collected using field studies, supporting documentation for the source water baseline biological characterization must include
- i. a description of all methods and quality assurance procedures for sampling; and
  - ii. data analysis including a description of
    - (1) the study area including, at a minimum, the area of influence of each cooling water intake structure;
    - (2) taxonomic identification of sampled and evaluated biological assemblages, including all life stages of fish and shellfish; and
    - (3) sampling and data analysis methods; the sampling and data analysis methods the applicant uses must be appropriate for a quantitative survey and based on consideration of methods used in other biological studies performed within the same source water body.
- h.** An applicant under this Subsection must submit the following information in a Design and Construction Technology Plan:
- i. information to demonstrate whether or not the criteria in 40 C.F.R. 125.84(b)(4) and (b)(5), incorporated by reference, are met;
  - ii. delineate the hydraulic zone of influence for the CWIS;
  - iii. new facilities required to install design and construction technologies and/or operational measures must develop a plan explaining the technologies and measures you have selected based on information collected for the Source Water biological Baseline Characterization required by 40 C.F.R. 122.21(r)(3). The plan must contain the following information:
    - (1) a narrative description of the design and operation of the design and construction technologies, including fish-handling and return systems, that will be used to maximize the survival of those species expected to be most susceptible to impingement. Provide species-specific information that demonstrates the efficacy of the technology;

(2) a narrative description of the design and operation of the design and construction technologies that will be used to minimize entrainment of those species expected to be the most susceptible to entrainment. Provide species-specific information that demonstrates the efficacy of the technology; and

(3) Design calculations, drawings, and estimates, prepared by a qualified professional to support the descriptions provided in Subsections 105.17.h.iii(1) and (2).

**i.** An applicant for an IPDES permit for a Phase II facility as defined in 40 C.F.R. Part 125, Subpart J, incorporated by reference, shall provide the following information for each cooling water intake structure used:

i. a narrative description of the operation of the cooling water system, including

(1) the system's relationship to cooling water intake structures;

(2) the proportion of the design intake flow that is used in the system;

(3) the number of days of the year the cooling water system is in operation;

(4) seasonal changes in the operation of the system, if applicable; and

ii. design and engineering calculations prepared by a qualified professional and supporting data to support the description required by Subsection 105.17.f.i.

## **106. PERMIT APPLICATION REVIEW**

**01. Completeness Criteria.** The Department will not begin processing an IPDES permit application before receiving a complete application. A permit application is complete when:

**a.** The Department determines that the application form(s) and any necessary supplemental information have been submitted to the Department's satisfaction, and

**b.** All applicable fees required under Section 110 are paid.

**02. Independence.** The Department shall judge the completeness of any IPDES permit application independently of any other permit application or permit for the same facility or activity.

**03. Schedule.** The Department will notify an applicant in writing whether the application is deemed complete for purposes of this Section, Section 100, or Section 101 within:

**a.** 30 days if the application is for a new source or new discharger under the IPDES program, or

**b.** 60 days if the application is for an existing source or sludge-only facility.

**04. Additional Information.** Notification that an application is complete does not preclude the Department from requiring the applicant submit additional information for the Department's use in processing the application. This additional information may only be requested when necessary to clarify, modify, or supplement previously submitted material.

**a.** Requests for additional information will not render an application incomplete.

**b.** If the Department decides that a site visit is necessary for any reason in connection with the processing of an application, the Department shall notify the applicant and a date shall be scheduled. Failure to schedule, or refusal of a requested site visit are grounds for permit denial

**c.** The applicant's failure or refusal to correct deficiencies, or supply requested information may result in permit denial, and appropriate enforcement actions may be initiated if warranted.

**05. Incomplete Due to Waiver Denial.** The Department will not consider a permit application to be complete if the Department waived application requirements under Subsection 105.11.b. and the EPA has disapproved the waiver.

**06. Impact of Waiver Delay.** If a person required to reapply for a permit submits a waiver request to the EPA more than 210 days before an existing permit expires, and the EPA does not disapprove the waiver request 181 days before the permit expires, the Department will consider the permit application to be complete without the information that is the subject of the waiver request.

**07. Application Effective Date.** The effective date of an application is the date on which the Department notifies the applicant that the application is complete.

## **107. DECISION PROCESS**

After the Department has determined that the permit application is complete the Department will decide whether to tentatively deny the application, or prepare an IPDES draft permit.

**01. Application Denial.** If the Department decides to tentatively deny the application:

**a.** A Notice of Intent (NOI) to deny the permit application shall be issued, and the NOI shall be made available for public comment, and the Department shall give notice of opportunity for a public meeting, as specified in Section 109.

**b.** The Department shall generate a response to public comment, and

**c.** Issue a final decision. The final decision may:

**i.** Be to withdraw the NOI to deny the application, and proceed to prepare a draft permit and fact sheet as defined in Subsection 107.02., or

**ii.** Confirm the decision to deny the application.

**d.** The applicant may appeal the final decision to deny the application by adhering to the requirements of Subsection 204.

**02. Draft Permit.** If the Department decides to generate a draft permit and fact sheet it will comply with Subsection 108.

**a.** Upon completion of the draft permit and fact sheet the Department shall issue a public notification as required in Subsection 109.01.

**b.** An opportunity for the public to comment and request a public meeting shall be provided.

**c.** The Department shall generate a response to public comment as stipulated in Subsection 109.03.

**03. Final Permit.** After the close of the public comment period on a draft permit, the Department shall issue a final permit decision. A final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

**a.** The Department shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision.

**b.** A final permit decision shall become effective 30 days after the service of notice of the decision unless:

**i.** A later effective date is specified in the decision, or

ii. Review is requested on the permit by any person who filed comments on that draft permit or participated in the public meetings.

(1) Any person who failed to file comments or failed to participate in the public meetings on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. The 30-day period within which a person may request review under this section begins with the service of notice of the Department's action unless a later date is specified in the notice.

(2) The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period or meeting, and when appropriate, a showing that the condition in question is based on:

(a) A finding of fact or conclusion of law which is clearly erroneous, or

(b) An exercise of discretion or an important policy consideration which the Board should, in its discretion, review.

iii. No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

c. The notice shall include references to the procedures for appealing a decision as specified in Subsection 203.01.

## **108. DRAFT PERMIT AND FACT SHEET**

### **01. Draft Permit.**

a. If the Department decides to prepare a draft permit, the Department shall prepare a draft permit that contains the following information:

- i. all conditions established under Section 300;
- ii. all conditions established under Section 301;
- iii. all monitoring requirements established under Section 303;
- iv. schedules of compliance established under Section 304; and
- v. effluent limitations, standards and prohibitions, and conditions under Sections 300, 301, and any variances that are approved.

b. All general and individual municipal and industrial draft permits shall be provided to EPA Region 10 Director for comment as documented in the Memorandum of Agreement (MOA). [40 CFR 123.44]

### **02. Fact Sheets**

a. A fact sheet containing the information required in Subsection 108.02.b. must accompany the draft permit prepared for:

- i. a major IPDES facility or activity;
- ii. an IPDES general permit;
- iii. a permit that incorporates a variance or requires an explanation under Subsection 108.02.b.ix. through 108.02.b.xi.;



iv. a permit that includes a sewage sludge land application plan under 40 C.F.R. 501.15(a)(2)(ix), as revised as of July 1, 2005; and

v. a permit that the Department finds is the subject of wide-spread public interest or raises major issues.

**b.** A fact sheet must briefly set out the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit and must include, if applicable, the following information:

i. a brief description of the type of facility or activity that is the subject of the draft permit;

ii. the type and quantity of wastes, fluids, or pollutants that are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;

iii. a brief summary of the basis for the draft permit conditions, including references to applicable statutes or regulations and appropriate supporting references to the administrative record;

iv. reasons for the Department's tentative decision on any requested variances or alternatives to required standards;

v. a description of the procedures for reaching a final decision on the draft permit, including:

(1) the beginning and ending dates of the comment period under Section 109 and the address where comments should be submitted;

(2) the procedure for requesting a public meeting and the nature of that meeting; and

(3) any other procedures by which the public may participate in the final decision;

vi. the name and telephone number of a person to contact for additional information;

vii. the justification for waiver of any application requirements under Section 105 applications for new and existing POTWs.

viii. any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions, including a citation to the applicable effluent limitation guideline or performance standard as required by Section 301, and reasons why the effluent limitations and conditions are applicable, or an explanation of how any alternate effluent limitation was developed

ix. if applicable, an explanation of why the draft permit contains the following conditions or waivers:

(1) limitations to control toxic pollutants under Section 305;

(2) limitations on internal waste streams under Section 305;

(3) limitations on indicator pollutants under 40 C.F.R. 125.3(g), incorporated by reference;

(4) limitations established on a case-by-case basis under 40 C.F.R. 125.3 (c)(2) or (c)(3), incorporated by reference, or pursuant to Section 405(d)(4) of the CWA;

(5) limitations to meet the criteria for permit issuance under Subsection 103.07; or

(6) waivers from monitoring requirements granted under Section 303;

x. for a draft permit for a treatment works owned by a person other than a state or municipality, an explanation of the Department's decision on regulation of users under Section NNN;

xi. if appropriate, a sketch or detailed description of the location of the discharge or regulated activity described in the application.

c. The applicant may by written notice to the Department waive the applicant's right to review and comment on the preliminary draft permit and draft fact sheet or agree to a shortened period for that review and comment.

## **109. PUBLIC NOTIFICATION AND COMMENT**

### **01. Public Notification.**

a. The Department will give notice to the public that:

- i. a draft permit has been prepared under Subsection 108.01.a. or
- ii. the Department intends to deny a permit application under Section 107; or
- iii. a public meeting is scheduled, or
- iv. an IPDES new source determination has been made.

b. A public notice may describe more than one permit or permit action.

c. The Department will allow at least 30 days for public comment on the items in the notice, and will provide at least 30 days' notice before the public meeting. Notice of the draft permit and the meeting may be combined and given at the same time.

d. Public notice that a draft permit has been prepared, and any meeting on the draft permit must be given by the following methods:

i. by mailing a copy of the notice to the following persons, unless any person entitled to receive notice under this paragraph waives that person's right to receive notice for any classes and categories of permits:

- (1) the applicant, unless there is no applicant for an IPDES general permit;
- (2) any other agency that the Department knows has issued or is required to issue a permit for the same facility or activity under the following laws and programs:
  - (a) Resource Conservation and Recovery Act, under IDAPA 58.01.05;
  - (b) Underground Injection Control (UIC) Program under Idaho Department of Water Resources as authorized under Idaho Code Title 42 Chapter 39 and regulated under IDAPA 37.03.03, Rules and Minimum Standards for the Construction and Use of Injection Wells;
  - (c) Clean Air Act, under IDAPA 58.01.01;
  - (d) National Pollution Discharge Elimination System Program, under IDAPA 58.01.25; or
  - (e) Sludge Management Program, under IDAPA 58.01.16.650;
  - (f) Dredge and Fill Permit Program, 33 U.S.C. 1344;

(3) federal and state agencies with jurisdiction over coastal zone management plans and fish, shellfish, and wildlife resources, the federal Advisory Council on Historic Preservation, state historic preservation officers, and any affected Indian tribe;

(4) any state agency responsible for plan development under 33 U.S.C. 1288(b)(2), or 33 U.S.C. 1288(b)(4), and the United States Army Corps of Engineers, the United States Fish and Wildlife Service, and the National Marine Fisheries Service;

(5) any user identified in the permit application of a privately owned treatment works;

(6) persons on a mailing list developed by:

(a) recording those who request in writing to be on the list;

(b) soliciting persons for area lists from participants in past permit proceedings in that area; and

(c) publishing notice on the Department's website and through periodic publication in the local press and in regional and state-funded newsletters, environmental bulletins, state law journals or similar publications, of the opportunity to be on the mailing list. The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed, and may delete from the list the name of any person who fails to respond to the Department's request;

(7) any unit of local government having jurisdiction over the area where the facility is proposed to be located; and

(8) each state agency having any authority under state law with respect to the construction or operation of the facility;

ii. for a major facility permit and a general permit, by publishing a notice in a daily or weekly newspaper within the area affected by the facility or activity; and

iii. by any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or use of any other forum or media to elicit public participation.

e. A public notice issued under this Section must contain at least the following information:

i. name and address of the office processing the permit action for which notice is being given and where comments may be submitted;

ii. name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit, except in the case of IPDES draft general permits;

iii. a brief description of the business conducted at the facility or activity described in the permit application, or for general permits when there is no application, in the draft permit;

iv. name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, fact sheet, and the application;

v. a brief description of the comment and public meeting procedures required by this Subsection and the time and place of any meeting that will be held; if no meeting has already been scheduled, a statement of procedures to request a meeting and other procedures by which the public may participate in the final permit decision;

vi. a general description of the location of each existing or proposed discharge point and the name of the receiving water;

vii. a description of requirements applicable to cooling water intake structures under 33 U.S.C. 1326(b) in accordance with 40 C.F.R. Part 125, Subparts I, J, and N, incorporated by reference;

viii. directions to the Department's website where interested parties can obtain copies of the draft permit, fact sheet, and the permit application, if any.

ix. any additional information considered necessary or proper.

**f.** In addition to the information required by Subsection 109.01.e., the public notice for a draft permit for a discharge for which a request has been filed under 33 U.S.C. 1326(a) must include:

i. a statement that the thermal component of the discharge is subject to effluent limitations under 33 U.S.C. 1311 and 1316, and a brief description, including a quantitative statement, of the thermal effluent limitations proposed under 33 U.S.C. 1311 and 33 U.S.C. 1316;

ii. a statement that a request has been filed under 33 U.S.C. 1326(a), that alternative less stringent effluent limitations may be imposed on the thermal component of the discharge under 33 U.S.C. 1326(a), and a brief description, including a quantitative statement, of the alternative effluent limitations, if any, included in the request; and

iii. if the applicant has filed an early screening request under 40 C.F.R. 125.72, incorporated by reference, for a variance under 33 U.S.C. 1326(a), a statement that the applicant has submitted that early screening request.

**g.** In addition to the general public notice described in Subsection 109.01.e., the public notice of a meeting under this Section must contain the following information:

i. reference to the date of previous public notices relating to the permit;

ii. date, time, and place of the meeting;

iii. a brief description of the nature and purpose of the meeting, including the applicable rules and procedures.

**h.** The Department shall mail a copy of the general public notice described in Subsection 109.01.e. to all persons identified in Subsections 109.01.d.i(1), (2), (3) and (4).

**i.** The Department will hold a public meeting whenever the Department finds, on the basis of requests, a significant degree of public interest in a draft permit. The Department may also hold a public meeting if a meeting might clarify one or more issues involved in the permit decision or for other good reason in the Department's discretion.

**j.** When a fact sheet has been prepared under Subsection 108.02.a., the Department shall issue a revised fact sheet for the final permit, which must include all of the requirements of Subsection 108.02.b., and be available to the public.

## **02. Public Comment.**

**a.** During the public comment period, any interested person may submit written comments on the draft permit. Written comments shall be submitted to the person identified in the notice and as specified in Subsection 109.01.e.i.

**b.** During the public comment period, any interested person may request a public meeting, if no public meeting has been scheduled. A request for a public meeting shall be in writing and shall state the nature of

the issues proposed to be raised in the meeting. The Department shall schedule and hold a public meeting if the Department determines that sufficient public interest exists in the draft permit.

**c.** If, during the comment period for an IPDES draft permit, the district engineer of the United States Army Corps of Engineers advises the Department in writing that anchorage and navigation of any of the waters of the United States would be substantially impaired by the granting of a permit, the Department will deny the permit and notify the applicant of the denial. If the district engineer advises the Department that imposing specified conditions upon the permit is necessary to avoid any substantial impairment of anchorage or navigation, the Department will include the specified conditions in the permit. Review or appeal of denial of a permit or of conditions specified by the district engineer must be sought through the applicable procedures of the United States Army Corps of Engineers and not through the state procedures. If a court of competent jurisdiction stays the conditions or if applicable procedures of the United States Army Corps of Engineers result in a stay of the conditions, those conditions must be considered stayed in the IPDES permit for the duration of the stay.

**d.** If, during the comment period for an IPDES draft permit, the United States Fish and Wildlife Service, the National Marine Fisheries Service, or any other state or federal agency with jurisdiction over fish, wildlife, or public health advises the Department in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, or wildlife resources, the Department may include the specified conditions in the permit to the extent the Department determines they are necessary to comply with the provisions of applicable federal laws.

**e.** In appropriate cases, the Department may consult with one or more of the agencies referred to in Subsections 109.02.c. and 109.02.d. before issuing a draft permit and may set out an agency's view in the fact sheet or the draft permit.

**f.** The Department will consider all comments in making the final decision and will answer the comments as provided in Subsection 109.03.

### **03. Response to Comments.**

When the Department issues a final permit, the Department will issue a response to comments, which must be available to the public. The response must:

**a.** specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

**b.** briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any meeting.

## **110. PERMIT FEES**

(Scheduled for May 15)

### **01. Application Fees**

### **02. Annual Fees**

### **03. General Permit Fees**

## **111. 111 – 129 RESERVED**

## **130. ADMINISTRATION OF GENERAL PERMITS**

(Scheduled for April 17)

**131. 131 – 139 RESERVED**

**140. STORMWATER**

**141. STORMWATER POLLUTION PREVENTION PLANS (SWPPP)**

**142. 142 – 179 RESERVED**

**180. CONTROL OF DISPOSAL OF POLLUTANTS INTO WELLS**

**181. 181 – 199 RESERVED**

**200. RENEWAL OF IPDES PERMITS**

(Scheduled for March 20) 40 CFR 122.44 .1.

**201. MODIFICATION, REVOCATION, OR REISSUANCE OF IPDES PERMITS**

(Scheduled for March 20) 40 CFR 124.5.a-c and reference to 40 CFR 122.62

**202. TRANSFER OF IPDES PERMITS**

(Scheduled for March 20) 40 CFR 122.61.

**203. TERMINATION OF IPDES PERMITS**

(Scheduled for March 20)

**204. APPEALS**

(Scheduled for June 12)

**205. 205 – 299 RESERVED**

**300. APPLICABLE PERMIT CONDITIONS**

(Scheduled for March 20)

**301. ESTABLISHING PERMIT PROVISIONS**

(Scheduled for March 20)

**302. CALCULATING PERMIT PROVISIONS**

(Scheduled for March 20)

**303. MONITORING REQUIREMENTS**

(Scheduled for March 20)

**304. COMPLIANCE SCHEDULES**

(Scheduled for March 20) 40 CFR 122.47.

**305. CONDITIONS FOR SPECIFIC CATEGORIES**

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**306. 306 – 309 RESERVED**

**310. VARIANCES**

(Scheduled for March 20)

**311. 311 – 399 RESERVED**

**400. COMPLIANCE EVALUATION**

**01.** When the permittee is not in compliance with any condition of the expiring or expired permit, the Department may choose to do one or more of the following:

**a.** Initiate an enforcement action;

**b.** Issue a notice of intent to deny the new application; if the application is denied and the expired permit is no longer effective as provided in Subsection 101.02, the owner or operator must cease the activities authorized by the permit or be subject to enforcement action for operating without a permit;

**c.** Issue a new permit with appropriate conditions;

**d.** Take other actions authorized by state law.

**401. INSPECTION AUTHORITY**

40 CFR 122.41(i), 123.26

**402. 402 – 409 RESERVED**

**410. SELF-MONITORING AND RECORDKEEPING AUTHORITY**

40 CFR 122.41(H), (J), AND (L), 122.48

40 CFR 136.1 to 136.7

**411. 411 – 429 RESERVED**

**430. EMERGENCY AUTHORITY**

40 CFR 123.27

**431. 431 – 449 RESERVED**

**450. TECHNICAL REQUIREMENTS**

40 CFR 129, 133, & 136

**451. BEST MANAGEMENT PRACTICES**

40 CFR 125

**452. SPILL PREVENTION CONTROL**

40 CFR 112

**453. COUNTERMEASURE (SPCC) PLAN WAIVERS  
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40 CFR 125, 230

**454. 454 – 469 RESERVED**

**470. PRETREATMENT STANDARDS**

(Scheduled for April 17) 40 CFR 122.21, 403, 405 – 471

**471. 471 – 479 RESERVED**

**480. BIOSOLIDS**

40 CFR 60, 61, 123, 258, 501, and 503

**481. 481 – 499 RESERVED**

**500. ENFORCEMENT**

**501. 501 – 599 RESERVED**

**600. DATA MANAGEMENT AND REPORTING**

40 CFR 3.1 – 3.2000

**601. 601 – 699 RESERVED**

**700. 700 – 799 RESERVED**