

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.12 - RULES FOR ADMINISTRATION OF WATER POLLUTION CONTROL LOANS

DOCKET NO. 58-0112-1501

NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This rulemaking action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 16, 2015. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: Congress recently amended the Clean Water Act's requirements for the State Revolving Fund (SRF) loan effort. The amendment requires that Idaho consider population trends and unemployment data, in addition to the existing criteria of median household income, when determining which borrowers will qualify for disadvantaged loan terms. This rule change incorporates the additional criteria for evaluating the eligibility for disadvantaged loans that are not already in the existing rule. The additional required elements are a result of the 2014 amendments to the Clean Water Act (Pub.L. 113-121).

Prospective grant and loan recipients, consulting engineers, grant and loan administrators, and other funding agencies may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2015 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2016 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on the outcome of the negotiated rulemaking process conducted pursuant to Idaho Code § 67-5220 and IDAPA 58.01.23.810-815. The Notice of Negotiated Rulemaking was published in the July 2015 Idaho Administrative Bulletin, [Vol. 15-7, page 138](#), and a preliminary draft rule was made available for public review. A meeting was held on July 21, 2015. Members of the public did not attend the meeting or submit written comments. At the conclusion of the negotiated rulemaking process, DEQ formatted the final rule draft for publication as a proposed rule. DEQ is now seeking public comment on the proposed rule. The negotiated rulemaking record, which includes the negotiated rule drafts, and documents distributed during the negotiated rulemaking process, is available at www.deq.idaho.gov/58-0112-1501.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Tim Wendland at tim.wendland@deq.idaho.gov, (208) 373-0439.

Anyone may submit written comments by mail, fax or email at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 30, 2015.

Dated this 2nd Day of September, 2015.

Paula J. Wilson
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0112-1501
(Only Those Sections With Amendments Are Shown.)

021. DISADVANTAGED LOANS.

Disadvantaged Loan Awards. In conjunction with the standard loans, the Department may award disadvantaged loans to applicants deemed disadvantaged using the following criteria: (3-29-12)

01. Qualifying for a Disadvantaged Loan. In order to qualify for a disadvantaged loan, a loan applicant must have an annual user rate for wastewater service for residential customers which exceeds ~~one and one-half percent (1½%)~~ two percent (2%) of the applicant community's median household income or, if the user rate is between one and one-half percent (1½%) and two percent (2%) of the applicant community's median household income, the community must also have: unemployment that exceeds the state average; and a decreasing population. The applicant shall agree to a thirty (30) year loan unless the design life of the project is documented to be less than thirty (30) years. The annual user rate would be based on all operating, maintenance, replacement, and debt service costs (both for the existing system and for upgrades). If the applicant's service area is not within the boundaries of a municipality, or if the applicant's service area's median household income is not consistent with the municipality as a whole, the applicant may use the census data for the county in which it is located or may use a representative survey, conducted by a Department approved, objective third party, to verify the median household income of the applicant's service area. (3-29-12)()

02. Adjustment of Loan Terms. DEQ will equally apportion funds available for principal forgiveness to all prospective disadvantaged loan recipients. Consistent with achieving user rates ~~of one and one-half percent (1½%) of the applicant community's median household income~~ as per the criteria set forth in Subsection 021.01, and where possible with available funds, loan terms may be adjusted in the following order: decreasing the interest rate and providing principal forgiveness. (3-29-12)()

a. Decreasing Interest Rate. The loan interest rate may be reduced from the rate established by the Director for standard loans to a rate that results in an annual user rate ~~equal to one and one-half percent (1½%) of median household income~~ equaling the criteria set forth in Subsection 021.01. The interest rate may be reduced to as low as zero percent (0%). (3-29-12)()

b. Principal Forgiveness. If even at zero percent (0%) interest, the annual user rate per residential user still exceeds ~~one and one-half percent (1½%) of median household income; the criteria set forth in Subsection 021.01,~~ then the principal which causes the user charge to exceed ~~one and one-half percent (1½%) may be reduced except the criteria set forth in Subsection 021.01 may be partially forgiven or reduced.~~ ‡The principal reduction cannot exceed fifty percent (50%) of the total loan. Principal forgiveness terms may be revised (from initial estimates established in the annual Intended Use Plan) based upon final construction costs, such that loan terms do not result in user rates that are below ~~one and one-half percent (1½%) of the applicant community's median household income~~ the criteria set forth in Subsection 021.01. (3-29-12)()