

Idaho Pollutant Discharge Elimination System Discussion Paper #3

IPDES Permit Conditions, Renewal, Modification,
Revocation, Transfer, Termination, Monitoring
Requirements, Variances, and Compliance Schedules



**State of Idaho
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Introduction

The following discussion paper presents the Idaho Department of Environmental Quality's (DEQ) continuation of proposed draft rules for the Idaho Pollutant Discharge Elimination System (IPDES) program. DEQ is attempting to create a set of rules that are well organized, so that the regulated community and DEQ can easily find pertinent requirements that have a direct correlation to the Clean Water Act (CWA; 33 USC §1342) and the associated Code of Federal Regulations (CFR). The IPDES draft rules are organized so that the permitting process flow corresponds to the sections and subsections of the rules as much as possible. Where the CFRs reference multiple sections, the IPDES draft rules combine these CFR requirements and present them in one section, to the extent practicable.

This discussion paper presents draft rules addressing IPDES permit conditions, renewals, modification, revocation, reissuance, transfer, termination, monitoring requirements, compliance schedules, and variances. The CFR text has been mostly copied and reformatted into these draft rules to provide a convenient location and format for all related requirements stipulated throughout the CFR. This consolidation will help the regulated community and DEQ understand the permitting process.

The draft rule sections are presented in this paper:

- Section 200: Renewal of IPDES Permits
- Section 201: Modification, or Revocation and Reissuance of IPDES Permits
- Section 202: Transfer of IPDES Permits
- Section 203: Termination of IPDES Permits
- Section 300: Applicable Permit Conditions
- Section 301: Establishing Permit Provisions
- Section 302: Calculating Permit Provisions
- Section 303: Monitoring Requirements
- Section 304: Compliance Schedules
- Section 305: Conditions for Specific Categories
- Section 304: Compliance Schedules
- Section 310: Variances

Specifically, following sections are intended to

1. Provide a brief overview of the proposed contents and location of the IPDES rules, which originate from the CFR
2. Illustrate when the proposed IPDES rules materially differ from the CFR.

Section 200: Renewal of IPDES Permits

Subsection 200.01, Interim Effluent Limits (40 CFR 122.44(l)(1)), states that when a permit is renewed or reissued, interim effluent limitations, standards, or conditions must be at least as stringent as the final effluent limitations, standards, or conditions in the previous permit, unless circumstances on which the previous permit was based have materially and substantially changed

since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under Subsection 201.02.

Subsection 200.02, Final Effluent Limits (40 CFR 122.44(l)(2)–(l)(2)(i)(E)), states that when a permit is renewed, reissued, or modified, effluent limitations must be at least as stringent as the previous permit, unless one of several specific conditions are met (i.e., material and substantial alterations to the facility, new information is available, mistakes were made in issuing the permit, or treatment facilities are unable to achieve previous effluent limitations).

Subsection 200.03, Effluent Limits and Water Quality Standards (40 CFR 122.44(l)(2)(ii)), states when a permit is renewed, reissued, or modified, effluent limitations must not be less stringent than required by effluent guidelines in effect, or result in a violation of water quality standards.

Section 201: Modification, or Revocation and Reissuance of IPDES Permits

Subsection 201.01, Procedures to Modify, or Revoke and Reissue Permits (40 CFR 124.5(a), (c)(3), and Introduction of 122.62), states, at the request of any interested person or DEQ, permits may be modified, revoked, reissued, or terminated for reasons specified in rule, unless the modification is deemed minor as stipulated in Subsection 201.02. All requests must be in writing and contain supported facts or reasons. If the Department tentatively decides to modify or revoke and reissue a permit, the Department shall prepare a draft permit under Section 108, incorporating the proposed changes.

Changes from CFR: DEQ proposes not to include 40 CFR 124.5(b), part of (c)(1), (d)(2)–(f)(2) because these sections are not required by 40 CFR 123.25 or they otherwise pertain to US Environmental Protection Agency (EPA)-issued, Resource Conservation and Recovery Act (RCRA), Clean Water Act (CWA) 404, and Prevention of Significant Deterioration (PSD) air permits.

Subsection 201.02, Causes to Modify, or Revoke and Reissue Permits (40 CFR 122.62(a)–(b)(2)), provides that if the Department receives a request for modification or revocation and reissuance under Subsection 201.01 or cause exists under Subsection 201.02, DEQ may modify, or revoke and reissue a permit. Subsection 201.02.c (40 CFR 122.62(a)) identifies potential causes for permit modification but not revocation and reissuance. Subsection 201.02.d (40 CFR 122.62(b)) identifies additional causes for modification, which are also causes to revoke and reissue a permit.

Changes from CFR: DEQ proposes not to include 40 CFR 122.62(a)(3)(iii), which addresses state certifications of National Pollutant Discharge Elimination System permits. DEQ included “sludge disposal plan”, to comply with IDAPA 58.01.16.650, whenever a land application plan for sewage sludge was required.

Subsection 201.03, Minor Modifications of Permits (40 CFR 122.63(a)–(h)), asserts that with the permittee’s consent, DEQ may make minor modifications to a permit to make corrections or allowances for changes in the permitted activity for reasons listed, which include to correct typographical errors, require more frequent monitoring, change interim compliance schedule,

allow for a change in ownership or operational control, or change the construction schedule for a new source.

Section 202: Transfer of IPDES Permits

Subsection 202.01, Transfer by Modification (40 CFR 122.61(a)), identifies that a permit may be transferred to a new owner or operator only if the permit has been modified, or revoked and reissued, or a minor modification was made to identify the new permittee and incorporate other requirements necessary under CWA.

Subsection 202.02, Automatic Transfers (40 CFR 122.61(b)–(b)(3)), states that IPDES permits may be automatically transferred if the permittee provides DEQ at least 30-days prior notification, the notice contains a written agreement between the current and new permittee, and DEQ does not notify the current permittee and the proposed new permittee of its intent to modify, or revoke and reissue the permit.

Section 203: Termination of IPDES Permits

Subsection 203.01, Request to Terminate or Termination Initiated by the Department (40 CFR 124.5(a)), states that permits may be terminated either at the request of any interested person (including the permittee) or upon the Department’s own initiative. However, permits may only be terminated for the reasons specified in Subsection 203.04. All requests for termination shall be in writing and shall contain facts or reasons supporting the request.

Subsection 203.02, Tentative Permit Termination (40 CFR 124.5(d)), states that if DEQ tentatively decides to terminate a permit the permittee will be notified in writing and given 30 days to object, otherwise the permit termination becomes effective. If the permittee objects within the allotted time, DEQ shall issue a notice of intent to terminate and will follow the same procedures as required for a notification of intent to deny an application under Subsection 107.01, Application Denial.

Subsection 203.03, Expedited Process for Terminated or Eliminated Discharge (40 CFR 122.64(b)), states that if the entire discharge is permanently eliminated or connected to a publicly owned treatment work, DEQ may terminate the permit by notice to the permittee. The termination by notice is effective 30 days after the notice is sent (expedited permit termination). A permittee requesting an expedited permit termination must certify it is not subject to any pending state or federal enforcement actions. If the permittee objects, DEQ will follow the procedures in Subsection 203.01 and 203.02.

Subsection 203.04, Cause to Terminate Permits (40 CFR 122.64(a)(1)–(a)(4)), identifies the causes for terminating a permit during its term or for denying a permit renewal application. Reasons for cause include permittee’s noncompliance, failure to disclose relevant facts or misrepresenting relevant facts, DEQ’s determination that the permitted activity endangers human health or the environment, or a change in condition that requires reducing or eliminating any discharge or sludge use or disposal practice.

Section 300: Applicable Permit Conditions

Subsection 300.01, Conditions Applicable to All Permits (40 CFR 122.41(a)–(j)(4)), establishes the conditions that apply to all IPDES permits, including duty to comply with CWA as it applies to toxic pollutants and sewage sludge, obligation to apply for and obtain a new IPDES permit before expiration of a current permit, duty to mitigate or prevent permit violations, providing DEQ with information and access to records, and proper operation and maintenance of facilities and systems of treatment, laboratory controls, and quality assurance procedures.

Subsection 300.02, Signatory Requirements (40 CFR 122.41(k)(1)), identifies signatory requirements according to Subsection 105.04, Signature Requirements for Permit Applications and Reports.

Subsection 300.03, Reporting Requirements (40 CFR 122.41(l)(1)–(l)(8)), outlines special reporting requirements, including providing DEQ with advance notice of physical alterations or additions to a facility, anticipated noncompliance, monitoring reports, reports of compliance and noncompliance, and 24-hour reporting.

Subsection 300.04, Bypass Terms and Conditions (40 CFR 122.41(m)(2)(i)–(m)(4)(i)(C)), provides that bypass, as defined in the rules, is prohibited. DEQ may pursue enforcement action for bypass, unless it was unavoidable to prevent loss of life, personal injury, or severe property damage, no feasible alternatives exist, and the permittee provides notice to DEQ. This subsection also identifies that bypass not exceeding limitations may be allowed only for essential maintenance and efficient operation.

Changes from CFR: DEQ proposes not to include 40 CFR 122.41(m)(1)(i) and (m)(1)(ii), which are the definitions of bypass and severe property damage. DEQ plans to subsequently address these terms in IPDES rules Section 010, Definitions.

Subsection 300.05, Upset Terms and Conditions (40 CFR 122.41(n)(2)–(n)(4)), states that upset may be claimed as an affirmative defense by a permittee against noncompliance of technology based permit limits if they can demonstrate the cause of an upset, including properly signed, contemporaneous operating logs, and other relevant evidence. Additionally, the permittee has the burden of proof to establish the occurrence of an upset in any enforcement proceedings.

Changes from CFR: DEQ proposes not to include 40 CFR 122.41(n)(1), which is the definitions of upset. DEQ plans to subsequently address this term in IPDES rules Section 010, Definitions.

Subsection 300.06, Penalties and Fines (40 CFR 122.41(a)(2)–(a)(3), 122.41(j)(5), and 122.41(k)(2)), identifies that IPDES permits must reference penalties and fines that will be established in Sections 500, Enforcement.

Section 301: Establishing Permit Provisions

Subsection 301.01, Incorporation (40 CFR 122.43(c)), provides that all permit conditions shall be incorporated expressly; or if by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

Subsection 301.02, Applicable Requirements (40 CFR 122.43(a)–(b)), identifies that DEQ will establish conditions to ensure compliance with CWA and IPDES rules, including all requirements that take effect before the final disposition of new or reissued permits and that take effect before the modification or revocation and reissuance of a permit.

Subsection 301.03, Technology Based Effluent Limitations and Standards (40 CFR 122.44(a)(1)–(a)(2)(v)), provides that technology based effluent limits and standards are based on limitations and standards promulgated under CWA, and new sources or new dischargers are subject to the provisions of 40 CFR 125.3 and 122.29(d), which are incorporated by reference in Subsection 003.04. DEQ may also authorize a discharger to forego sampling and analysis for a pollutant in 40 CFR 401–471, incorporated by reference in Subsection 003.04, if the discharger demonstrates the pollutant is not present in the discharge or is present only at background levels from intake water. This specific pollutant monitoring waiver is not available during the initial permit cycle when the permittee is collecting data to demonstrate the pollutant’s presence due to intake water alone.

Subsection 301.04, Other Effluent Limitations and Standards (40 CFR 122.44(b)(1)–(b)(3)), asserts that DEQ may initiate proceedings to modify, or revoke and reissue, a permit to conform to more stringent toxic effluent standards or prohibitions promulgated under CWA. When there are no applicable standards for sewage sludge use, the permit may include requirements developed on a case-by-case basis to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge.

Subsection 301.05, Reopener Clause (40 CFR 122.44(c)), states that for any permit issued to a treatment works treating domestic sewage (including *sludge-only facilities*), DEQ must include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under CWA; DEQ may promptly modify, or revoke and reissue, such permits if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit.

Subsection 301.06, Water Quality Standards and State Requirements (40 CFR 122.44(d)–(d)(8)), identifies water quality standards that must be met in IPDES permits, including those established under CWA, state narrative criteria, consistent with the Water Quality Management Plan, incorporate effluent limits warranted by fundamentally different factors and effluent limits for whole effluent toxicity.

Changes from CFR: DEQ proposes not to include 40 CFR 122.44(d)(3), (d)(7), or (d)(9), which apply to ocean discharges, and other requirements when EPA is the permitting authority.

Subsection 301.07, Technology Based Controls for Toxic Pollutants (40 CFR 122.44(e)(1)–(e)(2)(ii)), addresses limits to control toxic pollutants that may discharge at greater levels than can be achieved by the technology based treatment requirements. Additionally, the fact sheet will explain developing limitations in the permit.

Subsection 301.08, Notification Level (40 CFR 122.44(f)), asserts that IPDES permits will require a higher *notification level* upon petition from the permittee, or on DEQ’s own initiative, but it may not exceed the level that can be achieved by technology based treatment requirements.

Subsection 301.09, Twenty-four Hour Reporting (40 CFR 122.44(g)), states that permits will list pollutants that require reports within 24 hours of violations of maximum daily discharge limitations.

Subsection 301.10, Permit Durations 40 CFR 122.44(h), states that permits will include durations established in Subsection 101.01, Permit Term.

Subsection 301.11, Monitoring Requirements 40 CFR 122.44(i), states that permits will include requirements established in Subsection 303.01, Monitoring and Reporting Requirements.

Subsection 301.12, Pretreatment Program for POTWs 40 CFR 122.44(j), requires the permittee to identify the character and volume of pollutants of any Significant Industrial Users discharging into the POTW, submit a local program to assure compliance under Clean Water Act, provide written technical evaluation of the need to revise local limits, and sludge-only facilities develop a pretreatment program under 40 CFR part 403, incorporated by reference in Subsection 003.04.

Subsection 301.13, Best Management Practices (40 CFR 122.44(k)–(k)(4)), asserts that IPDES permits must include BMPs when authorized by CWA, where numeric effluent limitations are infeasible, or when practices are necessary to achieve effluent limitations and standards.

Subsection 301.14, Privately Owned Treatment Works (40 CFR 122.44(m)) identifies that for privately owned treatment works, any expressly applicable conditions necessary to ensure compliance may be issued in a permit. Alternatively, separate permits may be issued to the treatment works and its users, or a separate application may be required from any user.

Subsection 301.15, Reissued Permits 40 CFR 122.44(l), states that renewed or reissued permits must be consistent with Subsection 200, Renewal of IPDES Permits.

Subsection 301.16, Grants (40 CFR 122.44(n)), states that permit conditions must include any conditions imposed in grants under the CWA, which are reasonably necessary for the achievement of effluent limitations.

Subsection 301.17, Sewage Sludge (40 CFR 122.44(o)), identifies that permits must include CWA requirements governing the disposal of sewage sludge from privately owned treatment works or any other treatment works treating domestic sewage.

Changes from CFR: DEQ proposes not to include 40 CFR 122.44(p), which applies to Coast Guard regulations and is not applicable to Idaho.

Subsection 301.18, Navigation (40 CFR 122.44(q)), provides that permit conditions must include any conditions the Secretary of the Army considers necessary to ensure navigation and anchorage will not be substantially impaired.

Changes from CFR: DEQ proposes not to include 40 CFR 122.44(r), which applies to Great Lakes and is not applicable to Idaho.

Subsection 301.19, Qualifying State, Tribal, or Local Programs (40 CFR 122.44(s)(1)–(s)(2)), identifies for storm water discharges associated with small construction activity identified in 40 CFR 122.26(b)(15) or 122.26(b)(14)(x), incorporated by reference in Subsection 003.04, DEQ

may include permit conditions that incorporate qualifying erosion and sediment control program requirements, or items listed in this subsection, by reference.

Subsection 301.20, Water Quality Pollutant Trading (Idaho Specific), identifies that DEQ may include provisions in IPDES permits that allow for water quality pollutant trading.

Changes from CFR: This Idaho-specific language is included to facilitate appropriate water quality pollutant trading as a tool to more efficiently and effectively meet effluent limitations and standards.

Section 302: Calculating Permit Provisions

Subsection 302.01, Outfalls and Discharge Points (40 CFR 122.45(a)), asserts that all permit effluent limitations must be established for each outfall or discharge point except otherwise provided under Subsection 301.13, and when limitations on internal wastestreams exist under Subsection 302.08.

Subsection 302.02, Production-Based Limitations (40 CFR 122.45(b)(1)–(b)(2)(ii)(B)(3)), identifies that in the case of publicly owned treatment works, permit effluent limits, standards, and prohibitions must be calculated based on design flow. For other sectors, limits, standards, and prohibitions are based upon reasonable measures of actual production. New sources or new dischargers must use projected production.

Subsection 302.03, Metals (40 CFR 122.45(c)–(c)(3)), states that all permit effluent limitations, standards, or prohibitions for a metal must be expressed in terms of *total recoverable metal* unless (1) an applicable standard or limit has been promulgated and specifies the limit for metals in dissolved, valent, or total form or (2) when establishing limits on a case-by-case basis, the limit must be expressed in the permit in either dissolved, valent, or total form, or (3) approved analytical methods only measure in dissolved form.

Subsection 302.04, Continuous Discharges (40 CFR 122.45(d)–(d)(2)), provides that, except for publicly owned treatment works, all effluent limits, standards, and prohibitions for all continuous discharges must be stated as maximum daily and average monthly discharge limitations. Effluent limits, standards, and prohibitions for publicly owned treatment works must be stated as average weekly and average monthly discharge limitations.

Subsection 302.05, Noncontinuous Discharges (40 CFR 122.45(e)–(e)(4)), provides that discharges, which are not continuous, must be described and limited considering frequency, total mass, maximum rate of discharge of pollutants, and prohibition or limitation of specified pollutants by mass, concentration, or other appropriate measure.

Subsection 302.06, Mass Limitations (40 CFR 122.45(f)–(f)(2)), explains that all pollutants listed in permits must have limitations, standards, or prohibitions expressed in mass, except (1) pollutants that cannot appropriately be expressed by mass, or (2) applicable limits and standards are expressed in other measurement units, or (3) on a case-by-case basis, limits expressed in mass are not feasible because they cannot be related to the measure of operation. Alternatively, pollutants limited in terms of mass may also be limited in terms of other units of measurement, and the permit shall require the permittee to comply with both limitations.

Subsection 302.07, Pollutant Credits for Intake Water (40 CFR 122.45(g)–(g)(5)), states that upon request of the discharger, technology based effluent limitations will be adjusted to reflect credit for pollutants and generic pollutants in the intake water if specified conditions are met. Alternatively, this subsection does not apply to the discharge of raw water clarifier sludge generated from the treatment of intake water.

Subsection 302.08, Internal Waste Streams (40 CFR 122.45(h)–(h)(2)), applies when permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible; effluent limitations or standards may be imposed on internal wastestreams before mixing with other wastestreams or cooling water streams. The fact sheet will impose circumstances that make such limitations necessary.

Subsection 302.09, Disposal of Pollutants into Wells, into POTWs, or by Land Application (40 CFR 122.45(i), and 40 CFR 122.50), addresses allowable adjustments to the IPDES permit discharge limits and how these adjustments are to be calculated when a discharger directs part of their wastestream either to a well for deep injection, to a publicly owned treatment work, or to a land application area.

Changes from CFR: DEQ proposes to include reference to DEQ’s reuse permit program when a discharger intends to dispose of wastewater to land surface. Additionally, DEQ includes a reference to the Idaho Department of Water Resources’ Underground Injection Control Program Rules if the discharger proposes to inject treated effluent into a deep injection well.

Section 303: Monitoring and Reporting Requirements

Subsection 303.01, Monitoring Requirements (40 CFR 122.48(a)–(c), (i)–(i)(1)(iv)), identifies monitoring requirements common to all permits, including proper use, maintenance, and installation of monitoring equipment and methods, the type, intervals, and frequency of monitoring and reporting results. Subsection 303.01.d. (122.44(i)–(i)(1)(iii)) identifies additional monitoring requirements (i.e., the mass for each pollutant, the volume of effluent discharged from each outfall, and pollutants in internal wastestreams).

Subsection 303.02, Report Results (40 CFR 122.44(i)(2)–(i)(5)), states that DEQ will establish requirements to report monitoring results on a case-by-case basis, but not less than once a year. Also on a case-by-case basis, DEQ will establish requirements for monitoring and reporting on storm water and sewage sludge use or disposal with a frequency dependent on the nature and effect of the practice. DEQ will establish requirements to report monitoring results for storm water discharges associated with industrial activity on a case-by-case basis. Minimum requirements for discharge include annually inspecting the facility site, maintaining a record of inspections for 3 years, and signing the report and certification. Finally, permit that do not require the permittee to report monitoring results at least annually, must require the permittee to report, at least annually, all instances of noncompliance not reported under Subsection 300.03, Reporting Requirements.

Section 304: Compliance Schedules

Subsection 304.01, General (40 CFR 122.47(a)–(a)(4)), identifies IPDES compliance schedule requirements, including as soon as possible, but not later than the applicable statutory deadline under the Clean Water Act, requirements for a new source, new discharger or recommencing discharger to contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised, and that compliance schedules exceeding 1 year must include interim requirements.

Subsection 304.02, Alternative Schedules of Compliance (40 CFR 122.47(b)), provides for alternative compliance schedules if the permittee decides to cease conducting permitted activities within the term of the permit, if the decision to cease permitted activities is made before the issuance of a permit, or if the permittee is undecided whether to cease conducting permitted activities.

Section 305: Permit Conditions for Specific Categories

Subsection 305.01, Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers (40 CFR 122.42(a)–(a)(2)(iv)), identifies that in addition to requirements of Section 300, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify DEQ as soon as they know or have reason to believe: (1) any activity has or will result in discharge exceeding the highest notification levels, on a routine or frequent basis of toxic pollutants not addressed in the permit, or (2) any activity has or will result in discharge exceeding the highest notification levels, on a nonroutine or infrequent basis of toxic pollutants not addressed in the permit.

Subsection 305.02, Publicly and Privately Owned Treatment Works (40 CFR 122.42(b)–(b)(3)(ii)), states that all publicly owned treatment works must provide adequate notice of any new pollutants, substantial change in the volume or character of pollutants, and any anticipated impact of the change of the quantity or quality of effluent discharged.

Changes from CFR: DEQ has expanded this section to also cover the privately owned treatment works that exist, or will be installed in the state. These privately owned treatment works typically process domestic wastewater from remote subdivisions, but may have excess capacity to handle additional flows from adjacent subdivisions or commercial facilities.

Subsection 305.03, Municipal Separate Storm Sewer Systems (40 CFR 122.42(c)–(c)(7)), asserts that large or medium MS4s must submit an annual report, including the status of implementation components in the permit, proposed changes to the management programs, revisions to the assessment of controls and fiscal analysis, and water quality improvements or degradation.

Subsection 305.04, Storm Water Dischargers (40 CFR 122.42(d)), establishes that initial permits for dischargers comprised entirely of storm water, must require compliance with permit conditions as expeditiously as practicable but not later than 3 years after the permit is issued.

Subsection 305.05, Concentrated Animal Feeding Operations (CAFOs) 40 CFR 122.42(e), states that any applicable permit must include provisions pursuant to 40 CFR 122.42(e).

Section 310: Variances

Subsection 310.01, Permit Variances (40 CFR 124.62(a)–(f)), identifies the reasons for granting or denying variance requests, including delay in completion of a publicly owned treatment work, extensions based on the use of innovative technology, variances for thermal pollution, economic capability of the applicant, and water quality related effluent limitations. This subsection also presents the process DEQ and EPA must follow in granting or denying such variance requests.

Subsection 310.02, Variance Requests by non-POTWs (40 CFR 122.21(m)–(m)(6)), provides conditions under which non-publicly owned treatment works may request variance, including fundamentally different factors and a variance from best available technology requirements because of the economic capability of the owner or operator. Additionally, a discharger may request an extension, which must be no more than 6 months in duration. A request for modification in achieving water quality related effluent limitations must be made by the close of the public comment period.

Subsection 310.03, Variance Requests by POTWs (40 CFR 122.21(n)–(n)(3)), states that publicly owned treatment works may request variance from effluent limits, and a modification for achieving water quality based effluent limits must be made by the close of the public comment period.

Changes from CFR: DEQ proposes not to include 40 CFR 122.21(n)(1)), which applies to discharges to marine waters and is not applicable to Idaho.

Subsection 310.04, Expedited Variance Procedures and Time Extensions (40 CFR 122.21(o)–(o)(2)), states DEQ may notify a permit applicant before a draft permit is issued and the permit will likely contain limits eligible for variances and the process that follows. A discharger, who cannot file a timely request, may request an extension up to 6 months in duration.