



IDAHO MINING ASSOCIATION

P.O. Box 1660 • Boise, ID 83701
208.342.0031 • ima@idahominig.org

April 8, 2015

Paula Wilson
Department of Environmental Quality
1410 North Hilton
Boise, ID 83706-1255

Sent via email to: paula.wilson@deq.idaho.gov

Re: IPDES Negotiated Rule Draft No. 3 (Docket No. 58-0125-1401)

Dear Paula:

The Idaho Mining Association appreciates the opportunity to comment on the subject draft Rule. IMA believes IDEQ should retain as much flexibility in this IPDES rulemaking as authorized under federal rules, and when appropriate Idaho-specific issues should be addressed. We believe such an approach is consistent with the legislature's directive to IDEQ to proceed with obtaining authorization to carry out the NPDES permit program in Idaho. IMA's specific comments to the subject draft rule are set forth below.

Section 200. Renewal of NPDES Permits, Interim and Final Limits (200.01 and 200.02)

This section should make clear that the exception to anti-backsliding authorized under § 303(d)(4) also applies to IPDES permitting actions.

Section 201. Modification or Revocation and Reissuance of IPDES Permits, Minor modification (200.03)

This section incorporates 40 CFR 122.63. IDEQ is not required, however, to adopt this section of the federal regulation to obtain an authorized program. We believe IDEQ should consider expanding this section to allow for additional flexibility in making minor modifications to permits. In particular, we recommend that a minor modification would apply to changes that do not increase the discharge of a pollutant, among other. I am enclosing a copy of Alaska's EPA accepted rule on

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minor NPDES modifications that we believe IDEQ should adopt in lieu of mirroring federal regulations.

Section 300. Applicable Permit Conditions (300.01.b)

This provision should make clear that continuation of an activity is authorized so long as a permittee has timely applied for renewal of a permit.

Section 302. Calculating Permit Conditions, Pollutant Credits for Intake Water (302.07)

This section should make clear that pollutant credits for intake water also apply when calculating water quality-based effluent limits. Also with respect to Disposal of Pollutants into Wells, into POTWs, or by Land Application (302.08) we recommend that subsections (d) and (e) of this section be deleted because they potentially expand the scope of permitting obligations under other state rules.

Section 304. Compliance Schedules

IDEQ water quality rules currently authorize compliance schedules in NPDES Permits for water quality-based effluent limits established for the first time in a permit. See IDAPA 58.01.02.400.03. We believe this provision should be incorporated into Section 304.

Section 310. Variances

IDEQ water quality rules currently authorize water quality-based variances based on a variety of conditions (see IDAPA 58.01.260.01,b.) We believe these same conditions should be incorporated into Section 310. Secondly, we think IDEQ should specify in this section that watershed (or even statewide) variances may be authorized. Finally, this section should make clear that if IDEQ authorizes a discharger-specific variance or watershed-based variance then it is not necessary to incorporate such a variance in Idaho Water Quality Standards at IDAPA 58.01.02.

Thank you for consideration of these comments.

Sincerely,



Jack Lyman
Executive Vice President

ALASKA'S NPDES MINOR MODIFICATION RULE

18 AAC 83.145. Minor modification of permit.

(a) With the consent of the permittee, the department may make minor modifications to a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures described in 18 AAC 83.115, 18 AAC 83.120, and 18 AAC 83.130. The following constitute minor modifications that the department may make under this section:

- (1) correcting any typographical error;
- (2) requiring more frequent monitoring or reporting by the permittee;
- (3) changing an interim compliance date in a schedule of compliance, if the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;
- (4) allowing for a change in ownership or operational control of a facility if
 - (A) a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the department; and
 - (B) the department determines that no other change in the permit is necessary;
- (5) changing the construction schedule for a discharger that is a new source; however, the change must not affect the discharger's obligation to have all pollution control equipment installed and in operation before commencing a discharge from the new source;
- (6) making a change in a permit provision that will neither result in allowing an actual or potential increase in the discharge of a pollutant or pollutants into the environment nor result in a reduction in monitoring of a permittee's compliance with applicable statutes and regulations;
- (7) deleting a point source outfall when the discharge from that outfall is terminated without resulting in a discharge of pollutants from other outfalls except in accordance with permit limits;

(8) incorporating, as enforceable conditions of a POTW's permit, the conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 C.F.R. 403.11, adopted by reference in 18 AAC 83.010, or a modification of a POTW pretreatment program that has been approved in accordance with the procedures in 40 C.F.R. 403.18, adopted by reference in 18 AAC 83.010.

(b) Any permit modification not qualifying as a minor modification under this section must be made through the draft permit and public notice process as required in 18 AAC 83.115, 18 AAC 83.120, 18 AAC 83.130, and for cause as provided in 18 AAC 83.135. (Eff. 7/29/2006, Register 179; am 11/10/2007, Register 184)

Authority: AS 44.46.020 AS 46.03.050 AS 46.03.110
 AS 46.03.010 AS 46.03.100 AS 46.03.120
 AS 46.03.020