

<p><b>Docket Number:</b> <u>58-0125-1801</u>  <b>Effective Date:</b> <u>2019 Sine die</u>  <b>Rules Title:</b> <u>Rules Regulating the Idaho Pollutant Discharge Elimination System Program</u>  <b>Agency Contact and Phone:</b> <u>Barry Burnell/373-0194 and Mary Anne Nelson/373-0291</u></p>	<p style="text-align: center;"><b><u>Public Notice</u></b></p> <p><b>Hearings:</b> [ ] Yes [X] No  <b>Locations and Dates:</b> N/A  <b>Written Comment Deadline:</b> N/A</p>
<p><b>Descriptive Summary of Rule:</b> This rulemaking has been initiated to correct inconsistencies relating to administrative provisions and incorporation by reference of federal regulations. This rule was adopted as a temporary rule by the Board in May 2018 and is currently effective.</p> <p><b>Revise Section 003, Incorporation by Reference of Federal Regulations, for consistency with Subsection 370.05, Pretreatment Standards, Exceptions to Incorporation by Reference:</b>  In 2017, DEQ initiated negotiated rulemaking to make revisions to ensure that the IPDES Rules remain consistent with federal regulations (Docket No. 58-0125-1701). Negotiated rulemaking meetings were held and negotiated rule drafts were made available for public review. During the negotiated rulemaking process, 40 CFR 403.10 (Development and Submission of NPDES State Pretreatment Programs) was added to the list of federal regulations incorporated by reference in Subsection 003.02.y. and deleted from the list of exceptions to incorporation by reference in Subsection 370.05.</p> <p>Upon conclusion of negotiated rulemaking, DEQ formatted the final negotiated rule draft for publication as a proposed rule in the August 2017 Idaho Administrative Bulletin. In November 2017, the proposed rule was adopted by the Idaho Board of Environmental Quality as a pending rule. In January 2018, the pending rule was submitted to the Idaho Legislature for review and approval as a final rule. During review of the pending rule, DEQ discovered that the addition of 40 CFR 403.10 in Subsection 003.02.y. was unintentionally omitted due to a transcription error in the August 2017 Idaho Administrative Bulletin proposed rule publication. The error resulted in a discrepancy between Subsection 003.02.y. and Subsection 370.05. This temporary/proposed rule corrects the discrepancy.</p> <p><b>Revise Section 004, Administrative Provisions, for consistency with Section 204, Appeals Process:</b>  When the IPDES Rules were promulgated as a new rule chapter in 2016 (Docket No. 58-0125-1401), Section 004, Administrative Provisions, and Section 204, Appeals Process, were both included. As in all DEQ rule chapters, Section 004 was included to meet the uniform format requirements of the Rules of the Administrative Rules Coordinator, IDAPA 44.01.01. The other DEQ rule chapters include an administrative provision section similar to Section 004, with the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23, being cited as the rules governing the appeals process. In the case of the IPDES Rules, the rules governing the appeals process are provided within the IPDES Rules at Section 204. This temporary/proposed rule revises Section 004 to clarify that Section 204 governs the IPDES permit appeals process.</p> <p>DEQ recommends that the Board adopt the rule, as presented in the final proposal, as a pending rule.</p>	<p><b>Negotiated Rule Making:</b> [ ] Yes [X] No</p> <p>Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking. The proposed revisions correct inconsistencies and provide clarity.</p> <p><b>Costs To the Agency:</b> No additional costs to the agency.</p> <p><b>Costs To the Regulated Community:</b> No additional costs to the regulated community.</p> <p><b>Relevant Statutes:</b> Chapters 44 and 58, Title 39, Idaho Code</p> <p><b>Idaho Code § 39-107D Statement:</b> This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.</p>

Temporary Rule       Necessary to protect public health, safety or welfare  
 Compliance with deadlines in amendments to governing law or federal programs  
 Conferring a benefit

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Section	Section Title	Summary of Rule Changes Based on Public Comment
003	<b>Incorporation by Reference of Federal Regulations</b>	This section has not been changed. No comments received.
004	<b>Administrative Provisions</b>	This section has not been changed. No comments received.