

Yellow shaded text indicates revisions made based on discussion held on January 23, 2015 and review of written comments received.

Written comment deadline for this draft – March 6, 2015

58.01.25 – RULES REGULATING THE IDAHO POLLUTANT
DISCHARGE ELIMINATION SYSTEM PROGRAM
DRAFT 1.1 CONFIDENTIAL BUSINESS INFORMATION
DRAFT SUBMITTED FOR REVIEW AT JAN 23, 2015 NEGOTIATED RULEMAKING MEETING

002. CONFIDENTIALITY OF INFORMATION.

01. Confidentiality Claim. Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code, and IDAPA 58.01.21, “Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality.” In accordance with Sections 9-337 through 9-347, Idaho Code, any information submitted to the Department pursuant to these rules may be claimed as confidential by the submitter. It shall be the responsibility of the submitter to give notice of the existence of a claim of confidentiality on each page or other portion of information at the time of submittal and such person shall have the burden of demonstrating that the information is confidential.

~~**02. Trade Secret Claim.** Any information submitted to the Department that is claimed to be confidential as a trade secret shall be handled by the Department in accordance with the provisions of Section 9-342A, Idaho Code.~~

032. Denial. In accordance with Section 9-342A, Idaho Code, a claim of confidentiality, including but not limited to a claim as to information claimed confidential as a trade secret, shall be denied and any person may inspect and copy:

- a. The name and address of any IPDES applicant or permittee;
- b. The content of any IPDES permit;
- c. IPDES permit applications, and information required to be submitted by IPDES application forms under Section 105, whether the information is submitted on the application forms themselves or in any attachments used to supply information required by the application forms; and
- d. Effluent data as defined in 40 CFR 2.302.

003. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

Codes, standards and regulations may be incorporated by reference in this rule pursuant to Section 67-5229, Idaho Code. Such incorporation by reference shall constitute full adoption by reference, including any notes or appendices therein, unless expressly provided otherwise in this rule. Codes, standards or regulations adopted by reference throughout this rule are available in the following locations:

01. Department of Environmental Quality. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255.

02. Law Library. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051.

03. U.S. Government Printing Office. www.gpoaccess.gov/ecfr.
U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194 Federal Bldg., 915 Second Ave., Seattle, WA 98174

04. Incorporation by Reference. The following documents are incorporated by reference into these rules. Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules.

a. 40 CFR 122.23, revised as of July 1, 2015 (Concentrated Animal Feeding Operations);

b. 40 CFR 122.24, revised as of July 1, 2015 (Concentrated Aquatic Animal Production Facilities);

c. 40 CFR 122.25, revised as of July 1, 2015 (Aquaculture Projects);

d. 40 CFR 122.26, revised as of July 1, 2015 (Storm Water Discharges);

e. 40 CFR 122.27, revised as of July 1, 2015 (Silvicultural activities);

f. 40 CFR 122.29(d), revised as of July 1, 2015 (Effect of Compliance with New Source Performance Standards);

g. 40 CFR 122.30-40 CFR 122.37, revised as of July 1, 2015 (Requirements and Guidance for Small Municipal Separate Storm Sewer Systems);

h. 40 CFR 122.42(e), revised as of July 1, 2015 (Additional Conditions Applicable to NPDES Permits for Concentrated Animal Feeding Operations);

i. Appendix A to 40 CFR 122, revised as of July 1, 2015 (NPDES Primary Industry Categories);

- j. Appendix C to 40 CFR 122, revised as of July 1, 2015 (Criteria for Determining a Concentrated Aquatic Animal Production Facility);
- k. Appendix D to 40 CFR 122, revised as of July 1, 2015 (NPDES Permit Application Testing Requirements);
- l. Appendix J to 40 CFR 122, revised as of July 1, 2015 (NPDES Permit Testing Requirements for Publicly Owned Treatment Works);
- m. Subpart A 40 CFR 125.1 – 40 CFR 125.3, revised as of July 1, 2015 (Criteria and Standards for imposing Technology-Based Treatment Requirements);
- n. Subpart B 40 CFR 125.10 – 40 CFR 125.11, revised as of July 1, 2015 (Criteria for Issuance of Permits to Aquaculture Projects);
- o. Subpart D 40 CFR 125.30 – 40 CFR 125.32, revised as of July 1, 2015 (Criteria and Standards for Determining Fundamentally Different Factors);
- p. Subpart G (40 CFR 125.56 – 40 CFR 125.68 Criteria for Modifying Secondary Treatment Requirements); (~~Discharge into ocean waters or saline estuarine waters~~)
- q. Subpart H 40 CFR 125.70 - 40 CFR 125.73, revised as of July 1, 2015 (Criteria for Determining Alternative Effluent Limitations);
- r. Subpart I 40 CFR 125.80 - 40 CFR 125.89, revised as of July 1, 2015 (Requirements Applicable to Cooling Water Intake Structures for New Facilities);
- s. Subpart J 40 CFR 125.90 - 40 CFR 125.99, revised as of July 1, 2015 (Requirements Applicable to Cooling Water Intake Structures for Phase II Existing Facilities);
- t. 40 CFR Part 129 Subpart A 40 CFR 129.1 - 40 CFR 129.105, revised as of July 1, 2015 (Toxic Pollutant Effluent Standards and Prohibitions);
- u. 40 CFR 133, revised as of July 1, 2015 (Secondary Treatment Regulation);
- v. 40 CFR 136, revised as of July 1, 2015 (Guidelines Establishing Test Procedures for the Analysis of Pollutants);
- w. 40 CFR 401, revised as of July 1, 2015 (General Provisions);
- x. 40 CFR 403.1 - 40 CFR 403.18, revised as of July 1, 2015 (General Pretreatment Regulations for Existing and New Sources of Pollution) including Appendices D, E, and G;
- y. 40 CFR 405 - 40 CFR 471, revised as of July 1, 2015 (Containing industry sector effluent limitations and guidelines)