

Negotiated Rule Draft No. 3
Docket No. 58-0125-1701, Dated July 26, 2017

A rule revision has been made based on written comments received from EPA. The revision is highlighted in yellow.

The comment period for this negotiated rulemaking has concluded. The comment period on the proposed rule will commence upon publication of the proposed rule in the August 2, 2017 issue of the Idaho Administrative Bulletin.

Rules Regulating the Idaho Pollutant Discharge Elimination System Program
IDAPA 58.01.25

002. CONFIDENTIALITY OF RECORDS.

01. Identifying Confidential Information. Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter ~~31~~, Title ~~974~~, 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 74-101~~ through ~~9-347 74-119~~, 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. (3-24-16)

02. Denial of Confidential Claims. In accordance with Section ~~9-342A 74-114~~, 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: (3-24-16)

a. The name and address of any IPDES applicant or permittee; (3-24-16)

b. The content of any IPDES permit; (3-24-16)

c. IPDES permit applications, and information required to be submitted by IPDES application forms under Section 105 (Application for an Individual IPDES Permit), or IPDES General Permit Notice of Intent, and information required to be submitted under Section 130 (General Permits), whether the information is submitted on the application forms themselves or in any attachments used to supply information required by the application forms; and (3-24-16)

d. Effluent data as defined in 40 CFR 2.302. (3-24-16)

003. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

01. Availability of Reference Material. Codes, standards and regulations may be incorporated by reference in this rule pursuant to Section 67-5229, Idaho Code. Codes, standards or regulations adopted by reference throughout this rule are available in the following locations: (3-24-16)

a. Department of Environmental Quality. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. (3-24-16)

b. Law Library. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051. (3-24-16)

c. Electronic Code of Federal Regulations (eCFR) <http://www.ecfr.gov/cgi-bin/ECFR>. (3-24-16)

02. 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: (3-24-16)

a. [40 CFR 122.21\(r\)](#), revised as of July 1, 2015~~7~~ (Application Requirements for Facilities with Cooling Water Intake Structures); (~~3-24-16~~)

b. [40 CFR 122.23](#), revised as of July 1, 2015~~7~~ (Concentrated Animal Feeding Operations); (~~3-24-16~~)

c. [40 CFR 122.24](#), revised as of July 1, 2015~~7~~ (Concentrated Aquatic Animal Production Facilities); (~~3-24-16~~)

d. [40 CFR 122.25](#), revised as of July 1, 2015~~7~~ (Aquaculture Projects); (~~3-24-16~~)

e. [40 CFR 122.26\(a\)](#) through (b) and [40 CFR 122.26\(e\)](#) through (g), revised as of July 1, 2015~~7~~ (Storm Water Discharges); (~~3-24-16~~)

f. [40 CFR 122.27](#), revised as of July 1, 2015~~7~~ (Silvicultural Activities); (~~3-24-16~~)

g. [40 CFR 122.29\(d\)](#), revised as of July 1, 2015~~7~~ (Effect of Compliance with New Source Performance Standards); (3-24-16)

h. [40 CFR 122.30](#) and [40 CFR 122.32](#) through [40 CFR 122.37](#), revised as of July 1, 2015~~7~~ (Requirements and Guidance for Small Municipal Separate Storm Sewer Systems); (~~3-24-16~~)

i. [40 CFR 122.42\(e\)](#), revised as of July 1, 2015~~7~~ (Additional Conditions Applicable to NPDES Permits for Concentrated Animal Feeding Operations); (~~3-24-16~~)

j. [Appendix A to 40 CFR 122](#), revised as of July 1, 2015~~7~~ (NPDES Primary Industry Categories); (3-24-16)

k. [Appendix C to 40 CFR 122](#), revised as of July 1, 2015~~7~~ (Criteria for Determining a Concentrated Aquatic Animal Production Facility); (~~3-24-16~~)

l. [Appendix D to 40 CFR 122](#), revised as of July 1, 2015~~7~~ (NPDES Permit Application Testing Requirements); (~~3-24-16~~)

m. [Appendix J to 40 CFR 122](#), revised as of July 1, 2015~~7~~ (NPDES Permit Testing Requirements for Publicly Owned Treatment Works); (~~3-24-16~~)

n. [40 CFR 125.1](#) through [40 CFR 125.3](#) (Subpart A), revised as of July 1, 2015~~7~~ (Criteria and Standards for Imposing Technology-Based Treatment Requirements Under Sections 301(b) and 402 of the Clean Water Act); (~~3-24-16~~)

o. [40 CFR 125.10](#) through [40 CFR 125.11](#) (Subpart B), revised as of July 1, 2015~~7~~ (Criteria for Issuance of Permits to Aquaculture Projects); (~~3-24-16~~)

p. [40 CFR 125.30](#) through [40 CFR 125.32](#) (Subpart D), revised as of July 1, 2015~~7~~ (Criteria and Standards for Determining Fundamentally Different Factors Under Sections 301(b)(1)(A) and 301(b)(2)(A) and (E) of the Clean Water Act); (~~3-24-16~~)

q. [40 CFR 125.70](#) through [40 CFR 125.73](#) (Subpart H), revised as of July 1, 2015~~7~~ (Criteria for Determining Alternative Effluent Limitations Under Section 316(a) of the Clean Water Act); (~~3-24-16~~)

r. [40 CFR 125.80](#) through [40 CFR 125.89](#) (Subpart I), revised as of July 1, 2015~~7~~ (Requirements Applicable to Cooling Water Intake Structures for New Facilities Under Section 316(b) of the Clean Water Act);

(3-24-16)

s. [40 CFR 125.90](#) through 40 CFR 125.99 (Subpart J), revised as of July 1, 2015~~7~~ (Requirements Applicable to Cooling Water Intake Structures for Phase II Existing Facilities Under Section 316(b) of the Clean Water Act); (3-24-16)

t. [40 CFR 127.11](#) through 40 CFR 127.16 (Subpart B), revised as of July 1, 2017 (Electronic reporting of NPDES Information from NPDES-Regulated Facilities);

~~t.u.~~ [40 CFR 129.1](#) through 40 CFR 129.105 (Subpart A), revised as of July 1, 2015~~7~~ (Toxic Pollutant Effluent Standards and Prohibitions); (3-24-16)

~~u.v.~~ [40 CFR 133.100](#) through 40 CFR 133.105, revised as of July 1, 2015~~7~~ (Secondary Treatment Regulation); (3-24-16)

~~v.w.~~ [40 CFR Part 136](#), revised as of July 1, 2015~~7~~ (Guidelines Establishing Test Procedures for the Analysis of Pollutants, including Appendices A, B, C, and D); (3-24-16)

~~w.x.~~ [40 CFR Part 401](#), revised as of July 1, 2015~~7~~ (General Provisions); (3-24-16)

~~x.y.~~ [40 CFR 403.1](#) through 40 CFR 403.3; ~~40 CFR 403.5 through 40 CFR 403.9; and 40 CFR 403.11 through 40 CFR 403.18~~, revised as of July 1, 2015~~7~~ (General Pretreatment Regulations for Existing and New Sources of Pollution, including Appendices D, E, and G); (3-24-16)

~~y.z.~~ [40 CFR Part 405](#) through 40 CFR Part 471, revised as of July 1, 2015~~7~~ (Effluent Limitations and Guidelines); and (3-24-16)

~~z.aa.~~ [40 CFR 503.2](#) through 40 CFR 503.48, revised as of July 1, 2015~~7~~ (Sewage Sludge, including Appendices A and B). (3-24-16)

~~aa.bb.~~ The term “Waters of the United States or waters of the U.S.,” as defined in [40 CFR 122.2](#), revised as of August 28, 2015 by 80 Federal Register 37054-37127 (June 29, 2015), unless said revision is stayed, overturned or invalidated by a court of law or withdrawn by EPA, in which case the Department incorporates by reference the term “Waters of the United States or waters of the U.S.” as defined in [40 CFR 122.2](#), revised as of July 1, 2015. (3-24-16)

03. Term Interpretation. For the federal regulations incorporated by reference into these rules, unless the context in which a term is used clearly requires a different meaning, terms in this section have the following meanings: (3-24-16)

a. The term Administrator or Regional Administrator means the EPA Region 10 Administrator; (3-24-16)

b. The term Control Authority means the POTW for a facility with a Department-approved pretreatment program and the Department for a POTW without a Department-approved pretreatment program; (3-24-16)

c. The term Director or State Director means the Director of the Department of Environmental Quality with an NPDES permit program approved pursuant to section 402(b) of the Clean Water Act; (3-24-16)

d. The term National Pollutant Discharge Elimination System (NPDES) means the Idaho Pollutant Discharge Elimination System (IPDES); (3-24-16)

e. The term Permitting Authority (also preceded by the terms NPDES or State) means the Idaho Department of Environmental Quality with an NPDES permit program approved pursuant to section 402(b) of the Clean Water Act. (3-24-16)

(Break)

010. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program," the following definitions apply. Terms not expressly defined in this section shall have the meaning provided by Water Quality Standards, IDAPA 58.01.02.010, or Wastewater Rules, IDAPA 58.01.16.010.

(3-24-16)

(Break)

35. Equivalent Dwelling Unit (EDU). A measure where one (1) equivalent dwelling unit is equivalent to wastewater generated from one (1) single-family residence. For the purposes of assessing fees associated with this rule, the number of EDUs must be is calculated from as the municipality's population served divided by the average number of people per household as defined in the most recent Census Bureau data (for that municipality, county, or average number of persons per household for the state of Idaho).

(3-24-16)

(Break)

60. Notice of Intent to Obtain Coverage under an IPDES General Permit. An applicant seeking discharge coverage under an IPDES general permit shall submit a notice of intent to obtain coverage for discharges to waters of the United States under general permit classifications, including, but not limited to:

(3-24-16)

- a. Storm Water Construction General Permit (CGP); (3-24-16)
- b. Multi-Sector General Permit (MSGP) for Industrial Storm Water Requirements; (3-24-16)
- c. Municipal Separate Storm Sewer System (MS4) General Permit; (3-24-16)
- d. Concentrated Animal Feeding Operation (CAFO) General Permit; (3-24-16)
- e. Concentrated Aquatic Animal Production (CAAP) Facility General Permit; (3-24-16)
- f. Ground Water Remediation General Permit; (3-24-16)
- g. Suction Dredge General Permit; or (3-24-16)
- h. ~~Vessel General Permit (VGP);~~ (3-24-16)
- i. Pesticide General Permit (PGP). (3-24-16)

(Break)

84. Sewage Sludge. Any solid, semi-solid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during the incineration of sewage sludge.

(3-24-16)

(Break)

XX. Sludge. The semi-liquid mass produced and removed by the wastewater treatment process.

(Break)

91. Standards for Sewage Sludge Use or Disposal. Regulations promulgated pursuant to the Clean Water Act section 405(d) and these rules which govern minimum requirements for sewage sludge quality, management practices, and monitoring and reporting applicable to sewage sludge or the use or disposal of sewage sludge by any person.

(3-24-16)

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090. SIGNATURE REQUIREMENTS.

(Break)

06. Electronic Reporting. When documents described in Subsection 090.01 or 090.02 are submitted electronically by or on behalf of the IPDES-regulated facility, any person providing the electronic signature for such documents shall meet all relevant requirements of this section, and shall ensure that all of the relevant requirements of 40 CFR Part 3 (Cross-Media Electronic Reporting) and 40 CFR Part 127 (NPDES Electronic Reporting Requirements) are met for that submission.

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105. APPLICATION FOR AN INDIVIDUAL IPDES PERMIT.

(Break)

11. Individual Permit Application Requirements for New and Existing POTWs and Other Dischargers Designated by the Department. (3-24-16)

a. 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 subsection to the Department, using the applicable forms specified in Subsection 105.04.b. A permit applicant under this subsection 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. (3-24-16)

b. The Department may waive any requirement of this subsection if the Department has access to substantially identical information. The Department may also waive any requirement of this subsection if that information is not of material concern for a specific permit, if approved by the EPA Regional Administrator. The waiver request to the Regional Administrator must include the Department's justification for the waiver. A Regional Administrator's disapproval of a Department's proposed waiver does not constitute final agency action, but does provide notice to the state and permit applicant(s) that EPA may object to any state-issued permit issued in the absence of the required information. (3-24-16)

c. An applicant under this subsection must provide the following information: (3-24-16)

i. Name, mailing address, and location of the facility for which the application is submitted; (3-24-16)

ii. Name, mailing address, electronic mail address, EIN, and telephone number of the applicant, and a statement whether the applicant is the facility's owner, operator, or both; (3-24-16)

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: (3-24-16)

(1) Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; (3-24-16)

(2) Underground injection control (UIC) program under the Idaho Department of Water Resources UIC program at IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells"; (3-24-16)

(3) IPDES program under IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program"; (3-24-16)

(4) Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for the

Control of Air Pollution in Idaho”); (3-24-16)

(5) Nonattainment program under IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho”; (3-24-16)

(6) National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho”; (3-24-16)

(7) Dredge or fill permits under the Clean Water Act section 404; (3-24-16)

(8) Sludge Management Program under IDAPA 58.01.16.650, “Wastewater Rules,” and Section 380 (Sewage Sludge) of these rules; and (3-24-16)

(9) Other relevant environmental permits, programs, or activities, including those subject to state jurisdiction, approval, and permits; (3-24-16)

iv. The name ~~and~~, population ~~or~~, and equivalent dwelling units (EDU) 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; ~~(3-24-16)~~

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; (3-24-16)

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 (3) years; (3-24-16)

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; (3-24-16)

viii. The following information for outfalls to waters of the United States and other discharge or disposal methods: (3-24-16)

(1) For effluent discharges to waters of the United States, the total number and types of outfalls including treated effluent, combined sewer overflows, bypasses, constructed emergency overflows; (3-24-16)

(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; (3-24-16)

(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; (3-24-16)

(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 (MGD); and (3-24-16)

(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, 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 (3-24-16)

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. (3-24-16)

d. In addition to the information described in Subsection 105.11.c., an applicant under this subsection with a design flow greater than or equal to zero point one (0.1) million gallons per day (MGD) must provide: (3-24-16)

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; (3-24-16)

ii. A topographic map, or other map if a topographic map is unavailable, extending at least one (1) mile beyond property boundaries of the treatment plant including all unit processes, and showing: (3-24-16)

(1) The treatment plant area and unit processes; (3-24-16)

(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; (3-24-16)

(3) Each well where fluids from the treatment plant are injected underground; (3-24-16)

(4) Wells, springs, and other surface water bodies listed in public records or otherwise known to the applicant within one-quarter (1/4) mile of the property boundaries of the treatment works; (3-24-16)

(5) Sewage sludge management facilities including on-site treatment, storage, and disposal sites; and (3-24-16)

(6) Each location at which waste classified as hazardous under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," enters the treatment plant by truck, rail, or dedicated pipe; (3-24-16)

iii. A process flow diagram or schematic as follows: (3-24-16)

(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 (3-24-16)

(2) A narrative description of the diagram; and (3-24-16)

iv. The following information regarding scheduled improvements: (3-24-16)

(1) The outfall number of each affected outfall; (3-24-16)

(2) A narrative description of each required improvement; (3-24-16)

(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 subsection that has been completed; and (3-24-16)

(4) A description of permits and ~~clearances~~ authorizations concerning other federal and state requirements. (3-24-16)

(Break)

17. Individual Permit Application Requirements for Treatment Works Treating Domestic Sewage (TWTDS). All TWTDS with a currently effective NPDES or IPDES permit must submit a permit application at the time of the next IPDES permit renewal application, using Form 2S or another application form approved by the Department. New applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the Department. (3-24-16)

a. The Department may waive any requirement of this subsection if there is access to substantially identical information. The Department may also waive any requirement of this subsection that is not of material concern for a specific permit, if approved by the EPA Regional Administrator. The waiver request to the Regional Administrator must include the Department's justification for the waiver. A Regional Administrator's disapproval of a Department's proposed waiver does not constitute final agency action, but does provide notice to the state and permit applicant(s) that EPA may object to any state-issued permit issued in the absence of the required information. (3-24-16)

b. All applicants must submit the following information: (3-24-16)

- i. The name, mailing address, and location of the TWTDS for which the application is submitted; (3-24-16)
- ii. The name, mailing address, EIN, and telephone number of the applicant and indication whether the applicant is the owner, operator, or both; (3-24-16)
- iii. Whether the facility is a Class I Sludge Management Facility; (3-24-16)
- iv. The design flow rate in million gallons per day (MGD); (3-24-16)
- v. The total population ~~or~~ and equivalent dwelling units (EDU) served; and ~~(3-24-16)~~
- vi. The TWTDS's status as federal, state, private, public, or other entity. (3-24-16)

(Break)

109. PUBLIC NOTIFICATION AND COMMENT.

(Break)

02. Public Comment. (3-24-16)

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. (3-24-16)

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 must be submitted to the Department within fourteen (14) days after the date of the public notice required by Subsection 109.01.~~ The Department shall schedule and hold a public meeting if the Department determines that significant public interest exists in the draft permit. ~~(3-24-16)~~

i. A request for a public meeting shall be in writing and must be submitted to the Department within fourteen (14) days after the date of the public notice required by Subsection 109.01.

ii. If a public meeting is held for the purpose of receiving comments, the Department will make an audio recording or hire a court reporter to record the meeting and shall prepare a transcript of the meeting if an appeal is filed.

(Break)

110. FEE SCHEDULE FOR IPDES PERMITTED FACILITIES.

01. Effective Date. Annual fees shall be paid for each fee year beginning one (1) year after the effective date of the IPDES program for the affected category of discharger and continuing for each succeeding year. (3-24-16)

02. Fee Schedule. (3-24-16)

a. Publicly and privately owned treatment works, ~~and any other discharger designated by the Department (Subsection 105.11.a),~~ shall pay an annual fee based on the number of equivalent dwelling units (EDUs) ~~as defined in Section 010 (Definitions).~~ The ~~rate fee~~ shall be \$1.74 per EDU. ~~The Department will calculate EDUs and the appropriate annual fee will be calculated~~ by the following: (3-24-16)

i. ~~Using the most recent Census Bureau statistics for estimates of the population served and the average number of people in a household-~~ The Department calculates facility EDUs according to the definition of EDUs in Section 010; or (3-24-16)

ii. Existing facilities may annually report to the Department the number of EDUs served, ~~annually;~~ or (3-24-16)

iii. New facilities may report to the Department the number of EDUs to be served, based on the facility planning design as part of the IPDES permit application. (3-24-16)

(Break)

130. GENERAL PERMITS.

01. Coverage. The Department may issue a general permit in accordance with the following: (3-24-16)

a. Within a geographic area, the general permit shall be written to cover one (1) or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under Subsection 130.01.b.ii., except those covered by individual permits within a geographic area. The area should correspond to existing geographic or political boundaries such as: (3-24-16)

i. Designated planning areas under the Clean Water Act sections 208 and 303; (3-24-16)

ii. Sewer districts or sewer authorities; (3-24-16)

iii. City, county, or state political boundaries; (3-24-16)

iv. State highway systems; (3-24-16)

v. Standard metropolitan statistical areas as defined by state or federal agencies; (3-24-16)

vi. Urbanized areas as designated by the U.S. Census Bureau; or (3-24-16)

vii. Any other appropriate division or combination of boundaries. (3-24-16)

b. The general permit may be written to regulate one (1) or more categories or subcategories of discharges or sludge use or disposal practices or facilities, within the area described in Subsection 130.01.a., where the sources within a covered subcategory of discharges are either: (3-24-16)

i. Storm water point sources; or (3-24-16)

ii. One (1) or more categories or subcategories of point sources other than storm water point sources or TWTDS, if the point sources or TWTDS within each category or subcategory all: (3-24-16)

- (1) Involve the same or substantially similar types of operations; (3-24-16)
- (2) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices; (3-24-16)
- (3) Require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal;(3-24-16)
- (4) Require the same or similar monitoring; and (3-24-16)
- (5) In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits. (3-24-16)

c. Where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed pursuant to Section 302 (Establishing Permit Provisions), the sources in that specific category or subcategory shall be subject to the same water quality-based effluent limitations. (3-24-16)

d. Other requirements: (3-24-16)

i. The general permit must clearly identify the applicable conditions for each category or subcategory of dischargers or TWTDS covered by the permit; and (3-24-16)

ii. The general permit may exclude specified sources or areas from coverage. (3-24-16)

iii. For general permits issued under Subsection 130.01.b for small MS4s, the Department must establish the terms and conditions necessary to meet the requirements of 40 CFR 122.34 using one of the two permitting approaches described in Subsections 130.01.d..iii(1) and (2). The Department must indicate in the permit or fact sheet which approach is being used.

(1) Comprehensive general permit. The Department includes all required permit terms and conditions in the general permit; or

(2) Two-step general permit. The Department includes required permit terms and conditions in the general permit applicable to all eligible small MS4s and, during the process of authorizing small MS4s to discharge, establishes additional terms and conditions not included in the general permit to satisfy one or more of the permit requirements in 40 CFR 122.34 for individual small MS4 operators.

(a) The general permit must require that any small MS4 operator seeking authorization to discharge under the general permit submit a Notice of Intent (NOI) consisting of the minimum required information in Subsection 130.05.b, and any other information the Director identifies as necessary to establish additional terms and conditions that satisfy the permit requirements of 40 CFR 122.34, such as the information required under Subsection 130.05.b. The general permit will explain any other steps necessary to obtain permit authorization.

(b) The Department must review the NOI submitted by the small MS4 operator to determine whether the information in the NOI is complete and to establish the additional terms and conditions necessary to meet the requirements of 40 CFR 122.34. The Department may require the small MS4 operator to submit additional information. If the Department makes a preliminary decision to authorize the small MS4 operator to discharge under the general permit, the Department must give the public notice of and opportunity to comment and request a public meeting on its proposed authorization and the NOI, the proposed additional terms and conditions, and the basis for these additional requirements. The public notice, the process for submitting public comments and meeting requests, and the meeting process if a request for a meeting is granted, must follow the procedures applicable to draft permits set forth in Sections 108 and 109 except Subsection 109.01.d. The Department must respond to significant comments received during the comment period as provided in Subsection 109.03.

(c) Upon authorization for the MS4 to discharge under the general permit, the final additional terms and

conditions applicable to the MS4 operator become effective. The Department must notify the permittee and inform the public of the decision to authorize the MS4 to discharge under the general permit and of the final additional terms and conditions specific to the MS4.

02. Electronic Submittals. ~~The Department may require the applicant to electronically submit information required by this section, if the Department approves an electronic method of submittal. As of December 21, 2020, all notices of intent submitted in compliance with this section must be submitted electronically by the discharger (or treatment works treating domestic sewage) to the Department unless waived pursuant to 40 CFR 127.15.~~ (3-24-16)

(Break)

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

(Break)

03. Minor Modifications of Permits. Upon the consent of the permittee, the Department may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this subsection without following the procedures of Sections 108 (Draft Permit and Fact Sheet), 109 (Public Notification and Comment), and Subsection 201.01. Any permit modification not processed as a minor modification under this subsection must be made for cause and must meet the requirements of Section 108 (Draft Permit and Fact Sheet) and Section 109 (Public Notification and Comment). Minor modifications may: (3-24-16)

- a.** Correct typographical errors; (3-24-16)
- b.** Require more frequent monitoring or reporting by the permittee; (3-24-16)
- c.** Change an interim compliance date in a schedule of compliance, provided the new date is not more than one hundred twenty (120) days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; (3-24-16)
- d.** Allow for a change in ownership or operational control of a facility where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department; (3-24-16)
- e.** Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under Section 120 (New Sources and New Discharges), and 40 CFR 122.29(d); (3-24-16)
- f.** Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits; (3-24-16)
- g.** Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 or a modification that has been approved in accordance with the procedures in 40 CFR 403.18 as enforceable conditions of the POTW's permits; (3-24-16)
- h.** Incorporate changes to the terms of a CAFO's nutrient management plan that have been revised in accordance with the requirements of 40 CFR 122.42(e)(6); **or** (3-24-16)
- i.** ~~Make a change in a permit provision that will result in neither 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 permit's compliance with applicable statutes and regulations.~~ **or** (3-24-16)
- j.** Require electronic reporting requirements (to replace paper reporting requirements) including those specified in 40 CFR Part 127 (NPDES Electronic Reporting).

(Break)

203. TERMINATION OF IPDES PERMITS.

01. Request to Terminate or Termination Initiated by the Department. 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 203.03 or 203.04. ~~All requests for termination shall be in writing and shall contain facts or reasons supporting the request.~~ (3-24-16)

a. Request for termination by persons other than the permittee shall be submitted in writing to the Department.

b. As of December 21, 2020, all NOTs submitted in compliance with this section must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR Part 127, the permittee may be required to report electronically if specified by a particular permit.

(Break)

300. CONDITIONS APPLICABLE TO ALL PERMITS.

The following conditions apply to all IPDES permits. Additional conditions applicable to IPDES permits are in Sections 301 (Permit Conditions for Specific Categories), 302 (Establishing Permit Provisions), and 40 CFR 122.42(e). All conditions applicable to IPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation must be given in the permit. (3-24-16)

(Break)

12. Reporting Requirements. (3-24-16)

a. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when: (3-24-16)

i. The alteration or addition to a permitted facility may meet one (1) of the criteria for determining whether a facility is a new source as defined in Section 120 (New Sources and New Discharges) and 010 (Definitions); (3-24-16)

ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Subsection 301.01.a.; or (3-24-16)

iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites: (3-24-16)

(1) Not reported during the permit application process, or (3-24-16)

(2) Not reported pursuant to an approved land application or sludge disposal plan. (3-24-16)

b. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. (3-24-16)

c. The permit is not transferable to any person except after notice to the Department. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under Section 202 (Transfer of IPDES Permits). (3-24-16)

d. Monitoring results shall be reported at the intervals specified in the permit. (3-24-16)

i. Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms (which may be electronic) provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices. All reports and forms submitted in compliance with this section must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR Part 127, permittees may be required to report electronically if specified by a particular permit.

~~(3-24-16)~~

ii. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream specified in the permit or under 40 CFR Part 401 through 471 or Part 501 through Part 503, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.

(3-24-16)

iii. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.

(3-24-16)

e. A permittee must submit reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit no later than fourteen (14) days following each schedule date of each requirement. As of December 21, 2020, all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

~~(3-24-16)~~

f. The permittee shall report to the Department any noncompliance which may endanger health or the environment as follows:

(3-24-16)

i. Any information shall be provided orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances;

(3-24-16)

ii. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of:

(3-24-16)

(1) The noncompliance and its cause;

(3-24-16)

(2) The period of noncompliance, including exact dates and times;

(3-24-16)

(3) If the noncompliance has not been corrected, the anticipated time it is expected to continue; and

(3-24-16)

(4) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance;

(3-24-16)

(5) As of December 21, 2020, all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

iii. The following shall be included as information which must be reported within twenty-four (24) hours: (3-24-16)

(1) Any unanticipated bypass which exceeds any effluent limitation in the permit (see Subsection 300.07, Property Rights); (3-24-16)

(2) Any upset which exceeds any effluent limitation in the permit; and (3-24-16)

(3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within twenty-four (24) hours (see Subsection 302.09, Twenty-Four Hour Reporting); and (3-24-16)

iv. The Department may waive the written report on a case-by-case basis for reports under Subsection 300.12.f.iii. if the oral report has been received within twenty-four (24) hours. (3-24-16)

g. The permittee shall report all instances of noncompliance not reported under Subsections 300.12.d., e., and f., at the time monitoring reports are submitted. The reports of noncompliance shall contain the information listed in Subsection 300.12.f. As of December 21, 2020, all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section. (3-24-16)

h. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or correct information. (3-24-16)

13. Bypass Terms and Conditions. (3-24-16)

a. Bypass, as defined in Section 010 (Definitions), is prohibited, and the Department may take enforcement action against a permittee for bypass, unless: (3-24-16)

i. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; (3-24-16)

ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and (3-24-16)

iii. The permittee submitted a notice of a bypass to the Department in accordance with Subsections 300.13.c. and d. As of December 21, 2020, all notices submitted in compliance with this section must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of CFR Part 127, permittees may be required to report electronically if specified by a particular permit. (3-24-16)

(Break)

301. PERMIT CONDITIONS FOR SPECIFIC CATEGORIES.

In addition to conditions set forth in Section 300 (Conditions Applicable to all Permits), conditions identified in this section apply to all IPDES permits within the categories specified below. (3-24-16)

(Break)

03. Municipal Separate Storm Sewer Systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Department under 40 CFR 122.26(a)(1)(v) must submit an annual report by the anniversary of the date of the issuance of the permit for such system. As of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically by the owner, operator, or the duly authorized representative of the MS4 to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR Part 127, the owner, operator, or the duly authorized representative of the MS4 may be required to report electronically if specified by a particular permit. The report shall include: (3-24-16)

a. The status of implementing the components of the storm water management program that are established as permit conditions; (3-24-16)

b. Proposed changes to the storm water management programs that are established as permit conditions. Such proposed changes shall be consistent with Subsection 105.18.b.iii.; (3-24-16)

c. Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under Subsection 105.18.b.iv. and 105.18.b.v.; (3-24-16)

d. A summary of data, including monitoring data, that is accumulated throughout the reporting year; (3-24-16)

e. Annual expenditures and budget for the year following each annual report; (3-24-16)

f. A summary describing the number and nature of enforcement actions, inspections, and public education programs; and (3-24-16)

g. Identification of water quality improvements or degradation. (3-24-16)

(Break)

302. ESTABLISHING PERMIT PROVISIONS.

The Department shall establish conditions, as required on a case-by-case basis, to provide for and ensure compliance with all applicable requirements of the Clean Water Act and state rules. These shall include conditions under Section 101 (duration of permits), Section 305 (compliance schedules), Section 304 (monitoring), and electronic reporting requirements identified under 40 CFR Part 127. An IPDES permit must include conditions meeting the following requirements, when applicable, in addition to other applicable sections of these rules. (3-24-16)

(Break)

304. MONITORING AND REPORTING REQUIREMENTS.

01. Monitoring Requirements. A permit must include the following requirements for monitoring: (3-24-16)

a. Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate); (3-24-16)

b. The type, intervals, and frequency of monitoring sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring; (3-24-16)

c. Provisions for reporting the results of monitoring, including frequency, appropriate for the regulated activity based on the impact of that activity and as specified in 40 CFR part 127 (NPDES Electronic Reporting).

Reporting shall be no less frequent than specified in 40 CFR 122.44; (3-24-16)

- d.** The mass (or other measurement specified in the permit) for each pollutant limited in the permit; (3-24-16)
- e.** The volume of effluent discharged from each outfall; (3-24-16)
- f.** Other measurements as appropriate, including: (3-24-16)
- i.** Pollutants in internal waste streams under Subsection 303.08; (3-24-16)
- ii.** Pollutants in intake water for net limitations under Subsection 303.07; (3-24-16)
- iii.** Frequency, rate of discharge, etc., for non-continuous discharges under Subsection 303.05; (3-24-16)
- iv.** Pollutants subject to notification requirements under Subsection 301.01; and (3-24-16)
- v.** Pollutants in sewage sludge or other monitoring as specified in 40 CFR Part 503; or as determined to be necessary on a case-by-case basis pursuant to the Clean Water Act section 405(d)(4), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, “Wastewater Rules”; (3-24-16)

g. According to sufficiently sensitive test procedures (i.e., methods) approved under 40 CFR Part 136 for the analysis of pollutants or pollutant parameters, or another method ~~is~~ required under 40 CFR Part 401 through 471 or Part 501 through 503. Consistent with 40 CFR Part 136, applicants or permittees have the option of providing matrix or sample specific minimum levels rather than the published levels. Further, where an applicant or permittee can demonstrate that, despite a good faith effort to use a method that would otherwise meet the definition of “sufficiently sensitive,” the analytical results are not consistent with the QA/QC specifications for that method, then the Department may determine that the method is not performing adequately and the Department should select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with provisions outlined in Subsections 304.01.g.i and ii. For the purposes of this section, a method is “sufficiently sensitive” when: (3-24-16)

i. The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or

ii. The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR Chapter I, Subchapter N or O, for the measured pollutant or pollutant parameter; and

h. In the case of pollutants or pollutant parameters for which there are no approved methods under 40 CFR Part 136, or methods are not otherwise required under 40 CFR Part 401 through 471 or Part 501 through 503, monitoring shall be conducted according to a test procedure specified in the permit for such pollutants or pollutant parameters. (3-24-16)

02. Reporting Monitoring Results. (3-24-16)

a. Except as provided in Subsections 304.02.d. and 304.02.e., the Department will establish requirements to report monitoring results on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year. All results must be electronically reported in compliance with 40 CFR Part 127. (3-24-16)

b. For sewage sludge use or disposal practices, the Department will establish requirements to monitor and report results on a case-by-case basis with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice; minimally this shall be as specified in 40 CFR Part 503, Section 380 (Sewage Sludge) of these rules, and Idaho’s Wastewater Rules, IDAPA 58.01.16.650, “Wastewater Rules,” (where applicable), but in no case

less than once a year. All results must be electronically reported in compliance with 40 CFR Part 127. (3-24-16)

c. The Department will establish requirements to report monitoring results for storm water discharges associated with industrial activity which are subject to an effluent limitation guideline on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.

(3-24-16)

d. The Department will establish requirements to report monitoring results for storm water discharges associated with industrial activity, other than those addressed in Subsection 304.02.c, on a case-by-case basis with a frequency dependent on the nature and effect of the discharge. At a minimum, a permit for such a discharge must require the discharger to:

(3-24-16)

i. Conduct an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity;

(3-24-16)

ii. Evaluate whether measures to reduce pollutant loadings identified in a storm water pollution prevention plan are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed;

(3-24-16)

iii. Maintain for a period of three (3) years a record summarizing the results of the inspection and a certification that the facility is in compliance with the plan and the permit, and identifying any incidents of noncompliance;

(3-24-16)

iv. Sign the report and certification in accordance with Section 090 (Signature Requirements); and

(3-24-16)

v. Permits for storm water discharges associated with industrial activity from inactive mining operations may, where annual inspections are impracticable, require certification that the facility is in compliance with the permit, or alternative requirements, once every three (3) years by an Idaho licensed professional engineer.

(3-24-16)

e. A permit that does not require monitoring results reports at least annually must require the permittee to report, at least annually, all instances of noncompliance not reported under Subsection 300.12.

(3-24-16)

(Break)

370. PRETREATMENT STANDARDS.

(Break)

05. Exceptions to Incorporation by Reference. The following sections of 40 CFR Part 403 are excluded from the incorporation by reference in Section 003 (Incorporation by Reference) of these rules. (3-24-16)

a. 40 CFR 403.4 (State or Local Law). (3-24-16)

b. ~~40 CFR 403.10 (Development and Submission of NPDES State Pretreatment Programs).~~ (3-24-16)

~~**c.** 40 CFR 403.19 (Provisions of Specific Applicability to the Owatonna Wastewater Treatment Facility).~~ (3-24-16)

dc. 40 CFR 403.20 (Pretreatment Program Reinvention Pilot Projects Under Project XL). (3-24-16)