IDAHO ADMINISTRATIVE BULLETIN

September 16, 2020 – Vol. 20-9SE

Office of the Governor
Division of Financial Management
Office of the Administrative Rules Coordinator

The Idaho Administrative Bulletin is published monthly by the Office of the Administrative Rules Coordinator, Division of Financial Management, Statehouse Mail, Boise, Idaho 83720-0306, pursuant to Title 67, Chapter 52, Idaho Code.

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State of Idaho
DIVISION OF FINANCIAL MANAGEMENT
Executive Office of the Governor

September 16, 2020

M E M O R A N D U M

TO: **Members of the Public**

FROM: **Alex J. Adams, Administrator**

Bradley A. Hunt, Rules Coordinator

SUBJECT: **Overview of September 16th Special Edition of Idaho Administrative Bulletin**

The Idaho Legislature adjourned *sine die* without passing a concurrent resolution approving any pending fee rules as specified under 67-5224, I.C. As a result, the fee rules would not typically take effect.

However, Governor Little had his state agencies take proactive action in February to conditionally re-approve fee rules upon *sine die* in the event the Legislature did not approve the rules. This action proved prescient and has ensured that all fee rules remain in effect as temporary rules.

This Bulletin publishes the temporary fee rules as proposed rules. The brief time lag between the publication of the temporary and proposed rules is due to the 2019 Novel Coronavirus (COVID-19) pandemic which has created practical challenges for agencies, especially those that may need to schedule public hearings in conjunction with the publication of the proposed rules.

This Bulletin begins the process of ensuring the fee rules are in the process of being finalized for presentation to the Legislature in January 2021. In general, the proposed rules are as they appeared in the April 15th bulletin. In some cases, changes were made to carry out the intent of Executive Order 2020-13, which permanently waives some rules that were waived as a result of the COVID-19 pandemic.

For more information on this special bulletin, please contact:
Alex Adams (Alex.Adams@dfm.idaho.gov; 208-334-3900); or
Brad Hunt (Brad.Hunt@dfm.idaho.gov; 208-854-3096).

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IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-2000F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to the following Idaho Code provisions. Citations to any federal statutes that provide the basis of authority or requirement for the rulemaking are also included.

- IDAPA 58.01.01 – Sections 39-105, 39-107, 39-114(4), 39-115(3), and 39-116B, Idaho Code;
  Clean Air Act, 42 U.S.C. § 7401 et seq.
- IDAPA 58.01.05 – Chapters 44 and 58, Title 39, Idaho Code;
  Solid Waste Disposal Act, 42 U.S.C. § 6901 *et seq.*
- IDAPA 58.01.06 – Sections 39-105, 39-107, and 39-7408C, Idaho Code;
  Solid Waste Disposal Act, 42 U.S.C. § 6901 *et seq.*
- IDAPA 58.01.07 – Chapters 1 and 88, Title 39, Idaho Code;
  Solid Waste Disposal Act, 42 U.S.C. §§ 6991 – 6991m
- IDAPA 58.01.08 – Chapter 1, Title 39, Idaho Code; Chapter 21, Title 37, Idaho Code;
  Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*
- IDAPA 58.01.09 – Sections 39-104A, 39-105, and 39-107, Idaho Code
- IDAPA 58.01.11 – Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code
- IDAPA 58.01.12 – Chapters 1 and 36, Title 39, Idaho Code;
  Clean Water Act, 33 U.S.C. § 1251 *et seq.*
- IDAPA 58.01.13 – Chapter 1, Title 39, Idaho Code
- IDAPA 58.01.14 – Sections 39-105, 39-107, and 39-119, Idaho Code
- IDAPA 58.01.18 – Sections 39-105, 39-107, 39-4405, and 39-7210, Idaho Code
- IDAPA 58.01.20 – Chapters 1 and 76, Title 39, Idaho Code;
  Safe Drinking Water Act, 42 U.S.C. § 300j *et seq.*
- IDAPA 58.01.25 – Chapter 1, Title 39, Idaho Code;
  Clean Water Act, 33 U.S.C. §§ 1342 and 1345

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222, Idaho Code, a public hearing has been scheduled and will be held as follows:

PUBLIC HEARING

Contingent upon COVID 19 safety protocols, the public may attend in person or remotely via telephone and video conferencing. Remote attendance is encouraged. Information for signing up is provided below.

Wednesday, October 7, 2020 – 9:30 a.m. (MDT)

In Person:
DEQ State Office
1410 N. Hilton Street
Conference Center
Boise, Idaho 83706

All attendees must comply with current COVID-19 safety protocols for public gatherings.

Via Telephone and Video Conferencing:

To sign up for remote attendance via telephone and video conferencing, contact Paula Wilson by September 30, 2020.

The hearing location will be accessible to persons with disabilities, and language translators will be made available upon request. To request accommodations for language translation, contact the undersigned by September 30, 2020.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the purpose of the proposed rulemaking:

On February 13, 2020, the Board adopted as temporary fee rules the IDAPA 58 rule chapters as they were presented in the pending rule dockets adopted by the Board in 2019 and submitted to the Second Regular Session of the 65th Idaho Legislature for review (2019 pending rule dockets). The 2019 pending rule dockets are posted in the 2020 Legislative Rules Review Books. The IDAPA 58 fee rule chapters and the 2019 pending rule dockets are listed below.

This proposed rule includes 1) the temporary fee rules adopted by the Board in February 2020, and 2) revisions to several fee rule chapters as described below.

Revisions made to the February 2020 temporary fee rules are not considered changes to existing rules and, therefore, are not shown in strike-out/underline format. For revisions that were negotiated, the strike-out/underline format proposed revisions are available for viewing in the latest posted negotiated rule drafts. The negotiated rulemaking records, including negotiated rulemaking summaries and negotiated rule drafts, are available on the web page links provided below.

More information regarding this rule docket is available at deq.idaho.gov/58-0000-2000F.

▪ **IDAPA 58.01.01, *Rules for the Control of Air Pollution in Idaho***
- Docket No. 58-0101-1903
- Docket No. 58-0101-1904
- Docket No. 58-0101-1905
- Revisions Updating Federal Regulations Incorporated by Reference:

  These proposed revisions are to ensure that the state rules remain consistent with federal regulations. The Rules for the Control of Air Pollution in Idaho, IDAPA 58.01.01, are updated annually to maintain consistency with federal regulations implementing the Clean Air Act. This proposed rule updates federal regulations incorporated by reference with the July 1, 2020 Code of Federal Regulations (CFR) effective date.

▪ **IDAPA 58.01.05, *Rules and Standards for Hazardous Waste***
- Docket No. 58-0000-1900F
- Docket No. 58-0105-1901
- Revisions Updating Federal Regulations Incorporated by Reference:

  These proposed revisions are to ensure that the state rules remain consistent with federal regulations. Idaho's Rules and Standards for Hazardous Waste, IDAPA 58.01.05, are updated annually to maintain consistency with the federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rule updates federal regulations incorporated by reference with the July 1, 2020 Code of Federal Regulations (CFR) effective date. The proposed rule also includes minor non-substantive corrections.

▪ **IDAPA 58.01.06, *Solid Waste Management Rules***
- Docket No. 58-0000-1900F
- Revisions Negotiated Under Docket No. 58-0106-1901:

  These revisions are proposed in response to Executive Order No. 2019-02, Red Tape Reduction Act, issued by Governor Little on January 21, 2019. Upon review of its existing rules, DEQ determined that certain rules are outdated, unnecessary, or redundant. Various sections throughout IDAPA 58.01.06, Solid Waste Management Rules, have been identified for deletion, simplification, or consolidation with other sections. The negotiated rulemaking record is available at deq.idaho.gov/58-0106-1901.

▪ **IDAPA 58.01.07, *Rules Regulating Underground Storage Tank Systems***
- Docket No. 58-0000-1900F

▪ **IDAPA 58.01.08, *Idaho Rules for Public Drinking Water Systems***
- Docket No. 58-0000-1900F

▪ **IDAPA 58.01.09, *Rules Regulating Swine Facilities***
- Docket No. 58-0109-1901

▪ **IDAPA 58.01.11, *Ground Water Quality Rule***
- Docket No. 58-0111-1901

▪ **IDAPA 58.01.12, *Rules for Administration of Water Pollution Control Loans***
- Docket No. 58-0000-1900F
- Revisions Negotiated Under Docket No. 58-0112-1901:

These revisions are proposed in response to Executive Order No. 2019-02, Red Tape Reduction Act, issued by Governor Little on January 21, 2019. Upon review of its existing rules, DEQ determined that its two revolving loan rule chapters could be simplified and consolidated into a single chapter. DEQ proposes to delete IDAPA 58.01.20, Rules for Administration of Drinking Water Loan Program, and merge necessary and relevant sections of IDAPA 58.01.20 with IDAPA 58.01.12, Rules for Administration of Water Pollution Control Loans. DEQ has initiated a separate rulemaking for the deletion of IDAPA 58.01.20 (Docket No. 58-0120-1901). The negotiated rulemaking record is available at deq.idaho.gov/58-0112-1901.

▪ **IDAPA 58.01.13, *Rules for Ore Processing by Cyanidation***
- Docket No. 58-0000-1900F
- Revisions Negotiated Under Docket No. 58-0113-1901:

The Idaho Mining Association (IMA) requested, via letter submitted to the Director on March 18, 2019, that DEQ revise the rules to move away from prescriptive design and construction requirements to performance-based outcomes for design, construction and closure. IMA's letter is posted at deq.idaho.gov/58-0113-1901.The current rules, adopted by the Board in 2005 and approved by the Idaho Legislature in 2006, adopted minimum design and construction criteria for all cyanidation facilities. IMA's letter to DEQ states that technologies and industry best practices for cyanidation facilities have changed since 2006. DEQ initiated negotiated rulemaking to evaluate such changes and to determine if the rules should be updated.

The proposed rule includes revisions to account for current best available technologies or best practices for design, construction and closure of cyanidation facilities that can achieve necessary regulatory goals of protecting human health and the environment and addresses the following:

(1) applicability of the design criteria to different types of cyanidation facilities;
(2) consideration of a broader range of acceptable materials included in the design;
(3) broader interpretation of performance and compliance regarding constructability of leak detection systems;
(4) variability in design approach based on the physical characteristics of impounded materials; and
(5) variability in design approach based on the chemical characteristics of impounded materials and process water; and
(6) cyanidation permit application and administration, including recovery of costs incurred by DEQ in processing permit applications and administering issued permits.

The negotiated rulemaking record is available at deq.idaho.gov/58-0113-1901.

▪ **IDAPA 58.01.14, *Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services***
- Docket No. 58-0000-1900F

▪ **IDAPA 58.01.18, *Idaho Land Remediation Rules***
- Docket No. 58-0000-1900F

▪ **IDAPA 58.01.20, *Rules for Administration of Drinking Water Loan Program***
- Docket No. 58-0000-1900F
- Revisions Negotiated Under Docket No. 58-0120-1901 (Chapter Repeal):

These revisions are proposed in response to Executive Order No. 2019-02, Red Tape Reduction Act, issued by Governor Little on January 21, 2019. Upon review of its existing rules, DEQ determined that its two revolving loan rule chapters could be simplified and consolidated into a single chapter. DEQ proposes to delete IDAPA 58.01.20, Rules for Administration of Drinking Water Loan Program, and merge necessary and relevant sections of IDAPA 58.01.20 with IDAPA 58.01.12, Rules for Administration of Water Pollution Control Loans. DEQ has initiated a separate rulemaking for the revisions to IDAPA 58.01.12 (Docket No. 58-0112-1901). The negotiated rulemaking record is available at deq.idaho.gov/58-0120-1901.

▪ **IDAPA 58.01.25, *Rules Regulating the Idaho Pollutant Discharge Elimination System Program***

- Docket No. 58-0000-1900F
- Revisions Negotiated Under Docket No. 58-0125-2001:

To maintain delegated authority for the IPDES program, state rules need to be updated routinely to maintain consistency with federal regulations implementing the Clean Water Act. The purpose of this rulemaking is to ensure the Rules Regulating the Idaho Pollutant Discharge Elimination System (IPDES) Program, IDAPA 58.01.25, remain consistent with federal regulations and to make clarifications in response to ambiguities identified during DEQ's administration of the IPDES program.

In 2015, 2017, 2019, and 2020, updated federal regulations became effective for National Pollutant Discharge Elimination System (NPDES) permitting authorities. These regulations require commensurate changes to portions of the IPDES rules with regard to updating definitions, applications, and reporting requirements for the state and facilities permitted under the program. DEQ is proposing to update those items incorporated by reference impacted by the federal changes. DEQ also proposes changes to the IPDES rules to clarify requirements related to fee payment, public comments, appeals, and other ambiguities identified since implementation of the program in July 2018.

This proposed rule updates federal regulations incorporated by reference with the July 1, 2020 Code of Federal Regulations (CFR) effective date. To maintain consistency for all federal regulations listed in IDAPA 58.01.25.003, this update includes the regulations that have not been revised since the initial incorporation by reference. DEQ negotiated the original rule language and incorporated by reference federal regulations affecting the program.

The negotiated rulemaking record is available at deq.idaho.gov/58-0125-2001.

After consideration of public comments, DEQ intends to present the final proposal to the Board in November 2020 for adoption as pending rules. With respect to IDAPA 58.01.13, Ore Processing by Cyanidation, DEQ intends to present the final proposal to the Board for adoption as both an amendment to the temporary rules and as pending rules.

FEE SUMMARY: With the exception of revisions to IDAPA 58.01.13, Rules for Ore Processing by Cyanidation, this rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules. A description of each fee category is provided below.

Listed below are the DEQ fee rule chapters, fee categories, and the statutory authority for imposition of the fees.

IDAPA 58.01.01, *Rules for the Control of Air Pollution* in Idaho - crop residue burn fee, Idaho Code § 39-114(4); application fee for industrial or commercial air pollution source permits, Idaho Code § 39-115(3); motor vehicle inspection fee, Idaho Code § 39-116B

IDAPA 58.01.05, *Rules and Standards for Hazardous Waste* - hazardous waste siting license fee,
Idaho Code § 39-5813(3)

IDAPA 58.01.06, *Solid Waste Management Rules* - commercial solid waste siting license fee,
Idaho Code § 39-7408(C)

IDAPA 58.01.07, *Rules Regulating Underground Storage Tank Systems* – annual UST program fee, Idaho Code §§ 39-119, 39-8802(d)

IDAPA 58.01.08, *Idaho Rules for Public Drinking Water Systems* – annual drinking water system fee,
Idaho Code § 39-119

IDAPA 58.01.09, *Rules Regulating Swine Facilities* - permit application fee, Idaho Code § 39-119

IDAPA 58.01.11, *Ground Water Quality Rule* - point of compliance application fee, Idaho Code § 39-119

IDAPA 58.01.12, *Rules for Administration of Water Pollution Control Loans* – loan fee to offset costs of administering loan program, Idaho Code §§ 39-119, 39-3627(4)

IDAPA 58.01.13, *Rules for Ore Processing by Cyanidation* – fee for processing permit applications, Idaho Code § 39-118A(2)(c)
Fee Summary - Revisions in IDAPA 58.01.13 Negotiated Under Docket No. 58-0113-1901:
The current rule requires applicants to submit a fee ranging from $5,000 for a pilot facility not processing more than 10,000 tons of ore to $20,000 for a facility processing more than 120,000 tons of ore during the life of the facility. The current rule also includes the option for the applicant to enter into an agreement with the Department for actual costs incurred to process an application and issue a final permit in lieu of paying a fee. This proposed rule eliminates the fee schedule and requires the applicant to enter into an agreement with the Department for actual costs incurred to process an application and issue a final permit. Section 39-118A(2)(c), Idaho Code, authorizes the Director of DEQ to require a reasonable fee for processing permit applications.

IDAPA 58.01.14, *Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services* – fees for environmental operating permits, licenses, inspection services and waiver application processing, Idaho Code § 39-119

IDAPA 58.01.18, *Idaho Land Remediation Rules* – voluntary remediation program application fee, Idaho Code § 39-7210(5)

IDAPA 58.01.20, *Rules for Administration of Drinking Water Loan Program* – loan fee to offset costs of administering loan program, Idaho Code §§ 39-119, 39-3627(4)

IDAPA 58.01.25, *Rules Regulating the Idaho Pollutant Discharge Elimination System Program* – application fee and/or annual fee, Idaho Code § 39-175C

FISCAL IMPACT: 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:
This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2021 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.
Fiscal Impact - Revisions in IDAPA 58.01.13 Negotiated Under Docket No. 58-0113-1901:
Section 39-118A(2)(c), Idaho Code, authorizes the Director of DEQ to require a reasonable fee for processing permit applications. The proposed rule includes a fee for processing a permit application but does not include any fees following issuance of the permit. As facilities are permitted, there will be an impact to the state general fund for administration of a cyanidation permit program; however, it would vary based on the number and size of permitted facilities operating in Idaho. The estimated average annual general fund impact is $6,000 per permitted facility.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, agencies shall proceed through negotiated rulemaking whenever it is feasible to do so. DEQ made the following determinations regarding feasibility to conduct negotiated rulemaking:

Negotiated rulemaking was not feasible for the temporary fee rules adopted by the Board in February 2020 because engaging in negotiated rulemaking for the previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

Negotiated rulemaking was not feasible for the revisions updating federal regulations incorporated by reference in IDAPA 58.01.01, *Rules for the Control of Air Pollution in Idaho*, and IDAPA 58.01.05, *Rules and Standards for Hazardous Waste*, due to the simple nature and because DEQ has no discretion with respect to adopting federal regulations necessary to maintain state primacy of the federal programs. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

Negotiated rulemaking was feasible for revisions in the following rule chapters. These revisions were negotiated with stakeholders and members of the public. The negotiated rulemaking record for each docket is available on the listed web pages.

IDAPA 58.01.06, Solid Waste Management Rules
Docket No. 58-0106-1901 - deq.idaho.gov/58-0106-1901

IDAPA 58.01.12, Rules for Administration of Water Pollution Control Loans
Docket No. 58-0112-1901 - deq.idaho.gov/58-0112-1901

IDAPA 58.01.13, Rules for Ore Processing by Cyanidation
Docket No. 58-0113-1901 - deq.idaho.gov/58-0113-1901

IDAPA 58.01.20, Rules for Administration of Drinking Water Loan Program (Chapter Repeal)
Docket No. 58-0120-1901 - deq.idaho.gov/58-0120-1901.

IDAPA 58.01.25, Rules Regulating the Idaho Pollutant Discharge Elimination System Program
Docket No. 58-0125-2001 - deq.idaho.gov/58-0125-2001

INCORPORATION BY REFERENCE: The following rule chapters include revisions updating federal regulations incorporated by reference:

IDAPA 58.01.01, *Rules for the Control of Air Pollution in Idaho*
IDAPA 58.01.05, *Rules and Standards for Hazardous Waste*
IDAPA 58.01.25, *Rules Regulating the Idaho Pollutant Discharge Elimination System Program*

Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief summary of why the incorporation by reference is necessary:

Adoption of federal regulations is necessary to maintain program primacy. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rules.

In compliance with Idaho Code 67-5223(4), for each fee rule chapter with updates to federal regulations incorporated by reference, DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference documents are available at deq.idaho.gov/58-0000-2000F.

IDAHO CODE SECTION 39-107D STATEMENT: With the exception of revisions to IDAPA 58.01.13, *Rules for Ore Processing by Cyanidation*, these rules are either (1) not broader in scope or more stringent than federal law nor propose to regulate an activity not regulated by the federal government, or (2) have previously been approved as meeting the requirements of Section 39-107D, Idaho Code.

IDAHO CODE SECTION 39-107D STATEMENT FOR REVISIONS IN IDAPA 58.01.13 NEGOTIATED UNDER DOCKET NO. 58-0113-1901: IDAPA 58.01.13, *Rules for Ore Processing by Cyanidation*, regulates activities not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(2) through (3), Idaho Code, supporting the adoption of these rules. These rules establish the procedures and requirements for the issuance and maintenance of a permit to construct, operate, and close that portion of a cyanidation facility that is intended to contain, treat, or dispose of process water or process-contaminated water containing cyanide.

Section 107D(2)(a), Idaho Code. To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices.

The requirements set forth in this proposed rule are based upon best available peer reviewed science provided by participants in the negotiated rulemaking conducted pursuant to Section 67-5220, Idaho Code. In addition, the requirements set forth in this proposed rule are industry accepted standards and proven regulatory requirements shown to be generally protective of human health and the environment.

To the extent practicable, the proposed rule reflects derivations of the standards and evaluation criteria used in the state of Nevada to regulate cyanidation facilities. Nevada's rules more broadly address mining facilities, not cyanidation facilities specifically. The standards specific to cyanidation facilities were developed based on numerous references providing the best available peer reviewed science. These references are included in the rulemaking record and available at deq.idaho.gov/58-0113-1901.

Section 39-107D(2)(b), Idaho Code. To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.

Data was not collected or analyzed as part of this rulemaking process.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects.

The release of contaminants from cyanidation facilities may adversely impact beneficial uses in both surface and ground water. The populations and receptors of contaminants generated by these facilities potentially include, depending on a facility's location, domestic and community drinking water systems, recreationists, agriculture, and wildlife. Contaminants of concern with the potential of release from cyanidation facilities include, but are not limited to, cyanide, nitrates, chlorine, heavy metals, and sediment.

In Idaho, ground water supplies drinking water to approximately 95% of Idaho's citizens. Of these consumers, approximately one million rely on regulated public water systems for drinking water. Another 500,000 Idahoans utilize ground water from private wells for drinking water. Protection of this resource is critical to the health of the citizens of Idaho.

Ground water also replenishes surface water supplies throughout Idaho. In areas with degraded ground water, the quality of the interconnected surface water can be negatively impacted. The release of contaminants to surface water either directly or indirectly through the ground water can have adverse environmental effects on aquatic habitats, such as increased algal blooms and systemic or neurological effects in susceptible species. The release of contaminants to surface water may also affect communities or individuals who use surface water as a drinking water source by, for example, making the water unfit for consumption or increasing treatment costs.

Section 107D(3)(b) through (e), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk, of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty, and studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effect or environmental effects and the methodology used to reconcile inconsistencies in the data.

The proposed rule includes permitting process requirements and criteria for the design, construction, operation, and closure of a cyanidation facility. The design criteria are intended to ensure that cyanidation facilities are constructed, operated, and closed in a manner that complies with Idaho's existing standards for protection of human health and the environment, including surface and ground water quality standards. Because specific standards for protecting of human health and the environment already exist in other rules, there is no need to duplicate them in this proposed rule. The criteria included as part of this proposed rule are not based on any express estimate or analysis of risk to public health or the environment. Instead, the criteria are based on best available peer reviewed science and generally accepted design principles used by engineers and regulators to safely contain, control, and treat pollutants associated with ore processing by cyanidation consistent with other existing standards. Application of the criteria in this proposed rule and other rules administered by the Department or other state agencies will result in minimal risk of release of contaminants from the cyanidation facility into the environment and appropriate response in the event of a release.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact the undersigned.

SUBMISSION OF WRITTEN COMMENTS: Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before October 16, 2020.

Dated this 19th day of August, 2020.

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58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

000. LEGAL AUTHORITY.
The Board of Environmental Quality is authorized to promulgate rules for the Department of Environmental Quality governing air pollution pursuant to Sections 39-105 and 39-107, Idaho Code. ( )

001. TITLE AND SCOPE.
These rules are titled IDAPA 58.01.01, Rules of the Department of Environmental Quality, IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." These rules provide for the control of air pollution in Idaho. ( )

002. WRITTEN INTERPRETATIONS.
The Department of Environmental Quality has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The written statements are available for public inspection and copying at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. ( )

003. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

004. (RESERVED)

005. DEFINITIONS.
The purpose of Sections 005 through 008 is to assemble definitions used throughout this chapter. ( )

006. GENERAL DEFINITIONS.

01. Accountable. Any SIP emission trading program must account for the aggregate effect of the emissions trades in the demonstration of reasonable further progress, attainment, or maintenance. ( )

02. Act. The Environmental Protection and Health Act of 1972 as amended (Sections 39-101 through 39-130, Idaho Code). ( )

03. Actual Emissions. The actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following: ( )

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. ( )

b. The Department may presume that the source-specific allowable emissions for the unit are equivalent to actual emissions of the unit. ( )

c. For any emissions unit (other than an electric utility steam generating unit as specified below) which has not yet begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. ( )

d. For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the Department, on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ten (10) years may be required by the Department if it determines such a period to be more representative of normal source post-change operations. ( )

04. Adverse Impact on Visibility. Visibility impairment which interferes with the management,

protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I Area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with: ( )

a. Times of visitor use of the Federal Class I Area; and ( )

b. The frequency and timing of natural conditions that reduce visibility. ( )

c. This term does not include affects on integral vistas when applied to 40 CFR 51.307. ( )

05. Air Pollutant/Air Contaminant. Any substance, including but not limited to, dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon or particulate matter or any combination thereof. ( )

06. Air Pollution. The presence in the outdoor atmosphere of any air pollutant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. ( )

07. Air Quality. The specific measurement in the ambient air of a particular air pollutant at any given time. ( )

08. Air Quality Criterion. The information used as guidelines for decisions when establishing air quality goals and air quality standards. ( )

09. Allowable Emissions. The allowable emissions rate of a stationary source or facility calculated using the maximum rated capacity of the source or facility (unless the source or facility is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following: ( )

a. The applicable standards set forth in 40 CFR part 60 and 61; ( )

b. Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or ( )

c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date. ( )

10. Ambient Air. That portion of the atmosphere, external to buildings, to which the general public has access. ( )

11. Ambient Air Quality Violation. Any ambient concentration that causes or contributes to an exceedance of a national ambient air quality standard as determined by 40 CFR Part 50. ( )

12. Atmospheric Stagnation Advisory. An air pollution alert declared by the Department when air pollutant impacts have been observed and/or meteorological conditions are conducive to additional air pollutant buildup. ( )

13. Attainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular air pollutant or air pollutants. ( )

14. BART-Eligible Source. Any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit two hundred fifty (250) tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. ( )

a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour

heat input; ( )

b. Coal cleaning plants (thermal dryers); ( )

c. Kraft pulp mills; ( )

d. Portland cement plants; ( )

e. Primary zinc smelters; ( )

f. Iron and steel mill plants; ( )

g. Primary aluminum ore reduction plants; ( )

h. Primary copper smelters; ( )

i. Municipal incinerators capable of charging more than two hundred fifty (250) tons of refuse per day; ( )

j. Hydrofluoric, sulfuric, and nitric acid plants; ( )

k. Petroleum refineries; ( )

l. Lime plants; ( )

m. Phosphate rock processing plants; ( )

n. Coke oven batteries; ( )

o. Sulfur recovery plants; ( )

p. Carbon black plants (furnace process); ( )

q. Primary lead smelters; ( )

r. Fuel conversion plants; ( )

s. Sintering plants; ( )

t. Secondary metal production facilities; ( )

u. Chemical process plants; ( )

v. Fossil-fuel boilers of more than two hundred fifty (250) million BTU's per hour heat input; ( )

w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; ( )

x. Taconite ore processing facilities; ( )

y. Glass fiber processing plants; and ( )

z. Charcoal production facilities. ( )

15. Baseline (Area, Concentration, Date). See Section 579. ( )

16. **Best Available Retrofit Technology (BART)**. Means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. ( )

17. **Board**. Idaho Board of Environmental Quality. ( )

18. **Breakdown**. An unplanned failure of any equipment or emissions unit which may cause excess emissions. ( )

19. **BTU**. British thermal unit. ( )

20. **Clean Air Act**. The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. ( )

21. **Collection Efficiency**. The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. ( )

22. **Commence Construction or Modification**. In general, this means initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. ( )

23. **Complete**. A determination made by the Department that all information needed to process a permit application has been submitted for review. ( )

24. **Construction**. Fabrication, erection, installation, or modification of a stationary source or facility. ( )

25. **Control Equipment**. Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. ( )

26. **Controlled Emission**. An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. ( )

27. **Criteria Air Pollutant**. Any of the following: PM_{10}; $PM_{2.5}$; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. ( )

28. **Deciview**. A measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements): Deciview Haze Index = $10 \ln_e ({}^{b}{}_{ext} / 10Mm^{-1})$ where b_{ext} = the atmospheric light extinction coefficient, expressed in inverse megameters (Mm^{-1}). ( )

29. **Department**. The Department of Environmental Quality. ( )

30. **Designated Facility**. Any of the following facilities: ( )

a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; ( )

b. Coal cleaning plants (thermal dryers); ( )

c. Kraft pulp mills; ( )

d. Portland cement plants; ( )

e. Primary zinc smelters; ( )

f. Iron and steel mill plants; ( )

g. Primary aluminum ore reduction plants; ( )

h. Primary copper smelters; ( )

i. Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; ( )

j. Hydrofluoric, sulfuric, and nitric acid plants; ( )

k. Petroleum refineries; ( )

l. Lime plants; ( )

m. Phosphate rock processing plants; ( )

n. Coke oven batteries; ( )

o. Sulfur recovery plants; ( )

p. Carbon black plants (furnace process); ( )

q. Primary lead smelters; ( )

r. Fuel conversion plants; ( )

s. Sintering plants; ( )

t. Secondary metal production facilities; ( )

u. Chemical process plants; ( )

v. Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; ( )

w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; ( )

x. Taconite ore processing facilities; ( )

y. Glass fiber processing plants; and ( )

z. Charcoal production facilities. ( )

31. **Director**. The Director of the Department of Environmental Quality or his designee. ( )

32. **Effective Dose Equivalent**. The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. ( )

33. **Emission**. Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any

air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. ( )

34. **Emission Standard**. A permit or regulatory requirement established by the Department or EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction. ( )

35. **Emissions Unit**. An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term "unit" for the purposes of 42 U.S.C. Sections 7651 through 7651o. ( )

36. **EPA**. The United States Environmental Protection Agency and its Administrator or designee. ( )

37. **Environmental Remediation Source**. A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and shall have an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition shall be construed so as to actually limit remediation projects to five (5) years or less of total operation. ( )

38. **Excess Emissions**. Emissions that exceed an applicable emissions standard established for any facility, source or emissions unit by statute, regulation, rule, permit, or order. ( )

39. **Existing Stationary Source or Facility**. Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. ( )

40. **Facility**. All of the pollutant-emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. ( )

41. **Federal Class I Area**. Any federal land that is classified or reclassified "Class I." ( )

42. **Federal Land Manager**. The Secretary of the department with authority over the Federal Class I Area (or the Secretary's designee). ( )

43. **Federally Enforceable**. All limitations and conditions which are enforceable by EPA and the Department under the Clean Air Act, including those requirements developed pursuant to 40 CFR Parts 60 and 61 requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Parts 51, 52, 60, or 63. ( )

44. **Fire Hazard**. The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands. ( )

45. **Fuel-Burning Equipment**. Any furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. ( )

46. **Fugitive Dust**. Fugitive emissions composed of particulate matter. ( )

47. **Fugitive Emissions**. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. ( )

48. **Garbage**. Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products. ( )

49. **Gasoline**. Any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. Gasoline also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels. ( )

50. **Gasoline Cargo Tank**. Any tank or trailer used for the transport of gasoline from sources of supply to underground gasoline storage tanks. ( )

51. **Gasoline Dispensing Facility (GDF)**. Any facility with underground gasoline storage tanks used for dispensing gasoline. ( )

52. **Grain Elevator**. Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. ( )

53. **Grain Storage Elevator**. Any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean extraction plant which has a permanent grain storage capacity of thirty five thousand two hundred (35,200) cubic meters (ca. 1 million bushels). ( )

54. **Grain Terminal Elevator**. Any grain elevator which has a permanent storage capacity of more than eighty-eight thousand one hundred (88,100) cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. ( )

55. **Hazardous Air Pollutant (HAP)**. Any air pollutant listed pursuant to Section 112(b) of the Clean Air Act. Hazardous Air Pollutants are regulated air pollutants. ( )

56. **Hazardous Waste**. Any waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may: ( )

a. Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or ( )

b. Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or by-product material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa). ( )

57. **Hot-Mix Asphalt Plant**. Those facilities conveying proportioned quantities or batch loading of cold aggregate to a drier, and heating, drying, screening, classifying, measuring and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use. ( )

58. **Incinerator**. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. “Open Burning” is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. ( )

59. **Indian Governing Body**. The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government. ( )

60. **Integral Vista**. A view perceived from within the mandatory Class I Federal Area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal Area. ( )

61. **Kraft Pulping**. Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. ( )

62. **Least Impaired Days**. The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the lowest amount of visibility impairment. ( )

63. **Lowest Achievable Emission Rate (LAER)**. For any source, the more stringent rate of emissions based on the following: ( )

a. The most stringent emissions limitation which is contained in any State Implementation Plan for such class or category of facility, unless the owner or operator of the proposed facility demonstrates that such limitations are not achievable; or ( )

b. The most stringent emissions limitation which is achieved in practice by such class or category of facilities. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the facility. In no event shall the application of the term permit a proposed new or modified facility to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance. ( )

64. **Mandatory Class I Federal Area**. Any area identified in 40 CFR 81.400 through 81.437. ( )

65. **Member of the Public**. For purposes of Subsection 006.108.a.xvi., a person located at any off-site point where there is a residence, school, business or office. ( )

66. **Mercury**. Total mercury including elemental mercury and mercury compounds. ( )

67. **Mercury Best Available Control Technology (MBACT)**. An emission standard for mercury based on the maximum degree of reduction practically achievable as specified by the Department on an individual case-by-case basis taking into account energy, economic and environmental impacts, and other relevant impacts specific to the source. A Department approved MBACT shall be valid until the source subject to the MBACT is modified. If the proposed modification to the source subject to MBACT occurs within ten (10) years of the MBACT determination, a new MBACT review shall not be triggered as long as the source can meet the existing MBACT requirements. If the proposed modification occurs more than ten (10) years after the MBACT determination, then the proposed modification shall be subject to a new MBACT review. ( )

68. **Modification**. ( )

a. Any physical change in, or change in the method of operation of, a stationary source or facility which results in an emission increase as defined in Section 007 or which results in the emission of any regulated air pollutant not previously emitted. ( )

b. Any physical change in, or change in the method of operation of, a stationary source or facility which results in an increase in the emissions rate of any state only toxic air pollutant, or emissions of any state only toxic air pollutant not previously emitted. ( )

c. Fugitive emissions shall not be considered in determining whether a permit is required for a modification unless required by federal law. ( )

d. For purposes of this definition of modification, routine maintenance, repair and replacement shall not be considered physical changes and the following shall not be considered a change in the method of operation: ( )

i. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; ( )

ii. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and ( )

iii. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material before January 6, 1975 and use of such fuel or raw material is not specifically prohibited in a permit. ( )

69. **Monitoring**. Sampling and analysis, in a continuous or noncontinuous sequence, using techniques which will adequately measure emission levels and/or ambient air concentrations of air pollutants. ( )

70. **Most Impaired Days**. The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the highest amount of visibility impairment. ( )

71. **Multiple Chamber Incinerator**. Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned. ( )

72. **Natural Conditions**. Includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration. ( )

73. **New Stationary Source or Facility**. ( )

a. Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or ( )

b. The restart of a nonoperating facility shall be considered a new stationary source or facility if: ( )

i. The restart involves a modification to the facility; or ( )

ii. After the facility has been in a nonoperating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. ( )

74. **Nonattainment Area**. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. ( )

75. **Noncondensibles**. Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. ( )

76. **Odor**. The sensation resulting from stimulation of the human sense of smell. ( )

77. **Opacity**. A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent. ( )

78. **Open Burning**. The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney. ( )

79. **Operating Permit**. A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461. ( )

80. **Particulate Matter**. Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. ( )

81. **Particulate Matter Emissions**. All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157. ( )

82. **Permit to Construct**. A permit issued by the Director pursuant to Sections 200 through 228. ( )

83. **Person**. Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. ( )

84. **PM_{10}**. All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. ( )

85. **PM_{10} Emissions**. All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157. ( )

86. **$PM_{2.5}$**. All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal two point five (2.5) micrometers measured by a reference method based on Appendix L of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. ( )

87. **$PM_{2.5}$ Emissions**. All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal two point five (2.5) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157. ( )

88. **Potential to Emit/Potential Emissions**. The maximum capacity of a facility or stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility or source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is state or federally enforceable. Secondary emissions do not count in determining the potential to emit of a facility or stationary source. ( )

89. **Portable Equipment**. Equipment which is designed to be dismantled and transported from one (1) job site to another job site. ( )

90. **PPM (parts per million)**. Parts of a gaseous contaminant per million parts of gas by volume. ( )

91. **Prescribed Fire Management Burning**. The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: ( )

a. Fire hazard reduction; ( )

b. The control of pests, insects, or diseases; ( )

c. The promotion of range forage improvements; ( )

d. The perpetuation of natural ecosystems; ( )

e. The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; ( )

f. The preparation of planting and seeding sites for forest regeneration; and ( )

g. Other accepted natural resource management purposes. ( )

92. Primary Ambient Air Quality Standard. That ambient air quality which, allowing an adequate margin of safety, is requisite to protect the public health. ( )

93. Process or Process Equipment. Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. ( )

94. Process Weight. The total weight of all materials introduced into any source operation which may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. ( )

95. Process Weight Rate. The rate established as follows: ( )

a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; ( )

b. For cyclical or batch source operations, the total process weight for a period that covers a complete cycle of operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. ( )

96. Quantifiable. The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). ( )

97. Radionuclide. A type of atom which spontaneously undergoes radioactive decay. ( )

98. Regional Haze. Visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources. ( )

99. Regulated Air Pollutant. ( )

a. For purposes of determining applicability of major source permit to operate requirements, issuing, and modifying permits pursuant to Sections 300 through 397, and in accordance with Title V of the federal Clean Air Act amendments of 1990, 42 U.S.C. Section 7661 et seq., "regulated air pollutant" shall have the same meaning as in Title V of the federal Clean Air Act amendments of 1990, and any applicable federal regulations promulgated pursuant to Title V of the federal Clean Air Act amendments of 1990, 40 CFR Part 70; ( )

b. For purposes of determining applicability of any other operating permit requirements, issuing, and modifying permits pursuant to Sections 400 through 410, the federal definition of "regulated air pollutant" as defined in Subsection 006.99.a. shall also apply; ( )

c. For purposes of determining applicability of permit to construct requirements, issuing, and

modifying permits pursuant to Sections 200 through 228, except Section 214, and in accordance with Part D of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7501 et seq., "regulated air pollutant" shall mean those air contaminants that are regulated in non-attainment areas pursuant to Part D of Subchapter I of the federal Clean Air Act and applicable federal regulations promulgated pursuant to Part D of Subchapter I of the federal Clean Air Act, 40 CFR 51.165; and ( )

d. For purposes of determining applicability of any other major or minor permit to construct requirements, issuing, and modifying permits pursuant to 200 through 228, except Section 214, "regulated air pollutant" shall mean those air contaminants that are regulated in attainment and unclassifiable areas pursuant to Part C of Subchapter I of the federal Clean Air Act, 40 CFR 52.21, and any applicable federal regulations promulgated pursuant to Part C of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7470 et seq. ( )

100. Replicable. Any SIP procedures for applying emission trading shall be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. ( )

101. Responsible Official. One (1) of the following: ( )

a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either: ( )

i. The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars ($25,000,000) (in second quarter 1980 dollars); or ( )

ii. The delegation of authority to such representative is approved in advance by the Department. ( )

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively. ( )

c. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Section 123, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). ( )

d. For Phase II sources: ( )

i. The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and ( )

ii. The designated representative for any other purposes under 40 CFR Part 70. ( )

102. Safety Measure. Any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. ( )

103. Salvage Operation. Any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards. ( )

104. Scheduled Maintenance. Planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. ( )

105. Secondary Ambient Air Quality Standard. That ambient air quality which is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air. ( )

106. Secondary Emissions. Emissions which would occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. ( )

107. Shutdown. The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. ( )

108. Significant. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following: ( )

a. Pollutant and emissions rate: ( )

i. Carbon monoxide, one hundred (100) tons per year; ( )

ii. Nitrogen oxides, forty (40) tons per year; ( )

iii. Sulfur dioxide, forty (40) tons per year; ( )

iv. Particulate matter: ( )

(1) Twenty-five (25) tons per year of particulate matter emissions; ( )

(2) Fifteen (15) tons per year of PM_{10} emissions; or ( )

(3) Ten (10) tons per year of direct $PM_{2.5}$ emissions; or forty (40) tons per year of sulfur dioxide emissions; or forty (40) tons per year of nitrogen oxide emissions; ( )

v. Ozone, forty (40) tons per year of volatile organic compounds; ( )

vi. Lead, six-tenths (0.6) of a ton per year; ( )

vii. Fluorides, three (3) tons per year; ( )

viii. Sulfuric acid mist, seven (7) tons per year; ( )

ix. Hydrogen sulfide (H_2S), ten (10) tons per year; ( )

x. Total reduced sulfur (including H_2S), ten (10) tons per year; ( )

xi. Reduced sulfur compounds (including H_2S), ten (10) tons per year; ( )

xii. Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-five ten-millionths (0.0000035) tons per year; ( )

xiii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; ( )

xiv. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; or ( )

xv. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year. ( )

b. In reference to a net emissions increase or the potential of a source or facility to emit a regulated air pollutant not listed in Subsection 006.108.a. above and not a toxic air pollutant, any emission rate; or ( )

c. For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted regulated air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. ( )

109. Significant Contribution. Any increase in ambient concentrations which would exceed the following: ( )

a. Sulfur dioxide: ( )

i. One (1.0) microgram per cubic meter, annual average; ( )

ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; ( )

iii. Twenty-five (25) micrograms per cubic meter, three (3) hour average; ( )

b. Nitrogen dioxide, one (1.0) microgram per cubic meter, annual average; ( )

c. Carbon monoxide: ( )

i. One-half (0.5) milligrams per cubic meter, eight (8) hour average; ( )

ii. Two (2) milligrams per cubic meter, one (1) hour average; ( )

d. PM_{10}: ( )

i. One (1.0) microgram per cubic meter, annual average; ( )

ii. Five (5.0) micrograms per cubic meter, twenty-four (24) hour average; ( )

e. $PM_{2.5}$: ( )

i. Three-tenths (0.3) microgram per cubic meter, annual average; ( )

ii. One point two (1.2) micrograms per cubic meter, twenty-four (24) hour average. ( )

110. Small Fire. A fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. ( )

111. Smoke. Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. ( )

112. Smoke Management Plan. A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. ( )

113. Smoke Management Program. A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke sensitive areas. ( )

114. Source. A stationary source. ( )

115. **Source Operation**. The last operation preceding the emission of air pollutants, when this operation: ( )

a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and ( )

b. Is not an air cleaning device. ( )

116. **Special Fuels**. All fuel suitable as fuel for diesel engines; a compressed or liquefied gas obtained as a by-product in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles. ( )

117. **Stack**. Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. ( )

118. **Stage 1 Vapor Collection**. Used during the refueling of underground gasoline storage tanks to reduce hydrocarbon emissions. Vapors in the tank, which are displaced by the incoming gasoline, are routed through a hose into the gasoline cargo tank and returned to the terminal for processing. Two (2) types of Stage 1 systems exist: coaxial and dual point. ( )

a. Coaxial System. A Stage 1 vapor collection system that requires only one (1) tank opening. The tank opening is usually four (4) inches in diameter with a three (3) inch diameter product fill tube inserted into the opening. Fuel flows through the inner tube while vapors are displaced through the annular space between the inner and outer tubes. ( )

b. Dual Point System. A Stage 1 vapor collection system that consists of two (2) separate tank openings, one (1) for delivery of the product and the other for the recovery of vapors. ( )

119. **Standard Conditions**. Except as specified in Subsection 576.02 for ambient air quality standards, a dry gas temperature of twenty degrees Celsius (20C) sixty-eight degrees Fahrenheit (68F) and a gas pressure of seven hundred sixty (760) millimeters of mercury (14.7 pounds per square inch) absolute. ( )

120. **Startup**. The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. ( )

121. **Stationary Source**. Any building, structure, facility, emissions unit, or installation which emits or may emit any air pollutant. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. ( )

122. **Tier I Source**. Any of the following: ( )

a. Any source located at any major facility as defined in Section 008; ( )

b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60, and required by EPA to obtain a Part 70 permit; ( )

c. Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, and required by EPA to obtain a Part 70 permit, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); ( )

d. Any Phase II source; and ( )

e. Any source in a source category designated by the Department. ( )

123. **Total Suspended Particulates**. Particulate matter as measured by the method described in 40 CFR

50 Appendix B. ( )

124. Toxic Air Pollutant. An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. ( )

125. Toxic Air Pollutant Carcinogenic Increments. Those ambient air quality increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one (1) microgram per cubic meter (1 ug/m3) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. ( )

126. Toxic Air Pollutant Non-carcinogenic Increments. Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. ( )

127. Toxic Substance. Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. ( )

128. Trade Waste. Any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood. ( )

129. TRS (Total Reduced Sulfur). Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. ( )

130. Unclassifiable Area. An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. ( )

131. Uncontrolled Emission. An emission which has not been treated by control equipment. ( )

132. Upset. An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. ( )

133. Visibility Impairment. Any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions. ( )

134. Visibility in Any Mandatory Class I Federal Area. Includes any integral vista associated with that area. ( )

135. Wigwam Burner. Wood waste burning devices commonly called teepee burners, silos, truncated cones, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes. ( )

136. Wood Stove Curtailment Advisory. An air pollution alert issued through local authorities and/or the Department to limit wood stove emissions during air pollution episodes. ( )

007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 228 AND 400 THROUGH 461.

01. Agricultural Activities and Services. For the purposes of Subsection 222.02.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. ( )

02. Baseline Actual Emissions. The rate of emissions, in tons per year, of a regulated air pollutant as determined by the following provisions: ( )

a. For any existing electric utility steam generating unit, baseline actual emissions means the average

rate, in tons per year, at which the unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the five (5) year period immediately preceding when the owner or operator begins actual construction of the project. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. ( )

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. ( )

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. ( )

iii. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. ( )

iv. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsection 007.02.a.ii. ( )

b. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the ten (10) year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Director for a permit required under these rules, whichever is earlier, except that the ten (10) year period shall not include any period earlier than November 15, 1990. ( )

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. ( )

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. ( )

iii. The average rate shall be adjusted downward to exclude any emission limitation with which the source must currently comply, had such source been required to comply with such limitations during the consecutive twenty-four (24) month period; however, if an emission limitation is part of a standard or other requirement under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the Department has taken credit for such emissions reductions in an attainment demonstration or maintenance plan. ( )

iv. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. ( )

v. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsections 007.02.b.ii. and 007.02.b.iii. ( )

c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero (0); and, thereafter, for all other purposes, shall equal the unit's potential to emit. ( )

d. For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subsection 007.02.a, for other existing emissions units in accordance with the procedures contained in Subsection

007.02.b, and for a new emissions unit in accordance with the procedures contained in Subsection 007.02.c. ( )

03. Begin Actual Construction. Commence construction. ( )

04. Emissions Increase. The amount by which projected actual emissions exceed baseline actual emissions of an emissions unit. ( )

05. Innovative Control Technology. Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental effects. ( )

06. Net Emissions Increase. For purposes of Sections 204 and 205, a net emissions increase shall be defined by the federal regulations incorporated by reference. For purposes of Section 210, a net emissions increase shall be an emissions increase from a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification, where: ( )

a. A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; ( )

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification, and is federally enforceable at and after the time that construction of the modification commences. ( )

c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: ( )

i. The already operating or permitted source commenced construction or modification prior to July 1, 1995; or ( )

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or ( )

iii. The already operating or permitted source is an environmental remediation source subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and IDAPA 58.01.05, "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order. ( )

07. Pilot Plant. A stationary source located at least one quarter (1/4) mile from any sensitive receptor that functions to test processing, mechanical, or pollution control equipment to determine full-scale feasibility and which does not produce products that are offered for sale except in developmental quantities. ( )

08. Projected Actual Emissions. ( )

a. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated air pollutant in any one (1) of the five (5) years (twelve (12) month period) following the date the unit resumes regular operation after the project, or in any one (1) of the ten (10) years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated air pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at an existing major stationary source. ( )

b. In determining the projected actual emissions, the owner or operator of the stationary source: ( )

i. Shall consider all relevant information including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with state or federal regulatory authorities, and compliance plans under the approved state implementation plan; and ( )

ii. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and ( )

iii. Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive twenty-four (24) month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or ( )

iv. In lieu of using the method set out in Subsections 007.08.b.i. through 007.08.b.iii., may elect to use the emissions unit's potential to emit, in tons per year. ( )

09. Reasonable Further Progress (RFP). Annual incremental reductions in emissions of the applicable air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. ( )

10. Sensitive Receptor. Any residence, building or location occupied or frequented by persons who, due to age, infirmity or other health based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. ( )

11. Short Term Source. Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. ( )

12. Toxic Air Pollutant Reasonably Available Control Technology (T-RACT). An emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. ( )

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

01. Affected States. All States: ( )

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or ( )

b. That are within fifty (50) miles of the Tier I source. ( )

02. Allowance. An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. ( )

03. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): ( )

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. ( )

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions

relevant only to toxic air pollutants are not applicable requirements. ( )

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; ( )

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; ( )

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; ( )

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; ( )

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; ( )

h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and ( )

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. ( )

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. ( )

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. ( )

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. ( )

06. Emergency. For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. ( )

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. ( )

08. General Permit. A Tier I permit issued pursuant to Section 335. ( )

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. ( )

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: ( )

a. For hazardous air pollutants: ( )

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that

emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. ( )

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. ( )

b. For non-attainment areas: ( )

i. The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. ( )

ii. The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. ( )

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. ( )

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is "marginal" or "moderate," one hundred (100) tpy or more, if the area is "serious," fifty (50) tpy or more, if the area is "severe," twenty-five (25) tpy or more, and if the area is "extreme," ten (10) tpy or more. ( )

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: ( )

i. Designated facilities. ( )

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. ( )

009. DEFINITIONS FOR THE PURPOSES OF 40 CFR PART 60.
Notwithstanding the definitions listed in Sections 006 through 008, the definitions in 40 CFR Part 60 shall have the meaning given in that Part, except that the term "Administrator" shall mean "Department." ( )

010. DEFINITIONS FOR THE PURPOSES OF 40 CFR PART 61 AND 40 CFR PART 63.
Notwithstanding the definitions listed in Sections 006 through 008, the definitions in 40 CFR Part 61 and 40 CFR Part 63 shall have the meaning given in those Parts, except that the term "Administrator" shall mean "Department." ( )

011. DEFINITIONS FOR THE PURPOSES OF SECTIONS 790 THROUGH 799.

01. Best Management Practice. The best management practice (BMP) employed within an industry to control fugitive emissions. ( )

02. Control Strategy Trigger. An event or condition that indicates that a control action is needed to prevent violation of a standard or a provision of the rule. ( )

03. Nonmetallic Mineral Processing Plant. Any combination of equipment that is used to crush or

grind any nonmetallic mineral or rock wherever it may be located, including equipment located at lime plants, power plants, steel mills, asphalt concrete plants, Portland cement plants, or any other facility or location processing nonmetallic minerals. ( )

04. **NSPS Regulated Facility or Plant**. A facility or processing plant that is subject to a standard, limitation, or other requirement of 40 CFR 60, Standards for the Performance of New Stationary Sources. ( )

05. **Permit by Rule**. A provision of the rules under which a facility or source registers with the Department and meets the specific requirements for that type of source. The source is then deemed to have a permit, thereby authorizing construction and operation without first obtaining a "Permit to Construct" as required in Section 201. Operating in accordance with a "Permit by Rule" (PBR) does not relieve the owner or operator from complying with all applicable federal, state, and local rules and regulations. ( )

06. **Progressive Control Strategy**. A sequence of control actions that when progressively employed can reduce the potential for violation of a standard or a provision of the rules. Control actions, beginning with those early in the sequence, shall be progressively applied until an adequate level of control is achieved. ( )

07. **Site of Operations**. The specific operating location of a nonmetallic mineral processing plant. ( )

012. -- 105. **(RESERVED)**

106. **ABBREVIATIONS.**

01. **AAC**. Acceptable Ambient Concentration. ( )

02. **AACC**. Acceptable Ambient Concentration for a Carcinogen. ( )

03. **ACGIH**. American Conference of Government Industrial Hygienists. ( )

04. **CAS**. Chemical Abstract Service. ( )

05. **CL**. Derived form ACGIH ceiling Limit UF = 10. ( )

06. **EL**. Emissions Screening Level. ( )

07. **ID**. Idaho Division of Environmental Quality. Not OEL based. ( )

08. **LA**. From LA Dept. of Environmental Quality. Not OEL based eight (8) hour TWA. ( )

09. **MA**. From MA Dept. of Environmental Protection, Div. of Air Quality Control. Not OEL based, annual averaging time, no uf. ( )

10. **MI**. From MI Dept. of Natural Resources, Air Quality Div. Based on toxicological data, annual av. time, no uf. ( )

11. **NY**. From New York Dept. of Conservation, Div. of Air Quality. Not OEL based, one (1) yr. Av. time no uncertainty factor (uf). ( )

12. **OEL**. Reference Occupational Exposure Level. ( )

13. **PL**. From Phil. Dept. of Air Management Services. Not OEL based, one (1) yr. averaging time no uf. ( )

14. **PL1**. From Phil. Dept. of Air Management Services. Unspecified OEL based, one (1) yr. averaging time, uf=10. ( )

15. **PL2**. From Phil. Dept. of Air Management Services. Not OEL based one (1) yr. Av. time, uf=10. ( )

16. **PL3**. From Phil. Dept. of Air Management Services. Not OEL based, one (1) yr. av. time, uf=1000. ( )

17. **TWA**. Time Weighted Average. ( )

18. **UF**. Uncertainty Factor. ( )

19. **URF**. Unit Risk Factor from the US Environmental Protection Agency. ( )

20. **WA**. From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based. ( )

107. INCORPORATIONS BY REFERENCE.

01. **General**. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 constitutes the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. ( )

02. **Availability of Referenced Material**. Copies of the documents incorporated by reference into these rules are available at the following locations: ( )

a. All federal publications: U.S. Government Printing Office at http://www.ecfr.gov/cgi-bin/ECFR; and; ( )

b. Statutes of the state of Idaho: http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm; and ( )

c. All documents herein incorporated by reference: ( )

i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. ( )

ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. ( )

03. **Documents Incorporated by Reference**. The following documents are incorporated by reference into these rules: ( )

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR Part 51 revised as of July 1, 2020. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: ( )

i. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and ( )

ii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. ( )

b. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 2020. ( )

c. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, Subparts A and N and

Appendices D and E, revised as of July 1, 2020. ( )

d. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 2020. ( )

e. Ambient Air Quality Surveillance, 40 CFR Part 58, revised as of July 1, 2020. ( )

f. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 2020. ( )

g. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 2020. ( )

h. Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008, 40 CFR Part 62, Subpart HHH, revised as of July 1, 2020. ( )

i. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 2020. ( )

j. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 2020. ( )

k. State Operating Permit Programs, 40 CFR Part 70, revised as of July 1, 2020. ( )

l. Permits, 40 CFR Part 72, revised as of July 1, 2020. ( )

m. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 2020. ( )

n. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2020. ( )

o. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). ( )

p. Medical Waste Combustors, Section 39-128, Idaho Code (1992). ( )

108. -- 120. (RESERVED)

121. COMPLIANCE REQUIREMENTS BY DEPARTMENT.
Any person engaged in an activity which may violate the air quality provisions of the Act, violate an air quality order issued or entered in accordance with the Act or these rules, or violate any of these rules, may be required by the Department to do any of the following: ( )

01. Schedule. Prepare a proposed schedule whereby the unlawful activity will be brought into compliance over a specified period of time. ( )

02. Report. Submit periodic reports to the Department indicating progress in achieving compliance. ( )

03. Records. Submit, keep and maintain appropriate records. ( )

04. Monitoring. Monitor air pollutants at the source, in the ambient air, or in vegetation to demonstrate compliance. ( )

05. Episode Plans. Develop emergency episode plans to help prevent ambient air pollution concentrations from reaching levels which would cause substantial endangerment to health or the environment. ( )

122. INFORMATION ORDERS BY THE DEPARTMENT.
The Department may issue information orders as follows: ( )

01. **Purpose**. For the purpose of: ( )

a. Developing or assisting in the development of any implementation plan, any standard of performance, any emission standard or any rule; ( )

b. Determining whether any person is in violation of any standard of performance, any emission standard, any implementation plan or any rule; or ( )

c. Carrying out any air quality provisions of the Act, any air quality order issued or entered in accordance with the Act or rules, or any of these rules. ( )

02. **Persons**. The Department may issue an information order to any person who: ( )

a. Owns or operates any emission source; ( )

b. Manufactures emission control equipment; ( )

c. The Department believes may have information necessary to meet the intent of these rules; or ( )

d. Is subject to any requirement of these rules. ( )

03. **Requirements**. The information order may require the person to perform the following on a one-time, periodic or continuous basis: ( )

a. Establish, maintain and submit records; ( )

b. Make reports; ( )

c. Install, use, and maintain monitoring equipment, and use audit procedures or methods; ( )

d. Sample emissions in accordance with procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Department shall prescribe; ( )

e. Keep records on control equipment parameters, production variables or other indirect data when the Department determines that direct monitoring of emissions is impractical; ( )

f. Submit compliance certifications including: ( )

i. Identification of the applicable requirement that is the basis of the certification; ( )

ii. The method(s) or other means used by the owner or operator for determining the compliance status for each applicable requirement, and whether such methods or other means provide continuous or intermittent data; and ( )

iii. The status of compliance with each applicable requirement, based on the method or means designated in Subsection 122.03.f.ii. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and ( )

g. Provide such other information as the Department may require. ( )

123. CERTIFICATION OF DOCUMENTS.
All documents, including but not limited to, application forms for permits to construct, application forms for operating permits, progress reports, records, monitoring data, supporting information, requests for confidential

treatment, testing reports or compliance certifications submitted to the Department shall contain a certification by a responsible official. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. ( )

124. TRUTH, ACCURACY AND COMPLETENESS OF DOCUMENTS.
All documents submitted to the Department shall be truthful, accurate and complete. ( )

125. FALSE STATEMENTS.
No person shall knowingly make any false statement, representation, or certification in any form, notice, or report required under any permit, or any applicable rule or order in force pursuant thereto. ( )

126. TAMPERING.
No person shall knowingly render inaccurate any monitoring device or method required under any permit, or any applicable rule or order in force pursuant thereto. ( )

127. FORMAT OF RESPONSES.
All responses and information submitted to the Department shall be provided in a format approved by the Department. ( )

128. CONFIDENTIAL INFORMATION.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code and Section 39-111, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality." If the information for which the person is requesting confidential treatment is submitted to the Department under Sections 300 through 386 or the terms or conditions of a Tier I operating permit, the person shall also submit the same information directly to the EPA. ( )

129. (RESERVED)

130. STARTUP, SHUTDOWN, SCHEDULED MAINTENANCE, SAFETY MEASURES, UPSET AND BREAKDOWN.
The purpose of Sections 130 through 136 is to establish procedures and requirements to be implemented in all excess emissions events and to establish criteria to be applied by the Department in determining whether to take enforcement action to impose penalties for an excess emissions event where the excess emissions are caused by startup, shutdown, scheduled maintenance, upset, or breakdown of any emissions unit or which occur as a direct result of the implementation of any safety measure. ( )

131. EXCESS EMISSIONS.

01. Applicability. The owner or operator of a facility or emissions unit generating excess emissions shall comply with Sections 131, 132, 133.01, 134.01, 134.02, 134.03, 135, and 136, as applicable. If the owner or operator anticipates requesting consideration under Subsection 131.02, then the owner or operator shall also comply with the applicable provisions of Subsections 133.02, 133.03, 134.04, and 134.05. ( )

02. Enforcement Action Criteria. Where an excess emissions event occurs as a direct result of startup, shutdown, or scheduled maintenance, or an unavoidable upset or unavoidable breakdown, or the implementation of a safety measure, the Department shall consider the sufficiency of the information submitted and the following criteria to determine if an enforcement action to impose penalties is warranted: ( )

a. Whether prior to the excess emissions event, the owner or operator submitted and implemented procedures pursuant to Subsections 133.02 and 133.03 or Subsections 134.04 and 134.05, as applicable; ( )

b. Whether the owner or operator complied with all relevant portions of Subsections 131, 132, 133.01, 134.01, 134.02, 134.03, 135, and 136; ( )

c. Whether the excess emissions event was part of a recurring pattern of excess emissions events

indicative of inadequate design, operation or maintenance of the facility or emissions unit; and ( )

d. Where appropriate, whether the excess emissions event was caused by an activity necessary to prevent loss of life, personal injury or severe property damage. ( )

03. Effect of Determination. Any decision by the Department under Subsection 131.02 shall not excuse the owner or operator from compliance with the relevant emission standard and shall not preclude the Department from taking an enforcement action to enjoin the activity causing the excess emissions. Any decision made by the Department under Subsection 131.02 shall not preclude the Department from taking an enforcement action for future or other excess emission events. The affirmative defense for emergencies under Section 332 of these Rules may be applied in addition to the provisions of Sections 130 through 136. ( )

132. CORRECTION OF CONDITION.
The person responsible for, or in charge of a facility during, an excess emissions event shall, with all practicable speed, initiate and complete appropriate and reasonable action to correct the conditions causing such excess emissions event; to reduce the frequency of occurrence of such events; to minimize the amount by which the emission standard is exceeded; and shall, as provided below or upon request of the Department, submit a full report of such occurrence, including a statement of all known causes, and of the scheduling and nature of the actions to be taken. ( )

133. STARTUP, SHUTDOWN AND SCHEDULED MAINTENANCE REQUIREMENTS.
The requirements in Subsection 133.01 shall apply in all cases where startup, shutdown, or scheduled maintenance of any equipment or emissions unit is expected to result or results in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsection 133.01, as well as the development and implementation of procedures pursuant to Subsections 133.02 and 133.03 as a prerequisite to any consideration under Subsection 131.02. ( )

01. General Provisions. The following shall pertain to all startup, shutdown, and scheduled maintenance activities expected to result or resulting in excess emissions: ( )

a. No scheduled startup, shutdown, or maintenance resulting in excess emissions shall occur during any period in which an Atmospheric Stagnation Advisory and/or a Wood Stove Curtailment Advisory has been declared by the Department within an area designated by the Department as a PM-10 nonattainment area, unless the permittee demonstrates that such is reasonably necessary to facility operations and cannot be reasonably avoided and the Department approves such activity in advance, to the extent advance approval by the Department is feasible. This prohibition on scheduled startup, shutdown or maintenance activities during Advisories does not apply to situations where shutdown is necessitated by urgent situations, such as imminent equipment failure, power curtailment, worker safety concerns or similar situations. ( )

b. The owner or operator of a source of excess emissions shall notify the Department of any startup, shutdown, or scheduled maintenance event that is expected to cause an excess emissions event. Such notification shall identify the time of the excess emissions, specific location, equipment involved, and type of excess emissions event (i.e. startup, shutdown, or scheduled maintenance). The notification shall be given as soon as reasonably possible, but no later than two (2) hours prior to the start of the excess emissions event unless the owner or operator demonstrates to the Department's satisfaction that a shorter advanced notice was necessary. The Department may prohibit or postpone any scheduled startup, shutdown, or maintenance activity upon consideration of the factors listed in Subsection 134.03. ( )

c. The owner or operator of a source of excess emissions shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event due to startup, shutdown, or scheduled maintenance. ( )

d. The owner or operator of a source of excess emissions must make the maximum reasonable effort, including off-shift labor where practicable to accomplish maintenance during periods of nonoperation of any related source operations or equipment. ( )

02. Excess Emissions Procedures. For all equipment or emissions unit from which excess emissions

may occur during startup, shutdown, or scheduled maintenance, the facility owner or operator shall prepare, implement and file with the Department specific procedures which will be used to minimize excess emissions during such events. Specific information for each of the types of excess emissions events (i.e. startup, shutdown and scheduled maintenance) shall be established or documented for each piece of equipment or emissions unit and shall include all of the following (which may be based upon the facility owner or operator's knowledge of the process or emissions where measured data is unavailable): ( )

a. Identification of the specific equipment or emissions unit and the type of event anticipated. ( )

b. Identification of the specific emissions in excess of applicable emission standards during the startup, shutdown, or scheduled maintenance period. ( )

c. The estimated amount of excess emissions expected to be released during each event. ( )

d. The expected duration of each excess emissions event. ( )

e. An explanation of why the excess emissions are reasonably unavoidable for each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance). ( )

f. Specification of the frequency at which each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance) are expected to occur. ( )

g. For scheduled maintenance, the owner or operator shall also document detailed explanations of: ( )

i. Why the maintenance is needed. ( )

ii. Why it is impractical to reduce or cease operation of the equipment or emissions unit during the scheduled maintenance period. ( )

iii. Why the excess emissions are not reasonably avoidable through better scheduling of the maintenance or through better operation and maintenance practices. ( )

iv. Why, where applicable, it is necessary to by-pass, take off line, or operate equipment or emissions unit at reduced efficiency while the maintenance is being performed. ( )

h. Justification to explain why the piece of equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the excess emissions which occur during startup, shutdown, and scheduled maintenance. ( )

i. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during startup, shutdown, and scheduled maintenance. These procedures may include such measures as preheating or otherwise conditioning the emissions unit prior to its use or the application of auxiliary equipment or emissions unit to reduce the excess emissions. ( )

03. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 133 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. ( )

04. Filing of Excess Emissions Procedures. ( )

a. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 133.02 shall not be a violation of these Rules in and of itself. ( )

b. To the extent procedures or plans for excess emissions resulting from startup, shutdown, or scheduled maintenance are required to be or are otherwise submitted to the Department with any permit application,

such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. ( )

134. UPSET, BREAKDOWN AND SAFETY REQUIREMENTS.
The requirements in Subsections 134.01, 134.02, and 134.03 shall apply in all cases where upset or breakdown of equipment or an emissions unit, or the initiation of safety measures, result or may result in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsections 134.01, 134.02 and 134.03 as well as the development and implementation of procedures pursuant to Subsections 134.04 and 134.05 as a prerequisite to any consideration under Subsection 131.02. Where the owner or operator demonstrates that because of the unforeseeable nature of the excess emissions event it is impractical to develop procedures pursuant to Subsection 134.04, the Department shall exercise its enforcement discretion on a case by case basis. ( )

01. Routine Maintenance and Repairs. For all equipment or emissions units from which excess emissions may occur during upset conditions or breakdowns or implementation of safety measures, the facility owner or operator shall: ( )

a. Implement routine preventative maintenance and operating procedures consistent with good pollution control practices for minimizing upsets and breakdowns or events requiring implementation of safety measures, and ( )

b. Make routine repairs in an expeditious fashion when the owner or operator knew or should have known that an excess emissions event was likely to occur. Off-shift labor and overtime shall be utilized, to the extent practicable, to ensure that such repairs are made expeditiously. ( )

02. Excess Emissions Minimization and Notification. For all equipment or emissions units from which excess emissions result during upset or breakdown conditions, or for other situations that may necessitate the implementation of safety measures which cause excess emissions, the facility owner or operator shall comply with the following: ( )

a. The owner or operator shall immediately undertake all appropriate measures to reduce and, to the extent possible, eliminate excess emissions resulting from the event and to minimize the impact of such excess emissions on the ambient air quality and public health. ( )

b. The owner or operator shall notify the Department of any upset/breakdown/safety event that results in excess emissions. Such notification shall identify the time, specific location, equipment or emissions unit involved, and (to the extent known) the cause(s) of the occurrence. The notification shall be given as soon as reasonably possible, but no later than twenty-four (24) hours after the event, unless the owner or operator demonstrates to the Department's satisfaction that the longer reporting period was necessary. ( )

c. The owner or operator shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event caused by an upset, breakdown, or safety measure. ( )

03. Discretionary Reduction or Cessation Provisions. During any period of excess emissions caused by upset, breakdown, or operation under facility safety measures, the Department may require the owner or operator to immediately reduce or cease operation of the equipment or emissions unit causing the excess emissions until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department shall be taken upon consideration of the following factors and after consultation with the facility owner or operator: ( )

a. Potential risk to the public or the environment. ( )

b. Whether ceasing operations could result in physical damage to the equipment, emissions unit or facility, or cause injury to employees. ( )

c. Whether continued excess emissions were reasonably unavoidable as determined by the Department. ( )

d. The effect of the increase in pollution resulting from the shutdown and subsequent restart of the equipment or emissions unit or facility. ( )

e. The owner or operator shall not be required to reduce or cease operations at the entire facility if reducing or ceasing operations at a portion of the facility eliminates or adequately reduces the excess emissions. ( )

04. Excess Emissions Procedures. For equipment or emissions units and process upsets and breakdowns and situations that require implementation of safety measures, which events can reasonably be anticipated to occur periodically but which cannot be reasonably avoided or predicted with certainty, the owner or operator shall prepare, implement, and file with the Department specific procedures which will be used to minimize such events and excess emissions during such events. To the extent possible and reasonably practicable (and based upon knowledge of the process or emissions where measured data is not available), specify the following information for each type of anticipated upset/ breakdown/safety event: ( )

a. The specific air pollution control equipment or emissions unit and the type of event anticipated. ( )

b. The specific emissions in excess of applicable emission standards during the event. ( )

c. The estimated amount of excess emissions expected to be released during each event. ( )

d. The expected duration of each excess emissions event. ( )

e. An explanation of why the excess emissions are reasonably unavoidable. ( )

f. The frequency of the type of event, based on historic occurrences. ( )

g. Justification to explain why the piece of control equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the particular type of event. ( )

h. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during such events, including without limitation those procedures listed under Subsection 134.05. ( )

05. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 134 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. ( )

06. Filing of Excess Emissions Procedures. ( )

a. Failure to follow procedures filed with the Department shall not preclude the Department from making a determination under Subsection 131.02 if the owner or operator demonstrates to the Department's satisfaction that alternate and equivalent procedures were used and were necessitated by the exigency of the circumstances. ( )

b. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 134.04 shall not be a violation of these Rules in and of itself. ( )

c. To the extent procedures or plans for excess emissions resulting from upsets, breakdowns or safety measures are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. ( )

135. EXCESS EMISSIONS REPORTS.

01. Deadline for Excess Emissions Reports. A written report for each excess emissions event shall be submitted to the Department by the owner or operator no later than fifteen (15) days after the beginning of each such event. ( )

02. Contents of Excess Emissions Reports. Each report shall contain the following information: ( )

a. The time period during which the excess emissions occurred; ( )

b. Identification of the specific equipment or emissions unit which caused the excess emissions; ( )

c. An explanation of the cause, or causes, of the excess emissions and whether the excess emissions occurred as a result of startup, shutdown, scheduled maintenance, upset, breakdown or a safety measure; ( )

d. An estimate of the emissions in excess of any applicable emission standard (based on knowledge of the process and facility where emissions data is unavailable); ( )

e. A description of the activities carried out to eliminate the excess emissions; and ( )

f. Certify compliance status with the requirements of Sections 131, 132, 133.01, 134.01 through 134.03, 135, and 136. ( )

g. If requesting consideration under Subsection 131.02, certify compliance status with Sections 131, 132, 133.01 through 133.03, 134.01 through 134.05, 135, and 136. ( )

136. EXCESS EMISSIONS RECORDS.

01. Maintenance of Excess Emissions Records. The owner or operator shall maintain excess emissions records at the facility for the most recent five (5) calendar year period. ( )

02. Availability of Excess Emissions Records. The excess emissions records shall be made available to the Department upon request. ( )

03. Contents of Excess Emissions Records. The excess emissions records shall include the following: ( )

a. An excess emissions log book for each emissions unit or piece of equipment containing copies of all reports that have been submitted to the Department pursuant to Section 135 for the particular emissions unit or equipment; and ( )

b. Copies of all startup, shutdown, and scheduled maintenance procedures and upset/breakdown/ safety preventative maintenance plans which have been developed by the owner or operator in accordance with Sections 133 and 134, and facility records as necessary to demonstrate compliance with such procedures and plans. ( )

04. Protections Under Section 128. The protections under Section 128 for confidential information shall be available for excess emissions reports and records upon proper request of the owner or operator in accordance with Section 128. ( )

137. -- 139. (RESERVED)

140. VARIANCES.
The purpose of Sections 140 through 149 is to establish procedures for obtaining variances. ( )

141. PETITION.
A variance proceeding shall be commenced by filing three (3) copies of a petition for variance with the Department.

The complaint may be accompanied by such affidavits or other proof as the petitioner may submit in order to make it possible for the Department, if it so desires, to dispose of the matter without a hearing. The petition shall contain the following: ( )

01. Statement of Facts. A concise statement of the facts upon which the variance is requested, including a description of the business or activity in question; the quantity and type of raw materials processed; an estimate of the quantity and type of contaminants discharged; a description of existing and proposed equipment for the control of discharges; and a time schedule for bringing the activity into compliance. ( )

02. Statement of Reasons. A concise statement of why the petitioner believes that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship, including a description of the costs that compliance would impose on the petitioner and others, and of the injury that the grant of the variance would impose on the public. ( )

03. Requested Relief. A clear statement of the precise extent of the relief sought. ( )

142. NOTICE.
The Department shall give notice of all variance petitions as required by law. ( )

143. INVESTIGATION AND RECOMMENDATION.
After investigating the variance petition and considering the views of persons who might be adversely affected by the grant of the variance, the Department staff shall, within twenty-one (21) days after the filing of the petition, make a recommendation to the Department as to the disposition of the petition. The recommendation, a copy of which shall be served on the petitioner, shall include: ( )

01. Efforts. A description of the efforts made by the staff to investigate the facts as alleged and to ascertain the views of persons who might be affected, and a summary of the views so ascertained. ( )

02. Disputed Facts. A statement of the degree to which, if at all, the staff disagrees with the facts as alleged in the petition. ( )

03. Other Facts. Allegations of any other facts the staff believes relevant to the disposition of the petition. ( )

04. Costs. The staff's assessment of the costs that compliance would impose on the petitioner and on others and of the injury that the grant of the variance would impose on the public. ( )

05. Recommendations. The staff's reasoned recommendations as to what disposition should be made of the petition. ( )

144. OBJECTIONS TO PETITION.
Any person may file with the Department, within twenty-one (21) days after the filing of the petition, a written objection to the grant of the variance. A copy of such objection shall be provided by the Department to the petitioner. ( )

145. AUTHORIZATION OF HEARING.

01. No Objection. If no objection is made by the staff or by any other person to the grant of the variance within twenty-one (21) days after the filing of the petition, the Department shall authorize a hearing unless it determines either: ( )

a. That even if all the facts alleged in the petition are true, the petitioner is not entitled to variance; or ( )

b. That the petitioner has shown from affidavits or other proof that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship. ( )

02. No Hearing. If the Department decides not to hold a hearing, it shall pass upon the petition and shall prepare an opinion stating its reasons both for the grant or denial of the petition and for its decision not to hold a hearing. ( )

03. Early Hearing. The Department may authorize a hearing without waiting for the expiration of the twenty-one (21) days during which objections may be filed; provided that if a hearing is not held the Department shall not rule upon the petition until the twenty-one (21) days have elapsed. ( )

146. NOTICE OF HEARING.
The Hearing Officer, after appropriate consultation with the parties, shall set a time and place for hearing and give notice to the petitioner, the EPA, and anyone who has filed an objection to the petition at least twenty-one (21) days prior to the date of the hearing. The hearing shall be set for a date no later than sixty (60) days after the filing of the petition. Any request by the petitioner for a continuance shall constitute a waiver of the right to a decision within ninety (90) days for the period of the continuance. ( )

147. DECISION.
The Department shall render a final decision upon the petition within ninety (90) days after the filing of the petition, except that time included in a continuance granted at the request of the petitioner shall not be counted. When exigencies of time require, the Department may delay the filing of an opinion until not more than thirty (30) days after the filing of its final order. ( )

148. PROOF OF HARDSHIP.
No variance shall be granted, with or without hearing, without adequate proof by the petitioner that compliance would impose an arbitrary or unreasonable hardship. ( )

149. VARIANCE FROM NEW RULE.
If any person files a petition for variance from a rule within twenty (20) days after the original effective date of such a rule, the operation of such rule shall be stayed as to such person, pending the disposition of the petition. The Department may hold a hearing upon said petition within five (5) days from the notice of such hearing, but in all other respects, the rules in Sections 140 through 149 shall apply to the extent they are consistent with the hearing date set by the hearing officer. ( )

150. -- 154. (RESERVED)

155. CIRCUMVENTION.
No person shall willfully cause or permit the installation or use of any device or use of any means that conceals emissions of pollutants that would otherwise violate the provisions of this chapter without resulting in a reduction in the total amount of emissions. ( )

156. TOTAL COMPLIANCE.
Where more than one (1) section of these rules applies to a particular situation, all such rules must be met for total compliance, unless otherwise provided for in these rules. ( )

157. TEST METHODS AND PROCEDURES.
The purpose of this Section is to establish procedures and requirements for test methods and results. Unless otherwise specified in these rules, permit, order, consent decree, or prior written approval by the Department: ( )

01. General Requirements. If a source test is performed to satisfy a performance test requirement or a compliance test requirement imposed by state or federal regulation, rule, permit, order or consent decree, then the test methods and procedures shall be conducted in accordance with the requirements of Section 157. ( )

a. Prior to conducting any emission test, owners or operators are strongly encouraged to submit to the Department in writing, at least thirty (30) days in advance, the following for approval: ( )

i. The type of method to be used; ( )

ii. Any extenuating or unusual circumstances regarding the proposed test; and ( )

iii. The proposed schedule for conducting and reporting the test. ( )

b. Without prior Department approval, any alternative testing is conducted solely at the owner's or operator's risk. If the owner or operator fails to obtain prior written approval by the Department for any testing deviations, the Department may determine the test does not satisfy the testing requirements. ( )

02. Test Requirements. Tests shall be conducted in accordance with the following requirements. ( )

a. The test must be conducted under operational conditions specified in the applicable state or federal regulation, rule, permit, order, consent decree or by Department approval. If the operational requirements are not specified, the source should test at worst-case normal operating conditions. Worst-case normal conditions are those conditions of fuel type, and moisture, process material makeup and moisture and process procedures which are changeable or which could reasonably be expected to be encountered during the operation of the facility and which would result in the highest pollutant emissions from the facility. ( )

b. The Department may impose operational limitations or require additional testing in a permit, order or consent decree if the test is conducted under conditions other than worst-case normal. ( )

c. The Department will accept the methods approved for the applicable pollutants, source type and operating conditions found in 40 CFR Parts 51, 60, 61, and 63 in determining the appropriate test method for an emission limit where one is not otherwise specified. ( )

d. The following requirements apply to owners or operators requesting minor changes in the test method. As stated in Subsection 157.01 above, without prior Department approval, other changes may result in rejection of the test results by the Department. ( )

i. For federal emission standards codified at 40 CFR Parts 60, 61, and 63, the Department will accept those minor changes which have received written approval of the U.S. EPA Administrator so long as the Department determines they are appropriate for the specific application. ( )

ii. For all other emission standards in these rules or for permit requirements, the Department will accept those minor changes that the Department determines are appropriate for the specific application. ( )

e. An owner or operator proposing to use an alternative test method not considered a minor change in Subsection 157.02.d. above, must: ( )

i. Demonstrate to the Department by comparative testing or sufficient analysis, that the alternative method is comparable and equivalent to the designated test method. ( )

ii. Submit the request for approval to use an alternative test method to the Department at least thirty (30) days in advance of a scheduled test. ( )

iii. Obtain, and submit to the Department, EPA approval for use of the alternative test method for emission standards in these rules (except for state only toxic air pollutant standards) or for federal emission standards codified at 40 CFR Parts 60, 61, and 63. ( )

iv. Obtain verification that any prior approval of an alternative test method by the Department continues to be acceptable. Alternative methods may cease to be acceptable if new or different information indicates that the alternative test method is less accurate, less reliable, or not comparable with any current state or federal regulation, rule order, permit, or consent decree. ( )

f. Prior approval by the Department may not constitute Department approval for subsequent tests if new or different information indicates that a previously Department approved test method is less accurate, less reliable or not comparable with any current state or federal regulation, rule, order, permit or consent decree. ( )

03. Observation of Tests by Department Staff. The owner or operator shall provide notice of intent to test to the Department at least fifteen (15) days prior to the scheduled test, or shorter time period as provided in a permit, order, consent decree or by Department approval. The Department may, at its option, have an observer present at any emissions tests conducted on a source. ( )

04. Reporting Requirements. If the source test is performed to satisfy a performance test requirement imposed by state or federal regulation, rule, permit, order, or consent decree, a written report shall be submitted to the Department within sixty (60) days of the completion of the test. The written report shall: ( )

a. Meet the format and content requirements specified by the Department in any applicable rule, regulation, guidance, permit, order, or consent decree. Any deviations from the format and contents specified require prior written approval from the Department. Failure to obtain such approval may result in the rejection of the test results. ( )

b. Include all data required to be noted or recorded in any referenced test method. ( )

05. Test Results Review Criteria. The Department will make every effort to review test results within a reasonable time. The Department may reject tests as invalid for: ( )

a. Failure to adhere to the approved/required method; ( )

b. Using a method inappropriate for the source type or operating conditions; ( )

c. An incomplete written report; ( )

d. Computational or data entry errors; ( )

e. Clearly unreasonable results; ( )

f. Failure to comply with the certification requirements of Section 123 of these rules; or ( )

g. Failure of the source to conform to operational requirements in orders, permits, or consent decrees at the time of the test. ( )

158. -- 159. (RESERVED)

160. PROVISIONS GOVERNING SPECIFIC ACTIVITIES AND CONDITIONS.
Sections 160 through 164 establish provisions governing specific activities and conditions. Test methods and procedures shall comply with Section 157. ( )

161. TOXIC SUBSTANCES.
Any contaminant which is by its nature toxic to human or animal life or vegetation shall not be emitted in such quantities or concentrations as to alone, or in combination with other contaminants, injure or unreasonably affect human or animal life or vegetation. ( )

162. MODIFYING PHYSICAL CONDITIONS.
When physical conditions such as tall adjacent buildings, valley and mountain terrain, etc., are such as to limit the normal dispersion of air pollutants, the Board may set more restrictive emission limitations on those sources affected by the unusual conditions when air quality standards would reasonably be expected to be exceeded. ( )

163. SOURCE DENSITY.
Should areas develop where each individual source is meeting the requirements of this chapter, yet the ambient air quality standards are being exceeded or might reasonably be expected to be exceeded, the Board may set more restrictive emission limits than are contained in this chapter. ( )

164. POLYCHLORINATED BIPHENYLS (PCBS).

01. Prohibition on Burning. Burning any material containing greater than five (5) parts per million of polychlorinated biphenyls (PCBs) is prohibited, except for incineration for the purpose of disposal. Incineration for disposal shall comply with the following provisions: ( )

a. No person shall commence construction or modification of a PCB incinerator without a permit issued according to Sections 200 through 225. ( )

b. The Department must provide opportunity for public comments prior to a final decision for a permit to construct or modify a new PCB incinerator. ( )

c. A permit issued according to Sections 200 through 225 for construction or modification of a PCB incinerator shall require, as a minimum, best available control technology and monitoring instrumentation. ( )

d. No permit to operate, construct or modify a PCB incinerator shall be processed or issued prior to March 16, 1987, or such earlier date as shall be determined by the State Board of Environmental Quality. ( )

02. Prohibition on Sales. No person shall sell, distribute or provide any materials containing greater than five (5) parts per million PCBs for home or commercial heating equipment. ( )

165. -- 174. (RESERVED)

175. PROCEDURES AND REQUIREMENTS FOR PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

The purpose of Sections 176 through 181 is to establish uniform procedures to obtain a Facility Emissions Cap (FEC) for stationary sources or facilities (hereinafter referred to as facility or facilities). A permit establishing a FEC will be issued pursuant to Sections 200 through 228 or Sections 400 through 410. ( )

176. FACILITY EMISSIONS CAP.

01. Optional Facility Emissions Cap. An owner or operator of a facility may request a FEC to establish an enforceable facility-wide emission limitation. ( )

02. Applicability. ( )

a. The owner or operator of any facility, which is not a major facility as defined in Sections 204 or 205, may apply to the Department for a permit to establish a FEC. ( )

b. FECs are available for new and existing facilities that are not major as defined in Section 204 or 205 or existing facilities undergoing a modification that does not make the facility a major facility as defined in Section 204 or 205. ( )

c. Facilities that become major facilities as defined in Section 204 or 205 are no longer eligible for a FEC under Section 176. ( )

03. Definitions. For the purposes of Sections 175 through 181, the following terms shall be defined as below. ( )

a. Baseline actual emissions. As defined in Section 007. ( )

b. Design concentration. The ambient concentration used in establishing the FEC. ( )

c. Facility emissions cap (FEC). A facility-wide emission limitation expressed in tons per year, for any criteria pollutant or hazardous air pollutant established in accordance with Sections 176 through 181. A FEC is calculated using baseline actual emissions plus an operational variability component and a growth component. A FEC, which is defined in tons per year on a twelve (12) month rolling basis, must be set below major facility thresholds as defined in Sections 204 and 205. ( )

d. FEC pollutant. The pollutant for which a FEC is established. ( )

e. Growth component. The level of emissions requested by the applicant and approved by the Department to allow for potential future business growth or facility changes that may increase emissions above baseline actual emissions plus the operational variability component. ( )

f. Operational variability component. The level of emissions up to the significant emission rate (SER) minus one (1) ton per year but no more than the facility's potential to emit (PTE). If the proposed FEC pollutant does not have a SER listed in Section 006 or has a SER less than or equal to ten (10) tons per year, the operational variability component is the level of emissions requested by the applicant and approved by the Department. The operational variability component cannot be more than the facility's PTE. ( )

177. APPLICATION PROCEDURES.
In addition to the information required pursuant to Sections 202 or 402, whichever is applicable, applications requesting a FEC must include the information required under Sections 176 through 181 and Subsections 177.01 through 177.03. ( )

01. Estimates of Emissions. A proposed FEC for each pollutant requested by the facility, including the basis for calculating the FEC. ( )

02. Estimates of Ambient Concentrations. ( )

a. Estimates of ambient concentrations will be determined as described in Subsection 202.02. ( )

b. Estimates of ambient concentrations may include projections of alternative future changes within the proposed FEC. ( )

c. For a new, existing, or modified facility, a demonstration that for each FEC pollutant, the FEC will not cause or significantly contribute to a violation of any ambient air quality standard. ( )

d. For renewal of terms and conditions establishing a FEC, it is presumed that the previous permitting analysis is satisfactory, unless the Department determines otherwise. ( )

03. Monitoring and Recordkeeping. The application must include proposed means for the facility to determine facility emissions on a rolling twelve (12) month consecutive basis. ( )

178. STANDARD CONTENTS OF PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.
In addition to the elements required by Sections 203 and 211 or Sections 403 and 405, whichever is applicable, the Department shall have the authority to impose, implement and enforce the terms in Subsections 178.01 through 178.05 and conditions establishing a FEC. ( )

01. Emission Limitations and Standards. All permits establishing use of a FEC shall contain annual facility wide emissions limitations for each FEC pollutant. ( )

02. Monitoring. All permits establishing a FEC shall contain sufficient monitoring to ensure compliance with the FEC on a rolling twelve (12) month consecutive basis. ( )

03. Recordkeeping. All permits establishing a FEC shall include the following: ( )

a. Sufficient recordkeeping to assure compliance with the FEC. ( )

b. Retention of required monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes, but is not limited to, calibration and maintenance records and original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit. ( )

04. **Reporting**. All permits establishing a FEC shall include the following: ( )

a. Sufficient reporting to assure compliance with the permit establishing the FEC. ( )

b. Submittal of an annual report each year on or before the anniversary date of permit issuance. All required reports must be certified in accordance with Section 123. ( )

05. **Duration**. Each permit establishing a FEC shall state that the terms and conditions establishing the FEC are effective for a fixed term of five (5) years. ( )

179. PROCEDURES FOR ISSUING PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

01. **General Procedures**. Procedures for issuing permits establishing a FEC will follow Sections 209 or 404, whichever is applicable. ( )

02. **Renewal**. The renewal of the terms and conditions establishing a FEC are subject to the same procedural requirements for issuing permits (Subsection 179.01) and Subsections 179.02.a. through 179.02.d.: ( )

a. The permittee shall submit a complete application to the Department for a renewal of the terms and conditions establishing the FEC at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing permit. To ensure that the term of the permit does not expire before the terms and conditions are renewed, the permittee is encouraged to submit the application nine (9) months prior to expiration. ( )

b. If a timely and complete application for a renewal of the terms and conditions establishing the FEC is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit shall remain in effect until the renewal permit has been issued or denied. ( )

c. Expiration of the terms and conditions establishing a FEC may be grounds to terminate the facility's right to operate pursuant to Sections 176 through 181, unless a timely and complete renewal application has been submitted. ( )

d. On renewal, the Department may adjust a FEC with an unused growth component in accordance with the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. ( )

03. **Reopening the FEC**. The Department may reopen a FEC to: ( )

a. Reduce the FEC to reflect newly applicable federal requirements (for example, NSPS) with compliance dates after the issuance of the permit establishing the FEC. ( )

b. Reduce the FEC consistent with any other requirement that is enforceable as a practical matter, and that the state may impose on the facility under the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. ( )

04. **FEC Termination**. The Director may approve a revision of a permit establishing a FEC to terminate the FEC, provided the permittee complies with Subsections 209.04 or 404.04, as applicable, and Subsections 179.04.a. through 179.04.c.: ( )

a. The permittee may request a revision of the permit establishing the FEC to terminate the FEC at anytime prior to the expiration of the permit. The permittee is encouraged to submit an application for a permit to construct or Tier I operating permit, as applicable, six (6) months prior to the time the permittee wishes to terminate the FEC. ( )

b. The FEC established in the permit shall remain in effect until the Department issues a new permit to construct or Tier I operating permit, as applicable. ( )

c. Nothing in Section 179 prohibits a permittee from requesting a permit revision to terminate the FEC during the permit renewal process. ( )

180. REVISIONS TO PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.
Section 180 requires revisions to terms and conditions establishing a FEC. The permittee is exempt from Sections 200 through 228 unless the permittee chooses to use those rules to process any change to the permit, except as provided in Subsection 180.02. ( )

01. Criteria. A permit revision is required for the following: ( )

a. A change to existing monitoring, reporting or recordkeeping requirements in the permit establishing the FEC; ( )

b. A change to the FEC; or ( )

c. A change to the facility that would impose new requirements not included in the permit establishing the FEC. ( )

02. Permit Revision Application Procedures. A permittee may initiate a permit revision by submitting a permit revision application to the Department or by complying with other applicable sections (Sections 200 or 400). For revision of terms and conditions establishing the FEC, it is presumed that the previous permitting analysis is satisfactory unless the Department determines otherwise. A permit revision application shall: ( )

a. Meet the standard application requirements of Section 177; ( )

b. Describe the proposed permit revision; ( )

c. Describe and quantify the change in emissions above the FEC permit limit; and ( )

d. Identify new requirements resulting from the change. ( )

03. Permit Revisions. The Department will process permit revisions pursuant to Section 209 or Section 404. ( )

181. NOTICE AND RECORD-KEEPING OF ESTIMATES OF AMBIENT CONCENTRATIONS.
Section 181 authorizes facility changes that comply with the terms and conditions establishing the FEC, but that are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC. No permit revision shall be required for facility changes implemented in accordance with Section 181. ( )

01. Notice. For facility changes that comply with the terms and conditions establishing the FEC, but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall review the estimate of ambient concentration analysis. ( )

a. In the event that the facility change would result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC, but does not cause or significantly contribute to a violation to any ambient air quality standard, the permittee shall provide notice to the Department in accordance with Subsection 181.01.b. ( )

b. Notice procedures. The permittee may make a facility change under Section 181 if the permittee provides written notification to the Department so that the notification is received at least seven (7) days in advance of the proposed change or, in the event of an emergency, the permittee provides the notification so that it is received at least twenty-four (24) hours in advance of the proposed change. For each such change, the written notification shall: ( )

i. Describe the proposed change; ( )

ii. Describe and quantify expected emissions; and ( )

iii. Provide the estimated ambient concentration analysis. ( )

02. Recordkeeping. For facility changes that comply with the terms and conditions establishing the FEC, but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall review the estimate of ambient concentration analysis. In the event the facility change would not result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall record and maintain documentation on-site of the review. ( )

03. Estimates of Ambient Concentrations. Estimates of ambient concentrations shall be determined during the term of this permit using the same model and model parameters as used with the estimate of ambient concentration analysis approved for the permit establishing the FEC. The permittee shall include any changes to the facility that are not included in the originally approved estimate of ambient concentration analysis. ( )

182. -- 199. (RESERVED)

200. PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT.
The purposes of Sections 200 through 228 is to establish uniform procedures and requirements for the issuance of "Permits to Construct." As used throughout Sections 200 through 228 and 578 through 581, major facility shall be defined as major stationary source in 40 CFR 52.21(b) and 40 CFR 51.165, incorporated by reference into these rules at Section 107, and major modification shall be defined as in 40 CFR 52.21(b) and 40 CFR 51.165, incorporated by reference into these rules at Section 107. These CFR sections have been codified in the electronic CFR which is available at www.ecfr.gov. ( )

201. PERMIT TO CONSTRUCT REQUIRED.
No owner or operator may commence construction or modification of any stationary source, facility, major facility, or major modification without first obtaining a permit to construct from the Department which satisfies the requirements of Sections 200 through 228 unless the source is exempted in any of Sections 220 through 223, or the owner or operator complies with Section 213 and obtains the required permit to construct, or the owner or operator complies with Sections 175 through 181, or the source operates in accordance with all of the applicable provisions of a permit by rule. ( )

202. APPLICATION PROCEDURES.
Application for a permit to construct must be made using forms furnished by the Department, or by other means prescribed by the Department. The application shall be certified by the responsible official in accordance with Section 123 and shall be accompanied by all information necessary to perform any analysis or make any determination required under Sections 200 through 228. ( )

01. Required Information. Depending upon the proposed size and location of the new or modified stationary source or facility, the application for a permit to construct shall include all of the information required by one or more of the following provisions: ( )

a. For any new or modified stationary source or facility: ( )

i. Site information, plans, descriptions, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. ( )

ii. A schedule for construction of the stationary source, facility, or modification. ( )

b. For any new major facility or major modification in a nonattainment area which would be major for the nonattainment regulated air pollutant(s): ( )

i. A description of the system of continuous emission control proposed for the new major facility or

major modification, emission estimates, and other information as necessary to determine that the lowest achievable emission rate would be applied. ( )

ii. A description of the emission offsets proposed for the new major facility or major modification, including information on the stationary sources, mobile sources, or facilities providing the offsets, emission estimates, and other information necessary to determine that a net air quality benefit would result. ( )

iii. Certification that all other facilities in Idaho, owned or operated by (or under common ownership of) the proposed new major facility or major modification, are in compliance with all local, state or federal requirements or are on a schedule for compliance with such. ( )

iv. An analysis of alternative sites, sizes, production processes, and environmental control techniques which demonstrates that the benefits of the proposed major facility or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. ( )

v. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would impact (including the monitoring of visibility in any Class I area near the new major facility or major modification, if requested by the Department). ( )

c. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. ( )

i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the best available control technology would be applied. ( )

ii. An analysis of the effect on air quality by the new major facility or major modification, including meteorological and topographical data necessary to estimate such effects. ( )

iii. An analysis of the effect on air quality projected for the area as a result of general commercial, residential, industrial, and other growth associated with the new major facility or major modification. ( )

iv. A description of the nature, extent, and air quality effects of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the new major facility or major modification would affect. ( )

v. An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new major facility or major modification and general commercial, residential, industrial, and other growth associated with establishment of the new major facility or major modification. The owner or operator need not provide an analysis of the impact on vegetation or soils having no significant commercial or recreational value. ( )

vi. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would affect. ( )

vii. An analysis of the existing ambient air quality in the area that the new major facility or major modification would affect for each regulated air pollutant that a new major facility would emit in significant amounts or for which a major modification would result in a significant net emissions increase. ( )

viii. Ambient analyses as specified in Subsections 202.01c.vii., 202.01c.ix., 202.01c.x., and 202.01c.xii., may not be required if the projected increases in ambient concentrations or existing ambient concentrations of a particular regulated air pollutant in any area that the new major facility or major modification would affect are less than the amounts listed under 40 CFR 52.21(i)(5)(i), or the regulated air pollutant is not listed therein. ( )

ix. For any regulated air pollutant which has an ambient air quality standard, the analysis shall include

continuous air monitoring data, gathered over the year preceding the submittal of the application, unless the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year, but not less than four (4) months, which is adequate for determining whether the emissions of that regulated air pollutant would cause or contribute to a violation of the ambient air quality standard or any prevention of significant deterioration (PSD) increment. ( )

x. For any regulated air pollutant which does not have an ambient air quality standard, the analysis shall contain such air quality monitoring data that the Department determines is necessary to assess ambient air quality for that air pollutant in any area that the emissions of that air pollutant would affect. ( )

xi. If requested by the Department, monitoring of visibility in any Class I area the proposed new major facility or major modification would affect. ( )

xii. Operation of monitoring stations shall meet the requirements of Appendix B to 40 CFR Part 58 or such other requirements as extensive as those set forth in Appendix B as may be approved by the Department. ( )

02. Estimates of Ambient Concentrations. All estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51, Appendix W (Guideline on Air Quality Models). ( )

a. Where an air quality model specified in the "Guideline on Air Quality Models," is inappropriate, the model may be modified or another model substituted, subject to written approval of the Administrator of the U.S. Environmental Protection Agency and public comment pursuant to Subsection 209.01.c.; provided that modifications and substitutions of models used for toxic air pollutants will be reviewed by the Department. ( )

b. Methods like those outlined in the U.S. Environmental Protection Agency's "Interim Procedures for Evaluating Air Quality Models (Revised)" (September 1984) should be used to determine the comparability of air quality models. ( )

03. Additional Information. Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 200 through 225 shall be furnished upon request. ( )

203. PERMIT REQUIREMENTS FOR NEW AND MODIFIED STATIONARY SOURCES.
No permit to construct shall be granted for a new or modified stationary source unless the applicant shows to the satisfaction of the Department all of the following: ( )

01. Emission Standards. The stationary source or modification would comply with all applicable local, state or federal emission standards. ( )

02. NAAQS. The stationary source or modification would not cause or significantly contribute to a violation of any ambient air quality standard. ( )

03. Toxic Air Pollutants. Using the methods provided in Section 210, the emissions of toxic air pollutants from the stationary source or modification would not injure or unreasonably affect human or animal life or vegetation as required by Section 161. Compliance with all applicable toxic air pollutant carcinogenic increments and toxic air pollutant non-carcinogenic increments will also demonstrate preconstruction compliance with Section 161 with regards to the pollutants listed in Sections 585 and 586. ( )

204. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN NONATTAINMENT AREAS.
New major facilities or major modifications proposed for location in a nonattainment area and which would be major for the nonattainment regulated air pollutant are considered nonattainment new source review (NSR) actions and are subject to the requirements in Section 204. Section 202 contains application requirements and Section 209 contains processing requirements for nonattainment NSR permitting actions. The intent of Section 204 is to incorporate the

federal nonattainment NSR rule requirements. ( )

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 51.165 are incorporated by reference into these rules at Section 107. Requirements contained in the following subparts of 40 CFR 52.21, are incorporated by reference at Section 107 of these rules. These CFR sections have been codified in the electronic CFR at www.ecfr.gov.

40 CFR Reference	40 CFR Reference Title
40 CFR 51.165(a)(1)	Definitions
40 CFR 51.165(a)(2)(ii) - 51.165(a)(3)	Applicability Provisions
40 CFR 51.165(a)(6)(i) - (v)	Applicability Provisions
40 CFR 52.21(aa)	Actual PALs

( )

02. Additional Requirements. The applicant must demonstrate to the satisfaction of the Department the following: ( )

a. LAER. Except as otherwise provided in Section 204, the new major facility or major modification would be operated at the lowest achievable emission rate (LAER) for the nonattainment regulated air pollutant, specifically: ( )

i. A new major facility would meet the lowest achievable emission rate at each new emissions unit which emits the nonattainment regulated air pollutant; and ( )

ii. A major modification would meet the lowest achievable emission rate at each new or modified emissions unit which has a net emissions increase of the nonattainment regulated air pollutant. ( )

b. Required offsets. Allowable emissions from the new major facility or major modification are offset by reductions in actual emissions from stationary sources, facilities, and/or mobile sources in the nonattainment area so as to represent reasonable further progress. All offsetting emission reductions must satisfy the requirements for emission reduction credits (Section 460) and provide for a net air quality benefit which satisfies the requirements of Section 208. If the offsets are provided by other stationary sources or facilities, a permit to construct shall not be issued for the new major facility or major modification until the offsetting reductions are made enforceable through the issuance of operating permits. The new major facility or major modification may not commence operation, and an operating permit for the new major facility or major modification shall not be effective before the date the offsetting reductions are achieved. ( )

c. Compliance status. All other sources in the State owned or operated by the applicant, or by any entity controlling, controlled by or under common control with such person, are in compliance with all applicable emission limitations and standards or subject to an enforceable compliance schedule. ( )

d. Effect on visibility. The effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory Class I Federal Area, by the new major facility or major modification, is consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR 51.304(a), may be exempted from Section 204 by the Department. ( )

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 51.165 or 40 CFR 52.21 incorporated in Section 204, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections

220 through 223. ( )

205. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS.
The prevention of significant deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas in attainment or in areas that are unclassifiable for any criteria air pollutant. Section 202 contains application requirements and Section 209 contains processing requirements for PSD permit actions. The intent of Section 205 is to incorporate the federal PSD rule requirements. ( )

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 52.21 are incorporated by reference into these rules at Section 107. These CFR sections have been codified in the electronic CFR which is available at www.ecfr.gov.

40 CFR Reference	40 CFR Reference Title
40 CFR 52.21(a)(2)	Applicability Procedures
40 CFR 52.21(b)	Definitions
40 CFR 52.21(i)	Review of Major Stationary Sources and Major Modifications - Source Applicability and Exempting
40 CFR 52.21(j)	Control Technology Review
40 CFR 52.21(k)	Source Impact Analysis
40 CFR 52.21(r)	Source Obligation
40 CFR 52.21(v)	Innovative Control Technology
40 CFR 52.21(w)	Permit Rescission
40 CFR 52.21(aa)	Actual PALS

( )

02. Effect on Visibility. The applicant must demonstrate that the effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory Class I Federal Area, by the new major facility or major modification, is consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR 51.304(a), may be exempted from this requirement by the Department. ( )

03. Exception to Incorporation by Reference of 40 CFR 52.21. Every use of the word Administrator in 40 CFR 52.21 means the Department except for the following: ( )

a. In 40 CFR 52.21(b)(17), the definition of federally enforceable, Administrator means the EPA Administrator. ( )

b. In 40 CFR 52.21(l)(2), air quality models, Administrator means the EPA Administrator. ( )

c. In 40 CFR 52.21(b)(43), permit program approved by the Administrator, Administrator means the EPA Administrator. ( )

d. In 40 CFR 52.21(b)(48)(ii)(c), MACT standard that is proposed or promulgated by the Administrator, Administrator means the EPA Administrator. ( )

e. In 40 CFR 52.21(b)(50)(i), regulated NSR pollutant as defined by Administrator, Administrator means the EPA Administrator. ( )

04. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 52.21 incorporated in Section 205, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. ( )

206. OPTIONAL OFFSETS FOR PERMITS TO CONSTRUCT.
The owner or operator of any proposed new or modified stationary source, new major facility, or major modification, which cannot meet the requirements of Subsections 202.01.c.vi., 203.02, 203.03, 204.02.d., 205.01 (40 CFR 52.21(k)), and 209.02.b.vi., may propose the use of an emission offset in order to meet those requirements and thereby obtain a permit to construct. Any proposed emission offset must satisfy the requirements for emission reduction credits, Section 460, and demonstrate, through appropriate dispersion modeling, that the offset will reduce ambient concentrations sufficiently to meet the requirements at all modeled receptors which could not otherwise have met the requirements. ( )

207. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.
In order to be credited in a permit to construct, any emission reduction credit must satisfy the requirements of Section 460. ( )

208. DEMONSTRATION OF NET AIR QUALITY BENEFIT.
The demonstration of net air quality benefit shall: ( )

01. VOCs. For trades involving volatile organic compounds, show that total emissions are reduced for the air basin in which the stationary source or facility is located; ( )

02. Other Regulated Air Pollutants. For trades involving any other regulated air pollutant, show through appropriate dispersion modeling that the trade will not cause an increase in ambient concentrations at any modeled receptor; ( )

03. Mobile Sources. For trades involving mobile sources, show a reduction in the ambient impact of emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for adverse ambient impact where the major facility or major modification would otherwise cause or significantly contribute to a violation of any national ambient air quality standard. ( )

209. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for permits to construct. ( )

a. Within thirty (30) days after receipt of the application for a permit to construct, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. ( )

b. Within sixty (60) days after the application is determined to be complete the Department shall: ( )

i. Upon written request of the applicant, provide a draft permit for applicant review. Agency action on the permit under this Section may be delayed if deemed necessary to respond to applicant comments. ( )

ii. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 209.01.c. The Department shall set forth reasons for any denial; or ( )

iii. Issue a proposed approval, proposed conditional approval, or proposed denial. ( )

c. An opportunity for public comment will be provided on all applications requiring a permit to

construct. Public comment shall be provided on an application for any new major facility or major modification, any new facility or modification which would affect any Class I area, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516, any application which uses an interpollutant trade pursuant to Subsection 210.17, any application which the Director determines an opportunity for public comment should be provided, and any application upon which the applicant so requests. ( )

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. ( )

ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. ( )

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. ( )

iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. ( )

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, or notice of public hearing if one is requested under Subsections 209.02.b.iv. or 209.02.a.ii., unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. ( )

vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. ( )

d. A copy of each permit will be sent to the U.S. Environmental Protection Agency. ( )

02. Additional Procedures for Specified Sources. ( )

a. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. ( )

i. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the degree of increment consumption that is expected from the new major facility or major modification; and ( )

ii. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effects of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. ( )

b. For any new major facility or major modification which would affect a federal Class I area or an integral vista of a mandatory federal Class I area. ( )

i. If the Department is notified of the intent to apply for a permit to construct, it shall notify the appropriate Federal Land Manager within thirty (30) days; ( )

ii. A copy of the permit application and all relevant information, including an analysis of the anticipated effects on visibility in any federal Class I area, shall be sent to the Administrator of the U.S. Environmental Protection Agency and the Federal Land Manager within thirty (30) days of receipt of a complete

application and at least sixty (60) days prior to any public hearing on the application; ( )

iii. Notice of every action related to the consideration of the permit shall be sent to the Administrator of the U.S. Environmental Protection Agency; ( )

iv. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effect of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. ( )

v. The notice of public hearing, if required, shall explain any differences between the Department's preliminary determination and any visibility analysis performed by the Federal Land Manager and provided to the Department within thirty (30) days of the notification pursuant to Subsection 209.02.b.ii. ( )

vi. Upon a sufficient showing by the Federal Land Manager that a proposed new major facility or major modification will have an adverse impact upon the air quality related values (including visibility) of any federal mandatory Class I area, the Director may deny the application notwithstanding the fact that the concentrations of regulated air pollutants would not exceed the maximum allowable increases for a Class I area. ( )

03. Establishing a Good Engineering Stack Height. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. ( )

04. Revisions of Permits to Construct. The Director may approve a revision of any permit to construct provided the stationary source or facility continues to meet all applicable requirements of Sections 200 through 228. Revised permits will be issued pursuant to procedures for issuing permits (Section 209), except that the requirements of Subsections 209.01.c., 209.02.a., and 209.02.b., shall only apply if the permit revision results in an increase in emissions authorized by the permit or if deemed appropriate by the Director. ( )

05. Permit to Construct Procedures for Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: ( )

a. Submit only the information required by Sections 200 through 219 for a permit to construct, in which case: ( )

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. ( )

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. ( )

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. ( )

iv. Unless a different time is prescribed by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section 369). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. Tier I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, shall file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. ( )

v. The application or minor or significant permit modification request shall be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. ( )

vi. The final Tier I operating permit action shall incorporate the relevant terms and conditions from the permit to construct; or ( )

b. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit modification, in which case: ( )

i. Completeness of the application shall be determined within thirty (30) days. ( )

ii. The Department shall prepare a proposed permit to construct or denial in accordance with Sections 200 through 219 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. ( )

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. ( )

iv. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. ( )

v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification shall be sent for review in accordance with Section 366. ( )

vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or ( )

c. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: ( )

i. Completeness of the application shall be determined within thirty (30) days. ( )

ii. The Department shall prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. ( )

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. ( )

iv. The Department shall prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. ( )

v. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. ( )

vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381.

The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. ( )

06. Transfer of Permits to Construct. ( )

a. Transfers by Revision. A permit to construct may be transferred to a new owner or operator in accordance with Subsection 209.04. ( )

b. Automatic Transfers. Any permit to construct, with or without transfer prohibition language, may be automatically transferred if: ( )

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; ( )

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and ( )

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 209.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 209.06.b.ii. ( )

210. DEMONSTRATION OF PRECONSTRUCTION COMPLIANCE WITH TOXIC STANDARDS.
In accordance with Subsection 203.03, the applicant shall demonstrate preconstruction compliance with Section 161 to the satisfaction of the Department. The accuracy, completeness, execution and results of the demonstration are all subject to review and approval by the Department. ( )

01. Identification of Toxic Air Pollutants. The applicant may use process knowledge, raw materials inputs, EPA and Department references and commonly available references approved by EPA or the Department to identify the toxic air pollutants emitted by the stationary source or modification. ( )

02. Quantification of Emission Rates. ( )

a. The applicant may use standard scientific and engineering principles and practices to estimate the emission rate of any toxic air pollutant at the point(s) of emission. ( )

i. Screening engineering analyses use unrefined conservative data. ( )

ii. Refined engineering analyses utilize refined and less conservative data including, but not limited to, emission factors requiring detailed input and actual emissions testing at a comparable emissions unit using EPA or Department approved methods. ( )

b. The uncontrolled emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design without the effect of any physical or operational limitations. ( )

i. Examples of physical and operational design include but are not limited to: the amount of time equipment operates during batch operations and the quantity of raw materials utilized in a batch process. ( )

ii. Examples of physical or operational limitations include but are not limited to: shortened hours of operation, use of control equipment, and restrictions on production which are less than design capacity. ( )

c. The controlled emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design with the effect of any physical or operational limitation that has been specifically described in a written and certified submission to the

Department. ( )

d. The T-RACT emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design with the effect of: ( )

i. Any physical or operational limitation other than control equipment that has been specifically described in a written and certified submission to the Department; and ( )

ii. An emission standard that is T-RACT. ( )

03. Quantification of Ambient Concentrations. ( )

a. The applicant may use the modeling methods provided in Subsection 202.02 to estimate the ambient concentrations at specified receptor sites for any toxic air pollutant emitted from the point(s) of emission. ( )

b. The point of compliance is the receptor site that is estimated to have the highest ambient concentration of the toxic air pollutant of all the receptor sites that are located either at or beyond the facility property boundary or at a point of public access; provided that, if the toxic air pollutant is listed in Section 586, the receptor site is not considered to be at a point of public access if the receptor site is located on or within a road, highway or other transportation corridor transecting the facility. ( )

c. The uncontrolled ambient concentration of the source or modification is estimated by modeling the uncontrolled emission rate. ( )

d. The controlled ambient concentration of the source or modification is estimated by modeling the controlled emission rate. ( )

e. The approved net ambient concentration from a modification for a toxic air pollutant at each receptor is calculated by subtracting the estimated decreases in ambient concentrations for all sources at the facility contributing an approved creditable decrease at the receptor site from the estimated ambient concentration from the modification at the receptor. ( )

f. The approved offset ambient concentration from a source or modification for a toxic air pollutant at each receptor is calculated by subtracting the estimated decreases in ambient concentrations for all sources contributing an approved offset at the receptor from the estimated ambient concentration for the source or modification at the receptor. ( )

g. The T-RACT ambient concentration of the source or modification is estimated by using refined modeling and the T-RACT emission rate. ( )

h. The approved interpollutant ambient concentration from a source or modification for a toxic air pollutant at each receptor is calculated as follows: ( )

i. Step 1: Calculate the estimated decrease in ambient concentrations for each toxic air pollutant from each source contributing an approved interpollutant trade at the receptor by multiplying the approved interpollutant ratio by the overall decrease in the ambient concentration of the toxic air pollutant at the receptor site. ( )

ii. Step 2: Calculate the total estimated decrease at the receptor by summing all of the individual estimated decreases calculated in Subsection 210.03.h.i. for that receptor. ( )

iii. Step 3: Calculate the approved interpollutant ambient concentration by subtracting the total estimated decrease at the receptor from the estimated ambient concentration for the source or modification at the receptor. ( )

04. Preconstruction Compliance Demonstration. The applicant may use any of the Department

approved standard methods described in Subsections 210.05 through 210.08, and may use any applicable specialized method described in Subsections 210.09 through 210.12 to demonstrate preconstruction compliance for each identified toxic air pollutant. ( )

05. Uncontrolled Emissions. ( )

a. Compare the source's or modification's uncontrolled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. ( )

b. If the source's or modification's uncontrolled emission rate is less than or equal to the applicable screening emission level, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ( )

06. Uncontrolled Ambient Concentration. ( )

a. Compare the source's or modification's uncontrolled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. ( )

b. If the source's or modification's uncontrolled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ( )

07. Controlled Emissions. ( )

a. Compare the source's or modification's controlled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. ( )

b. If the source's or modification's controlled emission rate is less than or equal to the applicable screening emission level, no further procedure for demonstrating preconstruction compliance is required for that toxic air pollutant as part of the application process. ( )

08. Controlled Ambient Concentration. ( )

a. Compare the source's or modification's controlled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. ( )

b. If the source's or modification's controlled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ( )

c. The Department shall include an emission limit for the toxic air pollutant in the permit to construct that is equal to or, if requested by the applicant, less than the emission rate that was used in the modeling. ( )

09. Net Emissions. ( )

a. As provided in Section 007 (definition of net emissions increase) and Sections 460 and 461, the owner or operator may net emissions to demonstrate preconstruction compliance. ( )

b. Compare the modification's approved net emissions increase (expressed as an emission rate) for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. ( )

c. If the modification's approved net emissions increase is less than or equal to the applicable screening emission level, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ( )

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in

the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. ( )

10. Net Ambient Concentration. ( )

a. As provided in Section 007 (definition of net emission increase) and Sections 460 and 461, the owner or operator may net ambient concentrations to demonstrate preconstruction compliance. ( )

b. Compare the modification's approved net ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. ( )

c. If the modification's approved net ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ( )

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. ( )

11. Toxic Air Pollutant Offset Ambient Concentration. ( )

a. As provided in Sections 206 and 460, the owner or operator may use offsets to demonstrate preconstruction compliance. ( )

b. Compare the source's or modification's approved offset ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. ( )

c. If the source's or modification's approved offset ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ( )

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. ( )

12. T-RACT Ambient Concentration for Carcinogens. ( )

a. As provided in Subsections 210.12 and 210.13, the owner or operator may use T-RACT to demonstrate preconstruction compliance for toxic air pollutants listed in Section 586. ( )

i. This method may be used in conjunction with netting (Subsection 210.09), and offsets (Subsection 210.11). ( )

ii. This method is not to be used to demonstrate preconstruction compliance for toxic air pollutants listed in Section 585. ( )

b. Compare the source's or modification's approved T-RACT ambient concentration at the point of compliance for the toxic air pollutant to the amount of the toxic air pollutant that would contribute an ambient air cancer risk probability of less than one to one hundred thousand (1:100,000) (which amount is equivalent to ten (10) times the applicable acceptable ambient concentration listed in Section 586). ( )

c. If the source's or modification's approved T-RACT ambient concentration at the point of compliance is less than or equal to the amount of the toxic air pollutant that would contribute an ambient air cancer risk probability of less than one to one hundred thousand (1:100,000), no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ( )

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. ( )

13. T-RACT Determination Processing. ( )

a. The applicant may submit all information necessary to the demonstration at the time the applicant submits the complete initial application or the applicant may request the Department to review a complete initial application to determine if Subsection 210.12 may be applicable to the source or modification. ( )

b. Notwithstanding Subsections 209.01.a. and 209.01.b., if the applicant requests the Department to review a complete initial application and Subsection 210.12 is determined to be applicable, the completeness determination for the initial application will be revoked until a supplemental application is submitted and determined complete. When the supplemental application is determined complete, the timeline for agency action shall be reinitiated. ( )

14. T-RACT Determination. T-RACT shall be determined on a case-by-case basis by the Department as follows: ( )

a. The applicant shall submit information to the Department identifying and documenting which control technologies or other requirements the applicant believes to be T-RACT. ( )

b. The Department shall review the information submitted by the applicant and determine whether the applicant has proposed T-RACT. ( )

c. The technological feasibility of a control technology or other requirements for a particular source shall be determined considering several factors including, but not limited to: ( )

i. Process and operating procedures, raw materials and physical plant layout. ( )

ii. The environmental impacts caused by the control technology that cannot be mitigated, including, but not limited to, water pollution and the production of solid wastes. ( )

iii. The energy requirements of the control technology. ( )

d. The economic feasibility of a control technology or other requirement, including the costs of necessary mitigation measures, for a particular source shall be determined considering several factors including, but not limited to: ( )

i. Capital costs. ( )

ii. Cost effectiveness, which is the annualized cost of the control technology divided by the amount of emission reduction. ( )

iii. The difference in costs between the particular source and other similar sources, if any, that have implemented emissions reductions. ( )

e. If the Department determines that the applicant has proposed T-RACT, the Department shall determine which of the options, or combination of options, will result in the lowest emission of toxic air pollutants, develop the emission standards constituting T-RACT and incorporate the emission standards into the permit to construct. ( )

f. If the Department determines that the applicant has not proposed T-RACT, the Department shall disapprove the submittal. If the submittal is disapproved, the applicant may supplement its submittal or demonstrate preconstruction compliance through a different method provided in Section 210. If the applicant does not supplement its submittal or demonstrate preconstruction compliance through a different method provided in Section 210, the Department shall deny the permit. ( )

15. Short Term Source Factor. For short term sources, the applicant may utilize a short term adjustment factor of ten (10). For a carcinogen, multiply either the applicable acceptable ambient concentration (AACC) or the screening emission rate, but not both, by ten (10), to demonstrate preconstruction compliance. This method may be used for TAPs listed in Section 586 only and may be utilized in conjunction with standard methods for quantification of emission rates (Subsections 210.05 through 210.08). ( )

16. Environmental Remediation Source. ( )

a. For Remediation sources subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and the "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order, if the estimated ambient concentration at the point of impact is greater than the acceptable ambient impacts listed in Sections 585 and 586, Best Available Control Technology shall be applied and operated until the estimated uncontrolled emissions from the remediation source are below the acceptable ambient concentration. ( )

b. For Remediation sources not subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and the "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order, shall, for the purposes of these rules, be considered the same as any other new or modified source of toxic air pollution. ( )

c. For an environmental remediation source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, the Department may waive the requirements of Section 513 of these rules. ( )

17. Interpollutant Trading Ambient Concentration. ( )

a. As provided in Subsections 209.01.c., 210.17 through 210.19, the owner or operator may use interpollutant trading to demonstrate preconstruction compliance. This method may be used in conjunction with netting (Subsection 210.10), and offsets (Subsection 210.11) ( )

b. Compare the source's or modification's approved interpollutant ambient concentration at the point of compliance for the toxic air pollutant emitted by the source or modification to the applicable acceptable ambient concentration listed in Sections 585 or 586. ( )

c. If the source's or modification's approved interpollutant ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration listed in Sections 585 or 586, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ( )

d. The Department shall include emission limits for all of the toxic air pollutants involved in the trade in the permit to construct. The Department shall also include other permit terms in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. ( )

18. Interpollutant Trading Determination Processing. ( )

a. The applicant may submit all information necessary to the demonstration at the time the applicant submits the complete initial application or the applicant may request the Department to review a complete initial application to determine if Subsection 210.17 may be applicable to the source or modification. ( )

b. Notwithstanding Subsections 209.01.a. and 209.01.b., if the applicant requests the Department to review a complete initial application and Subsection 210.17 is determined to be applicable, the completeness determination for the initial application will be revoked until a supplemental application is submitted and determined complete. When the supplemental application is determined complete, the timeline for agency action shall be reinitiated. ( )

19. Interpollutant Determination. ( )

a. The applicant may request an interpollutant trade if the Department determines that: ( )

i. The facility complies with an emission standard at least as stringent as best available control technology (BACT); and ( )

ii. The owner or operator has instituted all known and available methods of pollution prevention at the facility to reduce, avoid or eliminate toxic air pollution prior to its generation including, but not limited to, recycling, chemical substitution, and process modification provided that such pollution prevention methods are compatible with each other and the product or service being produced; and ( )

iii. The owner or operator has taken all available offsets; and ( )

iv. The owner or operator has identified all geographical areas and populations that may be impacted by the proposed interpollutant trade. ( )

b. Interpollutant trades shall be approved or denied on a case-by-case basis by the Department. Denials shall be within the discretion of the Department. Approvals shall be granted only if: ( )

i. The Department of Health and Welfare's Division of Health approves the interpollutant trade; and ( )

ii. The Department of Environmental Quality determines that the interpollutant trade will result in a overall benefit to the environment; and ( )

iii. An EPA approved database or other EPA approved reference provides relative potency factors, or comparable factors, or other data that is sufficient to allow for adequate review and approval of the proposed trade by the Department and the Department of Health and Welfare's Division of Health is submitted for all of the toxic air pollutants being traded; and ( )

iv. The reductions occur at the same facility where the proposed source or modification will be constructed; and ( )

v. The interpollutant trade will not cause an increase in sum of the ambient concentrations of the carcinogenic toxic air pollutants involved in the particular interpollutant trade at any receptor site; and ( )

vi. The total cancer risk with the interpollutant trade will be less than the total cancer risk without the interpollutant trade; and ( )

vii. The total non-cancer health risk with the interpollutant trade will be less than the total non-cancer health risk without the interpollutant trade. ( )

20. NSPS and NESHAP Sources. No demonstration of compliance with the toxic air pollutant provisions is required to obtain a permit to construct or to demonstrate permit to construct exemption criteria for a new source or for modification of an existing source if the toxic air pollutant is also a listed hazardous air pollutant from: ( )

a. The equipment or activity covered by a NSPS or NESHAP; or ( )

b. The source category of equipment or activity addressed by a NSPS or NESHAP even if the equipment or activity is not subject to compliance requirements under the federal rule. ( )

21. Permit Compliance Demonstration. Additional procedures and requirements to demonstrate and ensure actual and continuing compliance may be required by the Department in the permit to construct. ( )

22. Interpretation and Implementation of Other Sections. Except as specifically provided in other

sections of these rules, the provisions of Section 210 are not to be utilized in the interpretation or implementation of any other section of these rules. ( )

211. CONDITIONS FOR PERMITS TO CONSTRUCT.

01. Reasonable Conditions. The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with: ( )

a. Sampling ports of a size, number, and location as the Department may require; ( )

b. Safe access to each port; ( )

c. Instrumentation to monitor and record emissions data; ( )

d. Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility; and ( )

e. Any other sampling and testing facilities as may be deemed reasonably necessary. ( )

02. Cancellation. The Department may cancel a permit to construct if the construction is not begun within two (2) years from the date of issuance, or if during the construction, work is suspended for one (1) year. ( )

03. Notification to The Department. Any owner or operator of a stationary source or facility subject to a permit to construct shall furnish the Department written notifications as follows: ( )

a. A notification of the anticipated date of initial start-up of the stationary source or facility not more than sixty (60) days or less than thirty (30) days prior to such date; and ( )

b. A notification of the actual date of initial start-up of the stationary source or facility within fifteen (15) days after such date. ( )

04. Performance Test. Within sixty (60) days after achieving the maximum production rate at which the stationary source or facility will be operated but not later than one hundred eighty (180) days after initial start-up of such stationary source or facility, the owner or operator of such stationary source or facility may be required to conduct a performance test in accordance with methods and under operating conditions approved by the Department and furnish the Department a written report of the results of such performance test. ( )

a. Such test shall be at the expense of the owner or operator. ( )

b. The Department may monitor such test and may also conduct performance tests. ( )

c. The owner or operator of a stationary source or facility shall provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present. ( )

212. OBLIGATION TO COMPLY.

01. Responsibility to Comply with All Requirements. Receiving a permit to construct shall not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal statutes, rules and regulations. ( )

02. Relaxation of Standards or Restrictions. At such time that a particular facility or modification becomes a major facility or major modification solely by virtue of a relaxation in any enforceable emission standard or restriction on the operating rate, hours of operation or on the type or amount of material combusted, stored or processed, which was used to exempt the facility or modification from certain requirements for a permit to construct,

the requirements for new major facilities or major modifications shall apply to the facility or modification as though construction had not yet commenced. ( )

213. PRE-PERMIT CONSTRUCTION.
This section describes how owners or operators may commence construction or modification of certain stationary sources before obtaining the required permit to construct. ( )

01. Pre-Permit Construction Eligibility. Pre-permit construction approval is available for non-major sources and non-major modifications and for new sources or modifications proposed in accordance with Subsection 213.01.d. Pre-permit construction is not available for any new source or modification that: uses emissions netting to stay below major source levels; uses optional offsets pursuant to Section 206; or would have an adverse impact on the air quality related values of any Class I area. Owners or operators may ask the Department for the ability to commence construction or modification of qualifying sources under Section 213 before receiving the required permit to construct. To obtain the Department's pre-permit construction approval, the owner or operator shall satisfy the following requirements: ( )

a. The owner or operator shall apply for a permit to construct in accordance with Subsections 202.01.a., 202.02, and 202.03 of this chapter. ( )

b. The owner or operator shall consult with Department representatives prior to submitting a pre-permit construction approval application. ( )

c. The owner or operator shall submit a pre-permit construction approval application which must contain, but not be limited to: a letter requesting the ability to construct before obtaining the required permit to construct, a copy of the notice referenced in Subsection 213.02; proof of eligibility; process description(s); equipment list(s); proposed emission limits and modeled ambient concentrations for all regulated air pollutants and toxic air pollutants, such that they demonstrate compliance with all applicable air quality rules and regulations. The models shall be conducted in accordance with Subsection 202.02 and with written Department approved protocol and submitted with sufficient detail so that modeling can be duplicated by the Department. ( )

d. Owners or operators seeking limitations on a source's potential to emit such that permitted emissions will be either below major source levels or below a significant increase must describe in detail in the pre-permit construction application the proposed restrictions and certify in accordance with Section 123 that they will comply with the restrictions, including any applicable monitoring and reporting requirements. ( )

02. Permit to Construct Procedures for Pre-Permit Construction. ( )

a. Within ten (10) days after the submittal of the pre-permit construction approval application, the owner or operator shall hold an informational meeting in at least one (1) location in the region in which the stationary source or facility is to be located. The informational meeting shall be made known by notice published at least ten (10) days before the meeting in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. A copy of such notice shall be included in the application. ( )

b. Within fifteen (15) days after the receipt of the pre-permit construction approval application, the Department shall notify the owner or operator in writing of pre-permit construction approval or denial. The Department may deny the pre-permit construction approval application for any reason it deems valid. ( )

c. Upon receipt of the pre-permit construction approval letter issued by the Department, the owner or operator may begin construction at their own risk as identified in Subsection 213.02.d. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction application pursuant to Subsection 213.01.d. shall become enforceable. The owner or operator shall not operate those emissions units subject to permit to construct requirements in accordance with Section 200 unless and until issued a permit pursuant to Section 209. ( )

d. If the pre-permit construction approval application is determined incomplete or the permit to construct is denied, the Department shall issue an incompleteness or denial letter pursuant to Section 209. If the Department denies the permit to construct, then the owner or operator shall have violated Section 201 on the date it

commenced construction as defined in Section 006. The owner or operator shall not contest the final permit to construct decision based on the fact that they have already begun construction. ( )

214. DEMONSTRATION OF PRECONSTRUCTION COMPLIANCE FOR NEW AND RECONSTRUCTED MAJOR SOURCES OF HAZARDOUS AIR POLLUTANTS.

01. Permitting Authority. For purposes of this section, Sections 112(g) and (j) of the Clean Air Act, and 40 CFR Part 63, the permitting authority shall be the Department. ( )

02. Definitions. Unless specifically provided otherwise, the definitions for terms set forth in this section shall be the definitions set forth in Section 112 of the Clean Air Act and 40 CFR Part 63 as incorporated by reference into these rules at Section 107. For purposes of determining if a source is a major source of hazardous air pollutants, the definition of potential to emit at Section 006 of these rules shall apply. ( )

03. Compliance with Federal MACT. All owners or operators of major sources of hazardous air pollutants which are subject to an applicable Maximum Available Control Technology (MACT) standard promulgated by EPA pursuant to Section 112 of the Clean Air Act and 40 CFR Part 63 shall comply with the applicable MACT standard and such owners or operators are not subject to Subsections 214.04 and 214.05. ( )

04. Requirement to Obtain Preconstruction MACT Determination from the Director. No owner or operator may construct or reconstruct a major source of hazardous air pollutants unless such owner or operator has obtained a MACT standard determination from the Director. The Director shall make the MACT standard determination on a case by case basis and in accordance with Section 112(g)(2)(B) of the Clean Air Act and 40 CFR 63.40 through 63.44 as incorporated by reference into these rules at Section 107. ( )

05. Development of MACT by the Director After EPA Deadline. In the event that EPA fails to promulgate a MACT standard for a category or subcategory of major sources of hazardous air pollutants identified by the EPA under the Clean Air Act by the date established under Section 112(e) of the Clean Air Act, the owner or operator of any major source of hazardous air pollutants in such category or subcategory shall submit an application to the Director for a MACT standard determination. The Director shall make the MACT standard determination on a case by case basis and in accordance with Section 112(j) of the Clean Air Act and 40 CFR 63.50 through 63.56 as incorporated by reference into these rules at Section 107. ( )

215. MERCURY EMISSION STANDARD FOR NEW OR MODIFIED SOURCES.
No owner or operator may commence construction or modification of a stationary source or facility that results in an increase in annual potential emissions of mercury of twenty-five (25) pounds or more unless the owner or operator has obtained a permit to construct under Sections 200 through 228 of these rules. The permit to construct application shall include an MBACT analysis for the new or modified source or sources for review and approval by the Department. A determination of applicability under Section 215 shall be based upon the best available information. Fugitive emissions shall not be included in a determination of applicability under Section 215. ( )

01. Exemptions. New or modified stationary sources within a source category subject to 40 CFR Part 63 are exempt from the requirements of Section 215. ( )

02. Applicability. Except as provided in Subsection 215.01, Section 215 applies to all new or modified sources for which an application for a permit to construct was submitted to the Department on or after July 1, 2011. ( )

216. -- 219. (RESERVED)

220. GENERAL EXEMPTION CRITERIA FOR PERMIT TO CONSTRUCT EXEMPTIONS.

01. General Exemption Criteria. Sections 220 through 223 may be used by owners or operators to exempt certain sources from the requirement to obtain a permit to construct. Nothing in these sections shall preclude an owner or operator from choosing to obtain a permit to construct. For purposes of Sections 220 through 223, the term source means the equipment or activity being exempted. For purposes of Sections 220 through 223, fugitive emissions shall not be considered in determining whether a source meets the applicable exemption criteria unless

required by federal law. No permit to construct is required for a source that satisfies all of the following criteria, in addition to the criteria set forth at Sections 221 and 223 or 222 and 223 (as required): ( )

a. The maximum capacity of a source to emit an air pollutant under its physical and operational design without consideration of limitations on emission such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed would not: ( )

i. Equal or exceed one hundred (100) tons per year of any regulated air pollutant. ( )

ii. Cause an increase in the emissions of a major facility that equals or exceeds the significant emissions rates set out in the definition of significant at Section 006. ( )

b. Combination. The source is not part of a proposed new major facility or part of a proposed major modification. ( )

02. Record Retention. Unless the source is subject to and the owner or operator complies with Section 385, the owner or operator of the source, except for those sources listed in Subsections 222.02.a. through 222.02.g., shall maintain documentation on site which shall identify the exemption determined to apply to the source and verify that the source qualifies for the identified exemption. The records and documentation shall be kept for a period of time not less than five (5) years from the date the exemption determination has been made or for the life of the source for which the exemption has been determined to apply, which ever is greater, or until such time as a permit to construct or an operating permit is issued which covers the operation of the source. The owner or operator shall submit the documentation to the Department upon request. ( )

221. CATEGORY I EXEMPTION.
No permit to construct is required for a source that satisfies the criteria set forth in Section 220 and the following: ( )

01. Below Regulatory Concern. The maximum capacity of a source to emit an air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed shall be less than ten percent (10%) of the significant emission rates set out in the definition of significant at Section 006. ( )

02. Radionuclides. The source is not required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. ( )

03. Toxic Air Pollutants. The source shall comply with Section 223. ( )

04. Mercury. The source shall have potential emissions that are less than twenty-five (25) pounds per year of mercury. Fugitive emissions shall not be included in the calculation of potential mercury emissions. ( )

222. CATEGORY II EXEMPTION.
No permit to construct is required for the following sources. ( )

01. Exempt Source. A source that satisfies the criteria set forth in Section 220 and that is specified below: ( )

a. Laboratory equipment used exclusively for chemical and physical analyses, research or education, including, but not limited to, ventilating and exhaust systems for laboratory hoods. To qualify for this exemption, the source shall: ( )

i. Comply with Section 223. ( )

ii. Not be required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. ( )

b. Environmental characterization activities including emplacement and operation of field instruments, drilling of sampling and monitoring wells, sampling activities, and environmental characterization activities. ( )

c. Stationary internal combustion engines of less than or equal to six hundred (600) horsepower and which are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. To qualify for this exemption, the source must be operated in accordance with the following: ( )

i. One hundred (100) horsepower or less -- unlimited hours of operation. ( )

ii. One hundred one (101) to two hundred (200) horsepower -- less than four hundred fifty (450) hours per month. ( )

iii. Two hundred one (201) to four hundred (400) horsepower -- less than two hundred twenty-five (225) hours per month. ( )

iv. Four hundred one (401) to six hundred (600) horsepower -- less than one hundred fifty (150) hours per month. ( )

d. Stationary internal combustion engines used exclusively for emergency purposes which are operated less than five hundred (500) hours per year and are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. ( )

e. A pilot plant that uses a slip stream from an existing process stream not to exceed ten percent (10%) of that existing process stream and which satisfies the following: ( )

i. The source shall comply with Section 223. For carcinogen emissions, the owner or operator may utilize a short term adjustment factor of ten (10) by multiplying either the acceptable ambient concentration or the screening emissions level, but not both, by ten (10). ( )

ii. The source is not required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. ( )

iii. The exemption for a pilot plant shall terminate one (1) year after the commencement of operations and shall not be renewed. ( )

02. Other Exempt Sources. A source that satisfies the criteria set forth in Section 220 and that is specified below: ( )

a. Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment. ( )

b. Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs. ( )

c. Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquefied petroleum gas, or biogas (gas produced by the anaerobic decomposition of organic material through a controlled process) with hydrogen sulfide concentrations less than two hundred (200) ppmv exclusively with a capacity of less than fifty (50) million btu's per hour input. ( )

d. Other fuel burning equipment for indirect heating with a capacity of less than one million (1,000,000) btu's per hour input. ( )

e. Mobile internal combustion engines, marine installations and locomotives. ( )

f. Agricultural activities and services. ( )

g. Retail gasoline, natural gas, propane gas, liquefied petroleum gas, distillate fuel oils and diesel fuel sales. ( )

h. Used Oil Fired Space Heaters which comply with all the following requirements: ( )

i. The used oil fired space heater burns only used oil that the owner or operator generates on site, that is derived from households, such as used oil generated by individuals maintaining their personal vehicles, or on-specification used oil that is derived from commercial generators provided that the generator, transporter and owner or operator burning the oil for energy recovery comply fully with IDAPA 58.01.05.015, "Rules and Standards for Hazardous Waste"; ( )

(1) For the purposes of Subsection 222.02.h., "used oil" refers to any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities. ( )

(2) For the purposes of Subsection 222.02.h., "used oil fired space heater" refers to any furnace or apparatus and all appurtenances thereto, designed, constructed and used for combusting used oil for energy recovery to directly heat an enclosed space. ( )

ii. Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals; ( )

iii. The used oil fired space heater is designed to have a maximum capacity of not more than one half (0.5) million BTU per hour; ( )

iv. The combustion gases from the used oil fired space heater are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer of the heater and installed to minimize down wash and maximize dispersion; and ( )

v. The used oil fired space heater is of modern commercial design and manufacture, except that a homemade used oil fired space heater may be used if, prior to the operation of the homemade unit, the owner or operator submits documentation to the Department demonstrating, to the satisfaction of the Department, that emissions from the homemade unit are no greater than those from modern commercially available units. ( )

i. Multiple chamber crematory retorts used to cremate human or animal remains using natural gas exclusively with a maximum average charge capacity of two hundred (200) pounds of remains per hour and a minimum secondary combustion chamber temperature of one thousand five hundred (1500) degrees Fahrenheit while operating. ( )

j. Petroleum environmental remediation source by vapor extraction with an operation life not to exceed five (5) years (except for landfills). The short-term adjustment factor in Subsection 210.15 cannot be used if the remediation is within five hundred (500) feet of a sensitive receptor. Forms are available at the DEQ website at http://www.deq.idaho.gov, to help assist sources in this exemption determination. ( )

k. Dry cleaning facilities that are not major under, but subject to, 40 CFR Part 63, Subpart M. ( )

223. EXEMPTION CRITERIA AND REPORTING REQUIREMENTS FOR TOXIC AIR POLLUTANT EMISSIONS.

No permit to construct for toxic air pollutants is required for a source that satisfies any of the exemption criteria below, the recordkeeping requirements at Subsection 220.02, and reporting requirements as follows: ( )

01. Below Regulatory Concern (BRC) Exemption. The source qualifies for a BRC exemption if the uncontrolled emission rate (refer to Section 210) for all toxic air pollutants emitted by the source is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. ( )

02. Level I Exemption. To obtain a Level I exemption, the source shall satisfy the following criteria: ( )

a. The uncontrolled emission rate (refer to Section 210) for all toxic air pollutants shall be less than or equal to all applicable screening emission levels listed in Sections 585 and 586; or ( )

b. The uncontrolled ambient concentration (refer to Section 210) for all toxic air pollutants at the point of compliance shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586. ( )

03. Level II Exemption. To obtain a Level II exemption, the maximum capacity of a source to emit a toxic air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed at the point of compliance is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. ( )

04. Annual Report for Toxic Air Pollutant Exemption. The owner or operator of a source claiming a Level I or II exemption shall submit a certified report, on or before May 1 for the previous calendar year, to the Department for each Level I or II exemption determination. The owner or operator is not required to annually submit a certified report for a Level I or II exemption determination previously claimed and reported. The report shall be labeled "Toxic Air Pollutant Exemption Report" and shall state the date construction has or will commence and shall include copies of all exemption determinations completed by the owner or operator for each Level I and II exemption. ( )

224. PERMIT TO CONSTRUCT APPLICATION FEE.
All applicants for a permit to construct shall submit a permit to construct application fee of one thousand dollars ($1,000) to the Department at the time of the original submission of the application. The permit to construct application fee is not required to be submitted for: ( )

01. Exemption Applicability Determinations. Exemption applicability determinations set forth in Sections 220 through 223; ( )

02. Typographical Errors. Changes to correct typographical errors; or ( )

03. Name or Ownership Change. A change in the name or ownership of the holder of a permit to construct when the Department determines no other review or analysis is required. ( )

225. PERMIT TO CONSTRUCT PROCESSING FEE.
A permit to construct processing fee, calculated by the Department pursuant to the categories provided in the following table, shall be paid to the Department by the person receiving the permit. The applicable processing fee category shall be determined by adding together the amount of increases of regulated pollutant emissions and subtracting any decreases of regulated pollutant emissions as identified in the permit to construct. The fee calculation shall not include fugitive emissions.

PERMIT TO CONSTRUCT CATEGORY	FEE
General permit, no facility-specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis. General permit facilities may include portable concrete batch plants, portable hot-mix asphalt plants and portable rock crushing plants.)	$500
New source or modification to existing source with increase of emissions of less than one (1) ton per year	$1,000
New source or modification to existing source with increase of emissions of one (1) to less than ten (10) tons per year	$2,500

PERMIT TO CONSTRUCT CATEGORY	FEE
New source or modification to existing source with increase of emissions of ten (10) to less than one hundred (100) tons per year	$5,000
Nonmajor new source or modification to existing source with increase of emissions of one hundred (100) tons per year or more	$7,500
New major facility or major modification	$10,000
Permit modifications where no engineering analysis is required	$250
Application submittals for exemption applicability determinations, typographical errors, and name and ownership changes as described in Subsections 224.01, 224.02, 224.03	$0.00

( )

226. PAYMENT OF FEES FOR PERMITS TO CONSTRUCT.

01. Fee Submittal. The permit to construct application fee shall be submitted with the application. The permit to construct processing fee shall be payable upon receipt of an assessment sent to the person receiving a permit by the Department. The permit to construct application and processing fees shall be sent to:

Air Quality Permit to Construct Fees
Fiscal Office,
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255 ( )

02. Delinquency. No application for a permit to construct shall be processed by the Department unless accompanied by a permit to construct application fee. No permit to construct shall be issued by the Department until the Department has received the permit to construct processing fee. ( )

227. RECEIPT AND USAGE OF FEES.
Permit to construct application and processing fee receipts shall be deposited by the Department into a stationary source permit account. Monies from this account shall be used solely toward technical, legal and administrative support of the Department's permit to Construct and Tier II permit programs and shall not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. The permit to construct application fee payable under Section 227 shall be retained by the Department regardless of whether a permit to construct is issued by the Department in response to an application. The Department will review the fee schedule at least every two (2) years. ( )

228. APPEALS.
A person may be able to file an appeal within thirty-five (35) days of the date the person receives an assessment from the Department under Section 225, in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

229. -- 299. (RESERVED)

300. PROCEDURES AND REQUIREMENTS FOR TIER I OPERATING PERMITS.
The purposes of Sections 300 through 399 are to establish requirements and procedures for the issuance of Tier I operating permits. ( )

301. REQUIREMENT TO OBTAIN TIER I OPERATING PERMIT.

01. Prohibition. No owner or operator shall operate, or allow or tolerate the operation of, any Tier I source without an effective Tier I operating permit. ( )

02. Exceptions. ( )

a. No Tier I operating permit is required if the owner or operator is in compliance with Sections 311 through 315 and the Department has not taken final action on the application. ( )

b. Tier I sources not located at major facilities do not require a Tier I operating permit until: ( )

i. December 31, 1997 for Phase II sulfur dioxide sources; ( )

ii. January 1, 1999 for Phase II nitrogen oxides sources; ( )

iii. January 1, 2000 for solid waste incineration units required to obtain a permit pursuant to 42 U.S.C. Section 7429(e); and ( )

iv. The source becomes a Tier I source under Section 006 of this chapter. ( )

c. No Tier I operating permit is required for the following Tier I sources: ( )

i. All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA; and ( )

ii. All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61.145. ( )

302. OPTIONAL TIER I OPERATING PERMIT.
Any facility listed in Section 301 not required to obtain a Tier I operating permit may opt to apply for a Tier I operating permit. ( )

303. -- 310. (RESERVED)

311. STANDARD PERMIT APPLICATIONS.
The purpose of Sections 311 through 315 is to establish standard Tier I operating permit application procedures. ( )

312. DUTY TO APPLY.
For each Tier I source, the owner or operator shall submit a timely and complete permit application in accordance with Sections 311 through 315. ( )

313. TIMELY APPLICATION.

01. Original Tier I Operating Permits. ( )

a. For Tier I sources existing on May 1, 1994, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit by no later than June 1, 1996, or within twelve (12) months of EPA approval of the Tier I operating program, whichever is earlier, unless: ( )

i. The Department provides written notification of an earlier date to the owner or operator. ( )

ii. The Tier I source is identified in Subsections 301.02.b. or 301.02.c. ( )

b. For sources that become Tier I sources after May 1, 1994, that are located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless: ( )

i. The Department provides written notification of an earlier date to the owner or operator. ( )

ii. The Tier I source is identified in Subsections 301.02.b. or 301.02.c. ( )

c. For initial phase II acid rain sources identified in Subsections 301.02.b.i. or 301.02.b.ii., the owner or operator of the initial Phase II acid rain source shall submit to the Department a complete application for an original Tier I operating permit by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides. ( )

d. For Tier I sources identified in Subsection 301.02.b.iii.: ( )

i. Existing on July 1, 1998, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit by no later than January 1, 1999, unless the Department provides written notification of an earlier date to the owner or operator. ( )

ii. That become Tier I sources after July 1, 1998, located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless the Department provides written notification of an earlier date to the owner or operator. ( )

02. Earlier Dates During Initial Period. Except as otherwise provided in these rules, during the initial period which begins May 1, 1994 and ends three (3) years after EPA approval of the Tier I operating program, the Department may designate Tier I sources for processing as follows: ( )

a. The Department may develop a general estimate of the total work load and benefits associated with the Tier I operating permit applications that are predicted to be submitted during the initial period including, but not limited to, original permit applications and significant permit modification applications. ( )

b. Considering the complexity of the applications, air quality benefits of permitting and requests for early actions from owners and operators, the Department may divide the applications into three (3) groups each representing approximately one-third (1/3) of the total work load and benefits. ( )

c. The Department may prioritize the three (3) groups and the Tier I sources within each group for processing, establish early application deadlines and notify the owners or operators of the Tier I sources in the group in writing of a required submittal date earlier than the general deadlines provided in Subsection 313.01. ( )

03. Renewals of Tier I Operating Permits. The owner or operator of the Tier I source shall submit a complete application to the Department for a renewal of the Tier I operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing Tier I operating permit. To ensure that the term of the operating permit does not expire before the permit is renewed, the owner or operator is encouraged to submit the application nine (9) months prior to expiration. ( )

04. Changes to Tier I Operating Permits. Sections 380 through 386 provide the requirements and procedures for changes at Tier I sources and to Tier I operating permits. ( )

314. REQUIRED STANDARD APPLICATION FORM AND REQUIRED INFORMATION.

01. General Requirements. ( )

a. Applications shall be submitted on a form or forms provided by the Department or by other means prescribed by these rules or the Department. The application shall be certified by the responsible official in accordance with Section 123. ( )

i. If the Tier I source is regulated under 42 U.S.C. Sections 7651 through 7651o, the owner or operator shall also submit nationally-standardized acid rain forms provided by EPA. ( )

b. All information shall be in sufficient detail so that the Department may efficiently and effectively determine the applicability of requirements and make all other necessary evaluations and determinations. ( )

02. General Information for the Facility. ( )

a. Provide identifying information, including the name, address and telephone number of: ( )

i. The owner; ( )

ii. The operator; ( )

iii. The facility where the Tier I source is located; ( )

iv. The registered agent of the owner, if any; ( )

v. The registered agent of the operator, if any; ( )

vi. The responsible official, if other than the owner or operator; and ( )

vii. The contact person. ( )

b. Provide a general description of the processes used and products produced by the facility where the Tier I source is located, including any associated with each requested alternative operating scenario and trading scenario. The description shall include narrative and applicable SIC codes. ( )

c. Provide a general description of each process line affecting a Tier I source. ( )

03. Specific Information for Each Emissions Unit. The owner or operator shall provide, in an itemized format, all of the information identified in Subsections 314.04 through 314.11 for each emissions unit, unless the emissions unit is an insignificant activity. ( )

04. Emissions. ( )

a. Identify and describe all emissions of pollutants for which the source is major and all emissions of regulated air pollutants from each emissions unit. Fugitive emissions shall be included in the application in the same manner as stack emissions, regardless of whether the source category is included in the list of sources contained in the definition of major facility (Section 008). ( )

b. Emissions rates shall be quantified in tons per year (tpy) or for radionuclides the effective dose equivalent (EDE) in millirem per year and in such additional terms as are necessary to determine compliance consistent with the applicable test method. ( )

c. Identify and describe all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of the Clean Air Act. ( )

d. To the extent it is needed to determine or regulate emissions, identify and quantify all fuels, fuel use, raw materials, production rates, and operating schedules. ( )

e. Identify and describe all air pollution control equipment and compliance monitoring devices or activities. ( )

f. Identify and describe all limitations on source operation or any work practice standards affecting emissions. ( )

g. Provide the calculations on which the information provided under Subsections 314.04.a. through 314.04.e. is based. ( )

05. Applicable Requirements. ( )

a. Cite and describe all applicable requirements affecting the emissions unit; and ( )

b. Describe or reference all methods required by each applicable requirement for determining the compliance status of the emissions unit with the applicable requirement, including any applicable monitoring, recordkeeping and reporting requirements or test methods. ( )

06. Other Requirements. Other specific information that may be necessary to determine the applicability of, implement or enforce any requirement of the Act, these rules, 42 U.S.C. Sections 7401 through 7671q or federal regulations. ( )

07. Proposed Determinations of Nonapplicability. Identify requirements for which the applicant seeks a determination of nonapplicability and provide an explanation of why the requirement is not applicable to the Tier I source. ( )

08. Alternative Operating Scenarios. ( )

a. Identify all requested alternative operating scenarios. ( )

b. Provide a detailed description of all requested alternative operating scenarios. Include all the information required by Section 314 that is relevant to the alternative operating scenario. ( )

09. Compliance Certifications. ( )

a. Provide a compliance certification regarding the compliance status of each emissions unit at the time the application is submitted to the Department that: ( )

i. Identifies all applicable requirements affecting each emissions unit. ( )

ii. Certifies the compliance status of each emissions unit with each of the applicable requirements. ( )

iii. Provides a detailed description of the method(s) used for determining the compliance status of each emissions unit with each applicable requirement, including a description of any monitoring, recordkeeping, reporting and test methods that were used. Also provide a detailed description of the method(s) required for determining compliance. ( )

iv. Certifies the compliance status of the emissions unit with any applicable enhanced monitoring requirements. ( )

v. Certifies the compliance status of the emissions unit with any applicable enhanced compliance certification requirements. ( )

vi. Provides all other information necessary to determining the compliance status of the emissions unit. ( )

b. Provide a schedule for submission of compliance certifications during the term of the Tier I operating permit. The schedule shall require compliance certifications to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. ( )

10. Compliance Plans. ( )

a. Provide a compliance description as follows: ( )

i. For each applicable requirement with which the emissions unit is in compliance, state that the emissions unit will continue to comply with the applicable requirement. ( )

ii. For each applicable requirement that will become effective during the term of the Tier I operating permit that does not contain a more detailed schedule, state that the emissions unit will meet the applicable

requirement on a timely basis. ( )

iii. For each applicable requirement that will become effective during the term of the Tier I operating permit that contains a more detailed schedule, state that the emissions unit will comply with the applicable requirement on the schedule provided in the applicable requirement. ( )

iv. For each applicable requirement with which the emission unit is not in compliance, state that the emissions unit will be in compliance with the applicable requirement by the time the Tier I operating permit is issued or provide a compliance schedule in accordance with Subsection 314.10.b. ( )

b. All compliance schedules shall: ( )

i. Include a schedule of remedial measures leading to compliance, including an enforceable sequence of actions and specific dates for achieving milestones and achieving compliance. ( )

ii. Incorporate the terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. ( )

iii. Be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based. ( )

c. Provide a schedule for submission to the Department of periodic progress reports no less frequently than every six (6) months or at a more frequent period if one (1) is specified in the underlying applicable requirement or by the Department. ( )

11. Trading Scenarios. ( )

a. Identify all requested trading scenarios, including alternative emissions limits (bubbles) authorized by Section 440. ( )

b. Provide a detailed description of all requested trading scenarios. Include all the information required by Section 314 that is relevant to the trading scenario and all the information required by Section 440, if applicable. Emissions trades must comply with all applicable requirements. ( )

c. Provide proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. Emissions trades involving emissions units for which the emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trade shall not be approved. ( )

12. Additional Information. Provide all additional information that the Department determines is necessary for the Department to efficiently and effectively perform its functions. Such functions include, but are not limited to, determining the applicability of requirements for all regulated air pollutants, determining compliance with applicable requirements, developing or defining Tier I operating permit terms and conditions, defining all approved alternative operating scenarios, evaluating excess emissions procedures or making all necessary evaluations and determinations. ( )

315. DUTY TO SUPPLEMENT OR CORRECT APPLICATION.

01. Failure to Submit. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. ( )

02. Necessary Additional Information. If, while processing an application that has been determined or deemed to be complete, the Department determines that additional information is necessary to evaluate or take final action on that application, the Department may request such information in writing and set a deadline for a response. The applicant shall submit the requested information on or before the deadline set by the Department. ( )

03. Additional Information After Completeness. The applicant shall promptly provide additional information as necessary to address any requirements that become applicable to the Tier I source after the date a complete application was filed but prior to release of a proposed action. ( )

316. EFFECT OF INACCURATE INFORMATION IN APPLICATIONS OR FAILURE TO SUBMIT RELEVANT INFORMATION.

Notwithstanding the shield provisions of Section 325, the owner or operator shall be subject to enforcement action for operation of the Tier I source without a Tier I operating permit if the owner or operator submitted an incomplete or inaccurate application or the Tier I source is later determined not to qualify for coverage under the conditions and terms of the Tier I operating permit. ( )

317. INSIGNIFICANT ACTIVITIES.

01. Applicability Criteria. This Section contains the criteria for identifying insignificant activities for the purposes of the Tier I operating permit program. Notwithstanding any other provision of this rule, no emission unit or activity subject to an applicable requirement shall qualify as an insignificant emission unit or activity. Applicants may not exclude from Tier I operating permit applications information that is needed to determine whether the facility is major or whether the facility is in compliance with applicable requirements. ( )

a. Presumptively insignificant emission units. ( )

i. Except as provided above, the activities listed in this section may be omitted from the permit application. ( )

(1) Blacksmith forges. ( )

(2) Mobile transport tanks on vehicles except for those containing asphalt and not including loading and unloading operations. ( )

(3) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities. ( )

(4) Storage tanks, reservoirs and pumping and handling equipment of any size, limited to soaps, lubricants, lubricating oil, treater oil, hydraulic fluid, vegetable oil, grease, animal fat, aqueous salt solutions or other materials and processes using appropriate lids and covers where there is no generation of objectionable odor or airborne particulate matter. ( )

(5) Pressurized storage of oxygen, nitrogen, carbon dioxide, air, or inert gases. ( )

(6) Storage of solid material, dust-free handling. ( )

(7) Boiler water treatment operations, not including cooling towers. ( )

(8) Vents from continuous emission monitors and other analyzers. ( )

(9) Vents from rooms, buildings and enclosures that contain permitted emissions units or activities from which local ventilation, controls, and separate exhaust are provided. ( )

(10) Internal combustion engines for propelling or powering a vehicle. ( )

(11) Recreational fireplaces including the use of barbecues, campfires and ceremonial fires. ( )

(12) Brazing, soldering, and welding equipment and cutting torches for use in cutting metal wherein components of the metal do not generate hazardous air pollutants or hazardous air pollutant precursors. ( )

(13) Atmospheric generators used in connection with metal heat treating processes using non-hazardous air pollutant metals as the primary raw material. ( )

(14) Non-hazardous air pollutant metal finishing or cleaning using tumblers. ( )

(15) Drop hammers or hydraulic presses for forging or metalworking. ( )

(16) Electrolytic deposition, used to deposit brass, bronze, copper, iron, tin, zinc, precious and other metals not listed as the parents of hazardous air pollutants. ( )

(17) Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit volatile organic compound or hazardous air pollutant. ( )

(18) Process water filtration systems. ( )

(19) Portable electrical generators that can be moved by hand from one (1) location to another. Moved by hand means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device. ( )

(20) Plastic and resin curing equipment, excluding FRP and provided these activities are not related to the source's primary business activity. ( )

(21) Extrusion equipment, metals, minerals, plastics, grain or wood used without solvents containing hazardous air pollutant. ( )

(22) Presses and vacuum forming, for curing rubber and plastic products or for laminating plastics without solvents containing hazardous air pollutants present. ( )

(23) Roller mills and calendars for use with rubber and plastics without solvents containing hazardous air pollutants. ( )

(24) Conveying and storage of plastic pellets. ( )

(25) Plastic compression, injection, and transfer molding and extrusion, rotocasting, pultrusion, blowmolding, excluding acrylics, PVC, polystyrene and related copolymers and the use of plasticizer. Only oxygen, carbon dioxide, nitrogen, air or inert gas allowed as blowing agent. ( )

(26) Plastic pipe welding. ( )

(27) Wax application in either a molten state or aqueous suspension. ( )

(28) Plant maintenance and upkeep including routine housekeeping, janitorial activities, cleaning and preservation of equipment, preparation for and painting of structures or equipment, retarring roofs, applying insulation to buildings in accordance with applicable environmental and health and safety requirements and lawn, landscaping and groundskeeping activities. Provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit modification. ( )

(29) Agricultural activities on a facility's property that are not subject to registration or new source review by the permitting authority. ( )

(30) Maintenance of paved streets and parking lots including paving, stripping, salting, sanding, cleaning and sweeping of streets and paved surfaces. Provided these activities are not related to the source's primary business activity, do not otherwise trigger a permit modification, and fugitive emissions are reasonably controlled as required in Section 808. ( )

(31) Ultraviolet curing processes. ( )

(32) Hot melt adhesive application with no volatile organic compounds or hazardous air pollutants in the adhesive formula. ( )

(33) Laundering, dryers, extractors, tumblers for fabrics, using water solutions of bleach and/or detergents except for boilers. ( )

(34) Steam cleaning operations. ( )

(35) Steam sterilizers. ( )

(36) Food service activities including cafeterias, kitchen facilities and barbecues located at a source for providing food service on premises. ( )

(37) Portable drums and totes. ( )

(38) Fluorescent light tube and aerosol can crushing in units designed to reduce emissions from these activities. ( )

(39) Flares used to indicate danger to the public. ( )

(40) General vehicle maintenance including vehicle exhaust from repair facilities provided these activities are not related to the source's primary business activity and do not have applicable requirements under title VI of the Clean Air Act. ( )

(41) Comfort air conditioning or air cooling systems, not used to remove air contaminants from specific equipment. ( )

(42) Natural draft hoods, natural draft stacks, or natural draft ventilators for sanitary and storm drains, safety valves, and storage tanks subject to size and service limitations expressed elsewhere in this section. ( )

(43) Natural and forced air vents for bathroom/toilet facilities. ( )

(44) Office activities. ( )

(45) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used exclusively to withdraw materials for laboratory analyses and testing. ( )

(46) Fire suppression systems and similar safety equipment and equipment used to train firefighters including fire drill pits. ( )

(47) Materials and equipment used by, and activity related to operation of infirmary; infirmary is not the source's business activity except equipment affected by the radionuclide NESHAP. ( )

(48) Satellite Accumulation Areas (SAAs) and Temporary Accumulation Areas (TAAs) managed in compliance with RCRA. ( )

(49) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, shot blasting, sintering, or polishing: Ceramics, glass, leather, metals, plastics, rubber, concrete, paper stock, or wood provided that these activities are not conducted as part of a manufacturing process. ( )

(50) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment subject to other exemption limitation, e.g., internal and external combustion equipment. ( )

(51) Slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment. ( )

(52) Ozonation equipment. ( )

(53) Temporary construction activities at a facility provided that the installation or modification of emissions units must comply with all applicable federal, state, and local rules and regulations. ( )

(54) Batch loading and unloading of solid phase catalysts. ( )

(55) Pulse capacitors. ( )

(56) Gas cabinets using only gases that are not regulated air pollutants. ( )

(57) CO2 lasers, used only on metals and other materials which do not emit hazardous air pollutants in the process. ( )

(58) Structural changes not having air contaminant emissions. ( )

(59) Equipment used to mix, package, store and handle soaps, lubricants, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions, provided appropriate lids and covers are utilized. ( )

(60) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy, e.g., blueprint activity, photocopiers, mimeograph, telefax, photographic developing, and microfiche provided these activities are not related to the source's primary business activity. ( )

(61) Pharmaceutical and cosmetics packaging equipment. ( )

(62) Paper trimmers/binders provided these activities are not related to the source's primary business activity. ( )

(63) Bench-scale laboratory equipment and laboratory equipment used exclusively for physical or chemical analysis, including associated vacuum producing devices but excluding research and development facilities. ( )

(64) Repair and maintenance shop activities not related to the source's primary business activity. ( )

(65) Handling equipment and associated activities for glass and aluminum which is destined for recycling, provided these activities are not related to the source's primary business activity. ( )

(66) Hydraulic and hydrostatic testing equipment. ( )

(67) Batteries and battery charging stations, except at battery manufacturing plants. ( )

(68) Porcelain and vitreous enameling equipment. ( )

(69) Solid waste containers. ( )

(70) Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants. ( )

(71) Shock chambers. ( )

(72) Wire strippers. ( )

(73) Humidity chambers. ( )

(74) Solar simulators. ( )

(75) Environmental chambers not using hazardous air pollutant gases. ( )

(76) Totally enclosed conveyors not including transfer points. ( )

(77) Steam vents and safety relief valves. ( )

(78) Air compressors, pneumatically operated equipment, systems, and hand tools. ( )

(79) Steam leaks. ( )

(80) Boiler blow-down tank. ( )

(81) Salt cake mix tanks at pulp mills. ( )

(82) Digester chip feeders at pulp mills. ( )

(83) Weak liquor and filter tanks at pulp mills. ( )

(84) Process water and white water storage tanks at pulp mills. ( )

(85) Demineralizer water tanks, demineralization, demineralizer vents, and oxygen scavenging (deaeration) of water. ( )

(86) Clean condensate tanks. ( )

(87) Alum tanks. ( )

(88) Broke beaters, repulpers, pulp and repulping tanks, stock chests and pulp handling. ( )

(89) Lime and mud filtrate tanks. ( )

(90) Hydrogen peroxide tanks. ( )

(91) Lime mud washer. ( )

(92) Lime mud filter. ( )

(93) Hydro and liquor clarifiers or filters and storage tanks and associated pumping, piping, and handling. ( )

(94) Lime grits washers, filters, and handing. ( )

(95) Lime silos and feed bins. ( )

(96) Paper forming. ( )

(97) Starch cooking. ( )

(98) Pulp stock cleaning and screening. ( )

(99) Paper winders or other paper converting equipment. ( )

(100) Sludge dewatering and wet sludge handling. ( )

(101) Screw press vents. ( )

(102) Pond dredging. ( )

(103) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids

dewatering and flocculation. ( )

(104) Non-PCB oil filled circuit breakers, oil filled transformers and other equipment that is analogous to, but not considered to be, a tank. ( )

(105) Lab-scale electric or steam-heated drying ovens and autoclaves. ( )

(106) Sewer manholes, junction boxes, sumps and lift stations associated with waste water treatment systems. ( )

(107) Water cooling towers processing exclusively noncontact cooling water. ( )

(108) Paper coating and sizing. ( )

(109) Process waste water and ponds. ( )

(110) Outdoor firearms practice ranges. ( )

b. Insignificant activities on the basis of size or production rate. ( )

i. This section contains lists of units or activities that are insignificant on the basis of size or production rate. Units and activities listed in this section must be listed in the permit application. The following units and activities are determined to be insignificant based on their size or production rate: ( )

(1) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than two hundred sixty (260) gallon capacity thirty five cubic feet (35cft), heated only to the minimum extend to avoid solidification if necessary. ( )

(2) Operation, loading and unloading of storage tanks, not greater than one thousand one hundred (1,100) gallon capacity, with lids or other appropriate closure, not for use with hazardous air pollutants, maximum (max.) vp five-hundred fifty (550) mm Hg. ( )

(3) Operation, loading and unloading of volatile organic compound storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure, vp not greater than eighty (80) mm Hg at twenty-one (21) degrees C. Operation, loading and unloading of gasoline storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure. ( )

(4) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas (LPG), storage tanks, vessel capacity under forty thousand (40,000) gallons. ( )

(5) Combustion source, less than five million (5,000,000) Btu/hr, exclusively using natural gas, butane, propane, and/or LPG. ( )

(6) Combustion source, less than five hundred thousand (500,000) Btu/hr, using any commercial fuel containing less than four-tenths percent (.4%) by weight sulfur for coal or less than one percent (1%) by weight sulfur for other fuels. ( )

(7) Combustion source, of less than one million (1,000,000) Btu/hr, if using kerosene, No. 1 or No. 2 fuel oil. ( )

(8) Combustion source, not greater than five hundred thousand (500,000) Btu/hr, if burning waste wood, wood waste or waste paper. ( )

(9) Welding using not more than one (1) ton per day of welding rod. ( )

(10) Foundry sand molds, unheated and using binders with less than twenty-five hundredths percent (.25%) free phenol by sand weight. ( )

(11) "Parylene" coaters using less than five hundred (500) gallons of coating per year. ( )

(12) Printing and silkscreening, using less than two (2) gallon/day of any combination of the following: Inks, coatings, adhesives, fountain solutions, thinners, retarders, or nonaqueous cleaning solutions. ( )

(13) Water cooling towers and ponds, not using chromium-based corrosion inhibitors, not used with barometric jets or condensers, not greater than ten thousand (10,000) gpm, not in direct contact with gaseous or liquid process streams containing regulated air pollutants. ( )

(14) Combustion turbines, of less than five hundred (500) HP. ( )

(15) Batch solvent distillation, not greater than fifty-five (55) gallons batch capacity. ( )

(16) Municipal and industrial water chlorination facilities of not greater than twenty million (20,000,000) gallons per day capacity. The exemption does not apply to waste water treatment. ( )

(17) Surface coating, using less than two (2) gallons per day. ( )

(18) Space heaters and hot water heaters using natural gas, propane or kerosene and generating less than five million (5,000,000) Btu/hr. ( )

(19) Tanks, vessels, and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids excluding: ( )

(a) Ninety-nine percent (99%) or greater H2SO4 or H3PO4. ( )

(b) Seventy percent (70%) or greater HNO3. ( )

(c) Thirty percent (30%) or greater HC1. ( )

(d) More than one (1) liquid phase where the top phase is more than one percent (1%) volatile organic compounds. ( )

(20) Equipment used exclusively to pump, load, unload, or store high boiling point organic material, material with initial boiling point (IBP) not less than one hundred fifty (150) degrees C or vapor pressure (vp) not more than five (5) mm Hg at twenty-one (21) degrees C with lids or other appropriate closure. ( )

(21) Smokehouses under twenty (20) square feet. ( )

(22) Milling and grinding activities, using paste-form compounds with less than one percent (1%) volatile organic compounds. ( )

(23) Rolling, forging, drawing, stamping, shearing, or spinning hot or cold metals. ( )

(24) Dip-coating operations, using materials with less than one percent (1%) volatile organic compounds. ( )

(25) Surface coating, aqueous solution or suspension containing less than one percent (1%) volatile organic compounds. ( )

(26) Cleaning and stripping activities and equipment, using solutions having less than one percent (1%) volatile organic compounds by weight. On metallic substrates, acid solutions are not considered for listing as insignificant. ( )

(27) Storage and handling of water based lubricants for metal working where the organic content of the lubricant is less than ten percent (10%). ( )

(28) Municipal and industrial waste water chlorination facilities of not greater than one million (1,000,000) gallons per day capacity. ( )

(29) Domestic sewage treatment ponds with average flowrates less than four hundred (400) gpm or treating waste from less than three thousand (3000) people from non-residential sources. ( )

(30) An emission unit or activity with potential emissions less than or equal to the significant emission rate as defined in Section 006 and actual emissions less than or equal to ten percent (10%) of the levels contained in Section 006 of the definition of significant and no more than one (1) ton per year of any hazardous air pollutant. ( )

318. -- 320. (RESERVED)

321. TIER I OPERATING PERMIT CONTENT.
The purpose of Sections 321 through 336 is to mandate and authorize the contents of Tier I operating permits. ( )

322. STANDARD CONTENTS OF TIER I OPERATING PERMITS.
All Tier I operating permits shall contain and the Department shall have the authority to impose, implement and enforce, the following elements for all permitted operating scenarios and emissions trading scenarios. Fugitive emissions shall be included in the Tier I operating permit in the same manner as stack emissions. ( )

01. Emission Limitations and Standards. All Tier I operating permits shall contain emission limitations and standards, including, but not limited to, those operational requirements and limitations that assure compliance with the applicable requirements identified in the application, or determined by the Department to be applicable to the source. ( )

02. Authority for and Form of Terms and Conditions. All Tier I operating permits shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based. ( )

03. Terms or Conditions for Applicable Requirements. All Tier I operating permits shall contain at least one (1) permit term or condition for every applicable requirement specifically identified in the application or determined by the Department to be applicable to the source. ( )

04. Alternative Operating Scenarios. All Tier I operating permits shall contain terms and conditions to ensure compliance with all applicable requirements for each alternative operating scenario that was requested by the applicant and approved by the Department, including, but not limited to, a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) operating scenario to another, record the change in an operating scenario log located and retained at the permitted facility. ( )

05. Trading Scenarios. ( )

a. All Tier I operating permits shall contain terms and conditions for each trading scenario that was requested by the applicant and approved by the Department including, but not limited to, terms and conditions which ensure that any emission trade is quantifiable, accountable, enforceable and based on replicable procedures. ( )

b. The Tier I operating permit shall state that no permit revision shall be required under approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in the permit. ( )

c. The Tier I operating permit shall, at a minimum, include a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) trading scenario to another, record the change in a trading scenario log located and retained at the permitted facility and provide notice to the Department in accordance with Section 383. ( )

06. **Monitoring**. All Tier I operating permits shall contain the following with respect to monitoring: ( )

a. Sufficient monitoring to ensure compliance with all of the terms and conditions of the Tier I operating permit; ( )

b. All emissions monitoring and analysis procedures or test methods required under the applicable requirements; ( )

c. If the applicable requirement does not require specific periodic testing or monitoring, terms and conditions requiring periodic monitoring, recordkeeping, or both, that is sufficient to yield reliable data for the relevant time periods that are representative of the emissions unit's compliance with the Tier I operating permit, as reported pursuant to Subsection 322.08, and ensuring the use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement; and ( )

d. Requirements that the Department determines are necessary, concerning the use, maintenance and installation of monitoring equipment or methods. ( )

07. **Recordkeeping**. All Tier I operating permits shall incorporate by reference all applicable requirements regarding recordkeeping and require all of the following: ( )

a. Sufficient recordkeeping to assure compliance with all of the terms and conditions of the Tier I operating permit. ( )

b. Recording of monitoring information including but not limited to the following: ( )

i. The date, place (as defined in the Tier I operating permit) and time of sampling or measurements; ( )

ii. The date(s) analyses were performed; ( )

iii. The company or entity that performed the analyses; ( )

iv. The analytical techniques or methods used; ( )

v. The results of such analyses; and ( )

vi. The operating conditions existing at the time of sampling or measurement. ( )

c. Retention of all monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes but is not limited to all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the Tier I operating permit. ( )

08. **Reporting**. All Tier I operating permits shall incorporate by reference all applicable requirements regarding reporting and require all of the following: ( )

a. Sufficient reporting to assure compliance with all of the terms and conditions of the Tier I operating permit. ( )

b. Prompt reporting of deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report shall be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report shall be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports shall describe the probable cause of such deviations and any corrective actions or preventative measures taken. ( )

c. Submittal of reports for any required monitoring at least every six (6) months. All instances of

deviations from Tier I operating permit requirements, which include monitoring, recordkeeping, and reporting, must be clearly identified in such reports. All required reports must be certified in accordance with Section 123. ( )

09. **Testing**. All Tier I operating permits shall contain terms and conditions requiring sufficient testing to assure compliance with all of the terms and conditions of the Tier I operating permit. ( )

10. **Compliance Schedule and Progress Reports**. All Tier I operating permits shall contain terms and conditions regarding the compliance plan submitted in the application in accordance with Subsection 314.10 including all of the following: ( )

a. For each applicable requirement for which the source is not in compliance at the time of the permit issuance, terms and conditions consistent with the compliance schedule submitted by the applicant including all of the following: ( )

i. A schedule of remedial measures leading to compliance including an enforceable sequence of actions and specific dates for achieving the milestones and achieving compliance. ( )

ii. A requirement that the permittee submit periodic progress reports to the Department no less frequently than every six (6) months or at a more frequent period if one is specified in the underlying applicable requirement or by the Department. ( )

iii. A requirement that any progress report shall include a statement of when the milestones and compliance were or will be achieved, an explanation of why any dates in the compliance schedule submitted by the applicant or in the terms or conditions of the Tier I operating permit were not or will not be met and a detailed description of any preventative or corrective measures undertaken by the permittee. ( )

iv. All terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. ( )

v. A statement that the terms and conditions regarding the compliance schedule are supplemental to, and do not sanction noncompliance with, the underlying applicable requirement. ( )

b. For each applicable requirement that will become effective during the term of the Tier I operating permit and that requires a detailed compliance schedule, the permit shall include such compliance schedule. ( )

c. For each applicable requirement that will become effective during the term of the Tier I operating permit that does not require a detailed compliance schedule, the permit shall include a statement that the permittee shall meet, on a timely basis, all such applicable requirements. ( )

11. **Periodic Compliance Certifications**. Each Tier I operating permit shall require submittal of compliance certifications during the term of the permit for each emissions unit to the Department and the EPA as follows: ( )

a. Compliance certifications for all emissions units shall be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. ( )

b. The compliance certification for each emissions unit shall address all of the terms and conditions contained in the Tier I operating permit that are applicable to such emissions unit including emissions limitations, standards and work practices. ( )

c. The compliance certification shall be in an itemized format providing the following information: ( )

i. The identification of each term or condition of the Tier I operating permit that is the basis of the certification; ( )

ii. The identification of the method(s) or other means used by the owner or operator for determining

the compliance status with each term and condition during the certification period. Such methods and other means shall include, at a minimum, the methods and means required under Subsections 322.06, 322.07, and 322.08; ( )

iii. The status of compliance with the terms and conditions of the Tier I operating permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in Subsection 322.11.c.ii. above. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and ( )

iv. Such information as the Department may require to determine the compliance status of the emissions unit. ( )

d. All original compliance certifications shall be submitted to the Department and a copy of all compliance certifications shall be submitted to the EPA; ( )

12. Permit Conditions Regarding Acid Rain Allowances. ( )

a. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds. ( )

b. No limit shall be placed on the number of allowances held by the source and no permit revisions shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement. ( )

c. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement. ( )

d. Any such allowance shall be accounted for according to the procedures established in 40 CFR Part 72 and 40 CFR Part 73. ( )

13. Permit Duration. Each Tier I operating permit shall state that it is effective for a fixed term of five (5) years; except that during the first four (4) years after EPA approval of the Tier I operating permit program, the permit may be issued with an initial term of three (3) years to five (5) years unless the Tier I source is also a Phase II source. ( )

14. Other Specific Requirements. Any terms or conditions determined by the Department to be necessary for approval of the Tier I operating permit. ( )

15. General Requirements. Each Tier I operating permit shall contain provisions stating the following: ( )

a. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit revocation, termination, revocation and reissuance, or revision; or for denial of a permit renewal application. ( )

b. It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce any activity in order to maintain compliance with the terms and conditions of this permit. ( )

c. This permit may be revised, revoked, reopened and reissued, or terminated for cause. ( )

d. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition. ( )

e. This permit does not convey any property rights of any sort, or any exclusive privilege. ( )

f. The permittee shall furnish all information requested by the Department, within a reasonable time, that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing or terminating the permit or to determine compliance with the permit. ( )

g. Upon request, the permittee shall furnish to the Department copies of records required to be kept by this permit. ( )

h. The provisions of this permit are severable, and if any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby. ( )

i. The permittee shall comply with Sections 380 through 386 as applicable. ( )

j. Unless specifically identified as a "State Only" provision, all terms and conditions in the this permit, including any terms and conditions designed to limit a source's potential to emit, are enforceable: ( )

i. By the Department in accordance with State law; and ( )

ii. By the United States or any other person in accordance with Federal law. ( )

k. Provisions specifically identified as a "State Only" provision are enforceable only in accordance with State law. "State Only" provisions are those that are not required under the Federal Clean Air Act or under any of its applicable requirements or those provisions adopted by the State prior to federal approval. ( )

l. Upon presentation of credentials, the permittee shall allow the Department or an authorized representative of the Department to do the following: ( )

i. Enter upon the permittee's premises where a Tier I source is located or emissions-related activity is conducted, or where records are kept under the conditions of this permit; ( )

ii. Have access to and copy, at reasonable times, any records that are kept under the conditions of this permit; ( )

iii. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit; and ( )

iv. Sample or monitor at reasonable times substances or parameters for the purpose of determining or ensuring compliance with this permit or applicable requirements. ( )

m. Nothing in this permit shall alter or affect the following: ( )

i. Any administrative authority or judicial remedy available to prevent or terminate emergencies or imminent and substantial dangers; ( )

ii. The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance; ( )

iii. The applicable requirements of the acid rain program, consistent with 42 U.S.C. Section 7651g(a); ( )

iv. The owner or operator's duty to provide information. ( )

n. The owner or operator of a Tier I source shall pay registration fees to the Department in accordance with Sections 387 through 399, which are hereby incorporated by reference. ( )

o. All documents submitted to the Department shall be certified in accordance with Section 123 and comply with Section 124. ( )

p. If a timely and complete application for a Tier I operating permit renewal is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit including any permit shield that may have been granted pursuant to Section 325 shall remain in effect until the renewal permit has been issued or denied. ( )

q. The permittee shall promptly report deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report shall be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report shall be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports shall describe the probable cause of such deviations and any corrective actions or preventative measures taken. ( )

323. -- 324. (RESERVED)

325. ADDITIONAL CONTENTS OF TIER I OPERATING PERMITS -- PERMIT SHIELD.
Each Tier I operating permit shall include provisions stating: ( )

01. General Permit Shield. Compliance with the terms and conditions of the Tier I operating permit, including those applicable to all alternative operating scenarios and trading scenarios, shall be deemed compliance with all of the following: ( )

a. Applicable requirements as of the date of permit issuance that are specifically identified in the Tier I operating permit and have a corresponding term or condition in the Tier I operating permit. ( )

b. Non-applicable requirements. For a requirement to be a non-applicable requirement, all of the following criteria must be met: ( )

i. The permittee must have provided the information required by Subsection 314.08.b. in the application. ( )

ii. The requirement must be specifically identified in the Tier I operating permit as a non-applicable requirement. ( )

iii. The requirement must have been determined by the Department, in writing and in acting on the permit application or revision, to not be applicable to the Tier I source. ( )

iv. Tier I operating permit must include the Department's determination or a concise summary thereof. ( )

02. Limitation on Permit Shield. Permit revisions and other actions authorized by Sections 300 through 386 may eliminate, modify or suspend the permit shield. ( )

326. -- 331. (RESERVED)

332. EMERGENCY AS AN AFFIRMATIVE DEFENSE REGARDING EXCESS EMISSIONS.

01. General. An emergency, as defined in Section 008, constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitation if the conditions of Subsection 332.02 are met. ( )

02. Demonstration of Emergency. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that: ( )

a. An emergency occurred and that the permittee can identify the cause(s) of the emergency; ( )

b. The permitted facility was at the time being properly operated; ( )

c. During the period of the emergency, the permittee took all reasonable steps, as determined by the Department, to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and ( )

d. The permittee submitted written notice of the emergency to the Department within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. Compliance with this section satisfies the written reporting requirements under Section 135 and Subsection 322.15.q. ( )

03. Burden of Proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof. ( )

04. Applicability. Section 332 is in addition to any emergency or upset provision contained in any applicable requirement. ( )

333. -- 334. (RESERVED)

335. GENERAL TIER I OPERATING PERMITS AND AUTHORIZATIONS TO OPERATE.

01. Issuance of General Tier I Operating Permits. The Department may, after notice and opportunity for public participation provided in accordance with Section 364, issue a general Tier I operating permit covering numerous similar sources. ( )

02. Contents of General Tier I Operating Permits. Each general Tier I operating permit: ( )

a. Shall include all terms and conditions identified in Sections 322 and 325. ( )

b. Shall include specific criteria by which sources may qualify for coverage under the general Tier I operating permit; and ( )

c. May provide for applications which deviate from the requirements of Sections 311 through 315, provided that such applications meet all other requirements of 42 U.S.C. 7661 through 7661f and include all information necessary to determine qualification for, and to ensure compliance with, the general Tier I operating permit. ( )

03. Applications for Authorizations to Operate. The owner or operator of a Tier I source may apply for an authorization to operate under the terms and conditions of a general Tier I operating permit by: ( )

a. Stating in the application submitted pursuant to Sections 311 through 315 that the owner or operator has determined that the Tier I source qualifies for coverage under a specifically identified general Tier I operating permit and that the owner or operator requests that operations of the Tier I source be authorized under a specifically identified general Tier I operating permit; or ( )

b. Complying with the specific application requirements, if any, provided in the general Tier I operating permit. ( )

04. Procedures for Issuing Authorizations to Operate. Without repeating the public participation procedures required under Section 364, the Department shall issue an authorization to operate a Tier I source under a specifically identified general Tier I operating permit if the Department determines that the Tier I source qualifies for coverage. ( )

05. Review of Authorizations to Operate. The issuance of an authorization to operate shall be a final agency action for purposes of administrative and judicial review of the authorization. The general Tier I operating permit shall not be subject to administrative or judicial review upon the issuance of an authorization to operate. ( )

06. Phase II Sources. General Tier I operating permits shall not be authorized for Phase II sources under the acid rain program unless otherwise provided in 40 CFR Part 72. ( )

336. TIER I OPERATING PERMITS FOR TIER I PORTABLE SOURCES.

01. Issuance of Tier I Operating Permits for Portable Tier I Sources. ( )

a. The Department may issue a single Tier I operating permit authorizing emissions from similar operations of a portable Tier I source by the owner or operator at multiple temporary locations. ( )

b. The operation must be temporary and involve at least one (1) change of location for the portable Tier I source during the term of the Tier I operating permit. ( )

02. Phase II Sources. No Phase II source shall be permitted as a portable Tier I source. ( )

03. Contents of Tier I Operating Permits for Portable Tier I Sources. Tier I operating permits for portable Tier I sources shall include the following: ( )

a. Terms and conditions that will ensure compliance with all applicable requirements at all authorized locations; ( )

b. Requirements that the owner or operator notify the Department at least ten (10) days in advance of each change in location in accordance with Section 500; and ( )

c. All terms and conditions identified in Sections 322 and 325 through 332. ( )

337. -- 359. (RESERVED)

360. STANDARD PROCESSING OF TIER I OPERATING PERMIT APPLICATIONS.
The purposes of Sections 360 through 369 is to establish standard procedures and requirements for processing Tier I operating permits. ( )

361. COMPLETENESS OF APPLICATIONS.

01. Criteria for Completeness. Except as otherwise provided by these rules, the application must comply with Section 314 including that the information must be in sufficient detail. ( )

02. Timelines for Determinations of Completeness. The Department shall send written notice to the applicant of whether the application is complete within sixty (60) days of receiving the application. If the Department fails to send the written notice to the applicant within sixty (60) days of receipt, the application shall be deemed complete. ( )

03. Effects of Completeness Determination. ( )

a. The submittal of a complete application activates the application shield provided by Subsection 361.02. ( )

b. The submittal of a complete Tier I operating permit application shall not affect the permit to construct requirements of Sections 200 through 225 or 42 U.S.C. Sections 7401 through 7515. ( )

c. The timelines for final agency action provided in Subsections 367.02 and 367.03 begin on the date of the completeness determination. ( )

362. TECHNICAL MEMORANDUMS FOR TIER I OPERATING PERMITS.

01. Memorandum for Draft Permit. As part of its review of the Tier I operating permit application,

the Department shall prepare a technical memorandum that sets forth the legal and factual basis for the draft Tier I operating permit terms and conditions (including references to the applicable statutory or regulatory provisions) or the draft denial. ( )

02. Revised Memorandum for Proposed Permit. If the Department revises its analysis, its conclusions or the terms or conditions of the Tier I operating permit in response to public comment, the Department may revise the technical memorandum for the proposed permit or the proposed denial. ( )

03. Release of Memorandum. The technical memorandum(s) shall be made available to the public in accordance with Section 364 and sent to the EPA with the proposed Tier I operating permit or proposed denial. ( )

363. PREPARATION OF DRAFT PERMIT OR DRAFT DENIAL.
Except as otherwise provided in these rules, the Department shall prepare a draft permit or draft denial as promptly as practicable or one hundred twenty (120) days before the deadline for final action, whichever is earlier. ( )

364. PUBLIC NOTICES, COMMENTS AND HEARINGS.

01. Generally. Except as otherwise provided in these rules, all Tier I operating permit proceedings shall provide for public notice and public comment, including offering an opportunity for a hearing, on a draft permit or on a draft denial. ( )

02. Public Comment Package. A public comment package including the draft permit or draft denial, the technical memorandum and the application shall be prepared and distributed to appropriate public locations, the applicant and affected States. ( )

03. Giving Notice. Notice shall be given: by publication in a newspaper of general circulation in the area where the Tier I source is located or in a State publication designed to give general public notice; by mailing the notice to persons on a mailing list developed by the Department, including those who request in writing to be on the list; by mailing the notice to all affected States; and by other means if necessary to ensure adequate notice to the affected public. ( )

04. Content of the Notice. The notice shall identify the affected facility; provide the name and address of the permittee; provide the name and address of the Department processing the application; identify the draft permit action; identify the emissions change if the permit action is a permit revision or reopening; provide the locations where the public may locate a copy of the public comment package; provide the name, address, and telephone number of a person from whom interested persons may obtain additional information that is relevant to the permit decision by filing a written public documents request and paying any costs; provide a brief description of the comment procedures, including the deadline for comments and the name and address of the person to whom written comments must be delivered; and state the time and place of any hearing that has been scheduled or provide information regarding how a person may request a hearing. ( )

05. Public Comment Procedures. ( )

a. The Department shall provide at least thirty (30) days for public comment. ( )

b. The Department may designate the person to receive written comments. ( )

c. The Department shall give notice of any public hearing at least thirty (30) days in advance of the hearing. ( )

d. The public hearing, if any, shall be an informal meeting, conducted by a hearing officer designated by the Department and transcribed. Written comments or supporting documents may be submitted during the hearing. ( )

e. The public comments and additional information received during the comment period shall be available to the public upon the filing of a written public documents request and the payment of any costs. ( )

365. PREPARATION OF PROPOSED PERMIT OR PROPOSED DENIAL.

01. Timeline. Except as otherwise provided by these rules, the Department shall prepare a proposed permit or proposed denial within thirty (30) days after the close of the public comment period, unless the Department determines that additional time is required to evaluate comments and information received. ( )

02. Availability. The proposed permit or proposed denial shall be available to the public upon the filing a written public documents request and the payment of any costs. ( )

03. Notice to Affected States. If the Department refuses to accept all recommendations that an affected State submitted during the public comment period, the Department shall send a copy of the notice sent to EPA in accordance with Subsection 366.01.d. to the affected State that submitted the recommendation. ( )

366. EPA REVIEW PROCEDURES.

01. Submittal of Proposal to EPA. Except as otherwise provided in these rules and unless EPA waives its opportunity to review a proposed permit, the Department will transmit the following to EPA: ( )

a. The proposed permit or proposed denial. ( )

b. The technical memorandum, as revised if appropriate. ( )

c. The application including all supplements and corrections submitted by the applicant, unless the applicant has submitted the information under a claim of confidentiality or unless the Department has entered an agreement with EPA to submit only a summary form and relevant portions of the permit application. ( )

d. Notice of any refusal by the Department to accept all recommendations for the proposal that any affected State submitted during the public comment period. The notice shall include the Department's reasons for not accepting any such recommendation. The Department is not required to accept recommendations that are not based on applicable requirements. ( )

02. Opportunity for EPA Objection. ( )

a. EPA may submit to the Department a written objection to the proposal within forty-five (45) days of receipt of the transmittal identified in Subsection 366.01. ( )

b. The written objection shall state the EPA's reasons for the objection and provide the terms and conditions that the Tier I operating permit must include to respond to the objection or state that the permit must be denied. ( )

c. EPA shall provide a copy of the written objection to the applicant. ( )

03. Response to EPA Objections. Within ninety (90) days of receiving a written objection from EPA, the Department shall prepare a revised proposal and submit it to EPA in accordance with Subsection 366.01. If EPA determines that the revised proposal is objectionable, the Department will review the permit action taken by EPA and take a comparable final permit action in accordance with Section 367. ( )

04. Public Petitions to EPA. ( )

a. If the EPA does not object in writing under Subsection 366.02, any person may petition the EPA within sixty (60) days after the expiration of the EPA's forty-five (45) day review period to make such objection. ( )

b. Any such petition shall be based only on objections to the draft permit or draft denial that were raised with specificity during the public comment period provided for in Section 364 unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such

objection arose after such period. ( )

c. If the EPA objects to the proposal in accordance with Subsection 366.02 as a result of a petition filed under Subsections 366.04.a. and 366.04.b., the Department shall: ( )

i. Not issue a permit action until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a Tier I operating permit or its requirements pending EPA's review of the petition and Department review of the objection if the Tier I operating permit was issued by the Department after the end of the forty-five (45) day review period and prior to an EPA objection initiated by a petition. ( )

ii. Process the objection in accordance with Subsection 366.03. ( )

367. ACTION ON APPLICATION.

01. Issuance Conditions. Except as otherwise provided by these rules, a Tier I operating permit, or any portion thereof, may be issued only if all of the following conditions have been met: ( )

a. The owner or operator has submitted a complete application in accordance with Section 361. ( )

b. The public has been provided notice and opportunities for comment and a hearing in accordance with Section 364. ( )

c. Affected States have been provided notice in accordance with Section 364 and Subsection 365.03. ( )

d. The terms and conditions of the Tier I operating permit comply with Sections 321 through 336 including providing for compliance with all applicable requirements. ( )

e. The EPA has been provided with the proposal and an opportunity to object and the Department has responded as required by Section 366. ( )

02. Deadlines for Final Actions During Initial Period. Except as otherwise provided in these rules, during the initial period beginning May 1, 1994 and ending three (3) years after EPA approval of the Tier I operating program, the Department will prioritize all of the applications predicted to be submitted during the initial period considering the groups established in accordance with Subsection 313.02, if any. The prioritization will result in the Department taking final action on one-third (1/3) of all such permit applications during each of the one (1) year periods following EPA approval of the program. ( )

03. Deadlines for Final Actions After Initial Period. Except as otherwise provided in these rules, during the period beginning three (3) years after EPA approval of the Tier I operating program, the Department shall take final action on complete applications within eighteen (18) months. ( )

04. Deadline for Tier I Operating Permits with Early Reductions. The Department shall take final action on any complete Tier I operating permit application containing an early reduction demonstration under 42 U.S.C. Section 7412 (i)(5) within nine (9) months of receipt of the complete application. ( )

05. Deadline for Tier I Operating Permits for Phase II Sources. The permitting of phase II sources shall occur in accordance with the deadlines in 42 U.S.C. Section 7651 through 7651o. ( )

06. Copy to EPA. The Department shall send a copy of the final Tier I operating permit to EPA. ( )

07. Original to Permittee. The Department shall send the original Tier I operating permit to the permittee. ( )

368. EXPIRATION OF PRECEDING PERMITS.

If a timely and complete Tier I permit application is received by the Department and is not acted upon in a timely manner as prescribed by these rules, the permit to construct, Tier I operating permit or Tier II operating permit, if any, that has been previously issued to the owner or operator of the Tier I source by the Department or EPA shall continue in full force until the Department has completed action of the permit application. No Tier I operating permit will be considered to have expired due solely to the Department's inaction on a timely Tier I operating permit application. ( )

369. TIER I OPERATING PERMIT RENEWAL.

01. Renewal Procedures. Tier I operating permits being renewed are subject to the same procedural requirements, including those for public participation, including affected State review, and EPA review, that apply to initial Tier I operating permit issuance. ( )

02. Expiration and Renewal Application Shield. Tier I operating permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted. ( )

370. -- 379. (RESERVED)

380. CHANGES TO TIER I OPERATING PERMITS.

01. Applicability. Sections 380 through 399 establish procedures and requirements for permit revisions and changes requiring notice. These provisions do not alter the requirements for permits to construct set forth at Sections 200 through 228. ( )

02. Changes Requiring Permit Revisions. Sections 381 through 383 establish procedures and requirements for Tier I operating permit revisions. A permit revision is required for changes that are not addressed or prohibited by the Tier I operating permit if such changes are subject to any requirements under Title IV of the Clean Air Act or are modifications under any provision of Title I of the Clean Air Act. ( )

03. Changes Requiring Notice. Sections 384 and 385 establish procedures and requirements for providing notice by the permittee to the Department and EPA of certain emission trades and changes that contravene a permit term (Section 384), or certain changes that are not addressed or prohibited by the permit (Section 385). ( )

04. Reopening. Section 386 establishes procedures for reopening the permit for cause by the Department, EPA, or the permittee. ( )

05. Acid Rain. Changes regulated under Title IV of the Clean Air Act, 42 U.S.C. Sections 7651 through 7651o, shall be governed by regulations promulgated under Title IV of the Act. ( )

381. ADMINISTRATIVE PERMIT AMENDMENTS.

01. Criteria. An administrative permit amendment is a permit revision that: ( )

a. Corrects typographical errors; ( )

b. Identifies a change in the name, address, or phone number of any person identified in the Tier I operating permit, or provides a similar minor administrative change at the Tier I source; ( )

c. Requires more frequent monitoring or reporting by the permittee; ( )

d. Allows for a change in ownership or operational control of a Tier I source where the Department determines that no other change in the Tier I operating 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; ( )

e. Incorporates into the Tier I operating permit the requirements from a permit to construct that was

issued by the Department in accordance with Subsection 209.05.c.; or ( )

f. Is any other type of change that EPA and the Department have determined as part of the Part 70 program to be similar to those in Subsections 381.01.a. through 381.01.d. ( )

02. Administrative Permit Amendment Application Procedures. ( )

a. If initiated by the permittee, the permittee shall submit a request to the Department. The request shall: ( )

i. State at the beginning of the request that it is a "REQUEST FOR ADMINISTRATIVE PERMIT AMENDMENT." ( )

ii. Describe the proposed administrative permit amendment including any permit to construct to be incorporated; ( )

iii. State the date on which the proposed administrative amendment will occur at the facility; ( )

iv. Identify any Tier I operating permit term or condition that is no longer applicable as a result of the change; and ( )

v. Identify any applicable requirement that would apply to the Tier I source as a result of the change. ( )

b. If initiated by the Department, the Department shall notify the permittee that the Department is initiating an administrative permit amendment and provide a brief summary of the proposed administrative permit amendment including all of the information required by Subsection 381.02.a.i. through 381.02.a.v. ( )

c. The Department shall, within sixty (60) days of the receipt of a request for an administrative permit amendment, take final action on the request and may incorporate such changes without providing notice to the public or affected States provided that the Department designates any such administrative permit amendment as having been made pursuant to Section 381. The Department shall submit a copy of the revised permit, or an addendum, to the EPA and send the original to the permittee. ( )

03. Implementation Procedures. ( )

a. The permittee may implement the changes addressed in the request for an administrative permit amendment under Subsections 381.01.a. through 381.01.f. immediately upon submittal of the request. ( )

b. If the permittee obtains a permit to construct under Subsection 209.05.c., then so long as the change does not violate any terms or conditions of the existing Tier I operating permit, the permittee may operate the source described in the permit to construct immediately upon submittal of the request for an administrative permit amendment. ( )

04. Permit Shield. Upon final action by the Department, the permit shield described in Section 325 shall extend only to administrative permit amendments identified in Subsection 381.01.e. ( )

382. SIGNIFICANT PERMIT MODIFICATION.

01. Criteria. Significant modification procedures shall be used for applications requesting permit revisions that do not qualify as minor permit modifications or as administrative amendments. Nothing herein shall be construed to preclude the permittee from making changes consistent with this chapter that would render existing permit compliance terms and conditions irrelevant. A significant permit modification is a permit revision for changes that: ( )

a. Violate an existing Tier I permit term or condition derived from an applicable requirement; ( )

b. Involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit. Every significant change in existing monitoring terms or conditions (except more frequent monitoring or reporting under Subsection 381.01.c.) and every relaxation of reporting or recordkeeping terms or conditions shall be considered significant; ( )

c. Require or change a case-by-case determination of an emission limitation or other standard; a source-specific determination for temporary sources of ambient impacts; or a visibility or increment analysis; ( )

d. Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include, but are not limited to, an enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Clean Air Act or an alternative emissions limit for an early reduction of hazardous air pollutants that was approved pursuant to regulations promulgated under 42 U.S.C. Section 7412(i)(5) of the Clean Air Act; ( )

e. Constitute a modification under any provision of Title I of the Clean Air Act; or ( )

f. Could be processed as an administrative amendment or as a minor modification, except the permittee has requested the change be processed as a significant modification, including incorporating the requirements of a permit to construct that was issued by the Department in accordance with Subsection 209.05.a. ( )

02. Significant Permit Modification Application Procedures. A permittee may initiate a significant permit modification by submitting a complete significant permit modification application to the Department. The application shall: ( )

a. Request the use of significant permit modification procedures and state at the beginning of the request that it is a "REQUEST FOR SIGNIFICANT PERMIT MODIFICATION"; ( )

b. Meet the standard application requirements of Sections 314 and 315; ( )

c. Provide a summary sheet; ( )

i. Describing the proposed significant permit modification; ( )

ii. Describing and quantifying any change in emissions resulting from the significant permit modification including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; ( )

iii. Identifying any Tier I operating permit term or condition that will no longer be applicable as a result of the significant permit modification; and ( )

iv. Identifying new applicable requirement resulting from the change. ( )

d. Significant permit modifications shall be issued in accordance with all procedural requirements as they apply to Tier I operating permit issuance and renewal, including those for applications (Sections 314 and 315), public participation (Section 364), review by affected States (Sections 364 and 365), and review by EPA (Section 366). ( )

e. The Department will process the majority of significant permit modifications within nine (9) months of receiving a complete application. The Department shall determine which significant permit modification applications will be processed within nine (9) months. ( )

03. Implementation Procedures. The permittee shall comply with Sections 200 through 223 as applicable, including Subsection 209.05 governing permit to construct procedures for Tier I sources. ( )

04. Permit Shield. Upon final action by the Department, the permit shield described in Section 325 shall extend to significant permit modifications. ( )

383. MINOR PERMIT MODIFICATION.

01. Criteria. ( )

a. Minor permit modification procedures may be used for permit modifications involving economic incentives, marketable permits, emissions trading, and other similar approaches explicitly provided for in the SIP or applicable requirements promulgated by EPA. A permittee may not use minor modification procedures for changes described in Subsections 382.01.a. through 382.01.e. ( )

b. Any other permit modification that is not required to be processed as a significant permit modification under Section 382. ( )

c. Groups of a permittee's applications eligible for processing as minor permit modifications may be processed under minor permit modification procedures if collectively, the changes proposed in the minor modification applications do not exceed the lesser of: ( )

i. Ten percent (10%) of the emissions allowed by the existing Tier I operating permit for the emissions unit for which the change is requested; ( )

ii. Twenty percent (20%) of the major facility criteria in Section 008; or ( )

iii. Five (5) tons per year. ( )

02. Minor Permit Modification Application Procedures. A permittee may initiate a minor permit modification by submitting a complete standard application described in Section 314 to the Department. The application shall: ( )

a. Request the use of minor permit modification procedures and state at the beginning of the request that it is a "REQUEST FOR MINOR PERMIT MODIFICATION," designate either "INDIVIDUAL" or "GROUP" processing, and provide a summary sheet; ( )

i. Describing the proposed minor permit modification; ( )

ii. Stating the date on which the proposed minor permit modification will occur at the facility; ( )

iii. Describing and quantifying any change in emissions resulting from the minor permit modification including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; ( )

iv. Identifying any Tier I operating permit term or condition that will no longer be applicable as a result of the minor permit modification; ( )

v. Identifying any new applicable requirement that is applicable to the Tier I source as a result of the minor permit modification; ( )

vi. Certifying by a responsible official under Section 123 that the proposed permit modification meets the criteria for a minor permit modification and, if applicable, the use of group processing procedures; and ( )

vii. Listing the permittee's other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with the other applications, equals or exceeds the thresholds under Subsection 383.01.c. above. ( )

b. Include completed forms for the Department to use to notify the EPA and affected States as

required under Sections 364 and 366. ( )

c. Include the applicant's suggested draft Tier I permit with the minor permit modification. ( )

03. EPA and Affected State Notification Procedures. ( )

a. Within five (5) working days of receipt of a complete minor permit modification application, the Department shall notify EPA and the affected States of the requested permit modification and forward the forms completed by the applicant and other required information, if any, to the EPA and affected States. Affected States and EPA review shall occur simultaneously. ( )

b. On a quarterly basis or within five (5) working days of receiving an application demonstrating that the aggregate of a permittee's pending applications equals or exceeds the threshold level established in Subsection 383.01.c. above, whichever is earlier, the Department shall notify EPA and the affected States of the requested permit modification and forward the forms completed by the applicant and other required information, if any, to the EPA and affected States. Affected States and EPA review shall occur simultaneously. ( )

c. The Department shall promptly notify EPA and any affected States in writing including its reasons for not accepting any such recommendation if the Department refuses to accept all the timely recommendations submitted by affected States. ( )

d. Timetable for Issuance. The Department may not issue a final permit modification until after EPA's forty-five (45) day review period or until EPA has notified the Department that EPA will not object to issuance of the permit modification, whichever is first; although the Department can approve the permit modification prior to that time. ( )

e. Within ninety (90) days of the Department's receipt of a complete minor permit modification application or within fifteen (15) days after the end EPA's forty-five (45) day review period, whichever is later, the Department shall take one (1) of the following actions: ( )

i. Issue the minor permit modification as proposed; ( )

ii. Deny the minor permit modification application; ( )

iii. Determine that the requested minor permit modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or ( )

iv. Revise the proposed minor permit modification, transmit the revised proposal to the EPA in accordance with Section 366, and notify the permittee. ( )

f. Within one hundred and eighty (180) days of the Department's receipt of a complete application for modifications eligible for group processing or within fifteen (15) days after the end of EPA's forty-five (45) day review period, whichever is later, the Department shall take one (1) of the actions specified in Subsections 383.03.e.i., 383.03.e.ii., 383.03.e.iii., or 383.03.e.iv. ( )

04. Implementation Procedures. ( )

a. The permittee may make the change proposed in its minor permit modification immediately upon submittal of a complete application to the Department before final action by the Department. ( )

b. After the source makes the allowed change and until the Department takes any of the actions specified in Subsections 383.03.e.i., 383.03.e.ii., or 383.03.e.iii., the permittee must comply with both the applicable requirements governing the change and the proposed terms and conditions. ( )

c. During this time period, the permittee need not comply with the existing permit terms and conditions it seeks to modify; provided that, if the source fails to comply with the applicable requirements governing the change and the proposed revisions, the existing permit terms and conditions it seeks to modify may be enforced

against it. ( )

05. **Permit Shield**. The permit shield described in Section 325 shall not apply to any minor permit modification. ( )

384. SECTION 502(B)(10) CHANGES AND CERTAIN EMISSION TRADES.

01. **Criteria**. This section authorizes emission changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of the Title I of the Clean Air Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or total emissions). ( )

a. Changes authorized are changes that: ( )

i. Are Section 502(b)(10) changes; ( )

ii. Are changes involving trades of increases and decreases of emissions within the permitted facility where the State Implementation Plan provides for such emissions trades without requiring a permit revision. SIP trades are allowed in compliance with this Section even if the Tier I operating permit does not already provide for such emission trading; or ( )

iii. Are changes made under the terms and conditions of the Tier I permit that authorize the trading of emissions increases and decreases within the permitted facility for the purpose of complying with a federally-enforceable emissions cap that is established by the Department in the Tier I operating permit independent of otherwise applicable requirements. ( )

b. Changes constituting a modification under Title I of the Clean Air Act or subject to a requirement under Title IV of the Clean Air Act are not authorized by this Section. ( )

02. **Notice Procedures**. The permittee may make a change under this Section if the permittee provides written notification to the Department and EPA so that the notification is received at least seven (7) days in advance of the proposed change; or, in the event of an emergency, the permittee provides the notification so that it is received at least twenty-four (24) hours in advance of the proposed change. The permittee, the Department, and EPA shall attach the notification to their copy of the Tier I operating permit. ( )

a. For each such change, the written notification shall: ( )

i. State at the beginning of the notification "NOTIFICATION OF SECTION 502(b)(10) CHANGE" or "NOTIFICATION OF EMISSION TRADE"; ( )

ii. Describe the proposed change; ( )

iii. Provide the date on which the proposed change will occur; ( )

iv. Describe and quantify any expected change in emissions including identification of any new regulated air pollutant(s) that will be emitted; ( )

v. Identify any permit term or condition that is no longer applicable as a result of the change; ( )

vi. Specifically identify and describe the emergency, if any; and ( )

vii. Identify any new applicable requirement that would apply to the Tier I source as a result of the change. ( )

b. For changes described in Subsection 384.01.a.ii., the written notification shall also include: ( )

i. Identification of the provisions in the SIP that provide for the emissions trade; ( )

ii. All of the information required by the provision in the SIP authorizing the emissions trade; ( )

iii. Specific identification of the provisions in the SIP with which the permittee will comply; and ( )

iv. The pollutants subject to the trade. ( )

c. For changes described in Subsection 384.01.a.iii., the written notification shall also describe how the change will comply with the terms and conditions of the permit. ( )

03. Permit Shield. The permit shield described in Section 325 shall only extend to changes made in accordance with Subsection 384.01.a.iii. ( )

385. OFF-PERMIT CHANGES AND NOTICE.

01. Criteria. This section authorizes changes that are neither addressed nor prohibited by the Tier I operating permit to be made without a permit revision if each such change meets all applicable requirements and does not violate any existing permit terms or conditions. Changes constituting a modification under Title I of the Clean Air Act, or subject to a requirement under Title IV of the Clean Air Act are not off-permit changes. ( )

02. Notice Procedure. Sources must provide written notice to the Department and EPA of each such change except changes that qualify as insignificant under Section 317, within seven (7) days of making the off-permit change. ( )

a. The written notification provided to the Department and EPA shall: ( )

i. State at the beginning of the notification "NOTIFICATION OF OFF-PERMIT CHANGE"; ( )

ii. Describe the off-permit change; ( )

iii. State the date on which the off-permit change will occur or has occurred; ( )

iv. Describe and quantify any change in emissions resulting from the off-permit change including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; and ( )

v. Identify any new applicable requirement that is applicable to the Tier I source as a result of the off-permit change. ( )

b. The permittee shall keep a record at the facility describing all off-permit changes made at the Tier I source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and identifying the emissions resulting from those changes. ( )

03. Permit Shield Applicability. The permit shield described in Section 325 shall not apply to any off-permit change. ( )

386. REOPENING FOR CAUSE.
The Department shall reopen a Tier I permit if cause exists. ( )

01. Criteria. Cause for reopening exists under any of the following circumstances: ( )

a. Additional applicable requirements become applicable to a major Tier I source with a remaining permit term of three (3) or more years; provided that no such reopening is required if the original effective date of the

applicable requirement is later than the date on which the Tier I operating permit is due to expire and the original Tier I operating permit or any of its terms and conditions has not been extended pursuant to Section 368; provided further that the permittee must comply with the additional applicable requirement no later than the effective date; ( )

b. Whenever additional applicable requirements become applicable to an affected source, as defined for the purposes of the acid rain program; ( )

c. The Department or EPA determines that the Tier I operating permit contains a material mistake or inaccurate statements were used or considered in establishing the emissions standards or other terms or conditions of the Tier I operating permit; or ( )

d. The Department or EPA determines that the Tier I operating permit does not ensure compliance with the applicable requirements. ( )

02. Procedures for Reopenings. ( )

a. The Department shall follow the same procedures for reopening as they apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Reopenings shall be made as expeditiously as practicable in accordance with Sections 360 through 379. ( )

b. The Department shall notify the permittee in writing of reopening and provide a brief summary of the reason for the reopening at least thirty (30) days prior to the reopening. ( )

c. The EPA may initiate reopenings for circumstances listed in Subsections 386.01.a. through 386.01.d. by providing written notification to the Department and the permittee. ( )

i. The Department shall within ninety (90) days after receipt of notification from EPA, forward to EPA a proposed determination of termination, revocation, revision, or revocation and reissuance, as appropriate. The Administrator may extend the ninety (90) day period for an additional ninety (90) days if EPA finds that a new or revised permit application is necessary or that the Department must require the permittee to submit additional information. ( )

ii. The EPA will review the proposed determination from the Department within ninety (90) days of receipt. ( )

iii. The Department shall have ninety (90) days from receipt of an EPA objection to resolve any EPA objection and to terminate, modify, or revoke and reissue the permit. ( )

iv. If the Department fails to submit a proposed determination or fails to resolve any EPA objection, the EPA may terminate, modify, revoke and reissue the permit after taking the following actions: ( )

(1) Providing at least thirty (30) days' notice to the permittee in writing of the reason for such action, and ( )

(2) Providing the permittee an opportunity for comment on the EPA's proposed action and an opportunity for a hearing. ( )

387. REGISTRATION AND REGISTRATION FEES.

The purpose of Sections 387 through 397 is to set forth the requirements for the annual registration of Tier I sources, and the annual assessment and payment of fees to support the Tier I permitting program. ( )

388. APPLICABILITY.

01. Applicability. Sections 387 through 397 shall apply to all major facilities, as defined in Section 008, including facilities that obtained air quality permits that limited potential emissions below major facility levels during the previous year. Facilities, sources and emissions exempt under Section 301 are not required to register or pay fees. ( )

02. Deferred Sources. Certain sources may qualify for and request deferral from the Tier 1 operating permit program under Subsection 301.02.b.iv. and thereby not pay Tier I fees. On or before such time as those deferred sources are required to submit a Tier 1 operating permit application, the Department shall reconsider Sections 387 through 397 to determine whether an alternative basis upon which those sources shall register and be assessed and pay fees should be developed. ( )

389. REGISTRATION INFORMATION.
Any person owning or operating a facility or source during the previous calendar year or any portion of the previous calendar year for which Sections 387 through 397 apply shall, by April 1 of each year, register with the Department and submit the following information (submittal forms are located at the DEQ website at http://www.deq.idaho.gov): ( )

01. Facility Information. The name, address, telephone number and location of the facility; ( )

02. Owner/Operator Information. The name, address and telephone numbers of the owners and operators; ( )

03. Facility Emission Units. The number and type of emission units present at the facility or the Tier I permit number for the facility; and ( )

04. Pollutant Registration. The actual emissions from the previous calendar year for oxides of sulfur (SOx), oxides of nitrogen (NOx), particulate matter (PM_{10}), and volatile organic compounds (VOC) calculated using methods to include, but not limited to, continuous emissions monitoring (CEMS), certified source tests, material balances (mass-balance), state/industry emission factors, or AP-42 emission factors applied to throughput, actual operating hours, production rates, in-place control equipment, or the types of materials processed, stored, or combusted. ( )

05. Radionuclide Registration. The amount of radionuclides from facilities regulated under 40 CFR Part 61, Subpart H, for which the registrant wishes to be registered to emit from each source in curies per year except that no amount in excess of or less than an existing permit, consent order, or judicial order will be allowed. ( )

390. REGISTRATION FEE.
This registration fee structure shall be reviewed at least every two (2) years to assure the funds meet the presumptive minimum as defined by EPA. The annual registration fee as determined in Section 390 shall be paid as provided in Section 393. ( )

01. Tier I Annual Fee. The Tier I annual fee schedule shall be as follows: ( )

a. A fixed annual fee for Tier I major sources emitting regulated air pollutants listed in Subsection 389.04 as follows: ( )

i. Seven thousand (7,000) tons per year and above shall pay seventy-one thousand five hundred dollars ($71,500); ( )

ii. Four thousand five hundred (4,500) tons per year and above shall pay forty-two thousand nine hundred dollars ($42,900); ( )

iii. Three thousand (3,000) tons per year and above shall pay twenty-eight thousand six hundred dollars ($28,600); ( )

iv. One thousand (1,000) tons per year and above shall pay twenty-two thousand seven hundred fifty dollars ($22,750); ( )

v. Five hundred (500) tons per year and above shall pay eleven thousand fifty dollars ($11,050); ( )

vi. Two hundred (200) tons per year and above shall pay seven thousand one hundred fifty dollars ($7,150); and ( )

vii. Less than two hundred (200) tons per year shall pay three thousand five hundred seventy-five dollars ($3,575); plus ( )

b. A per ton annual fee of thirty-nine dollars and forty-eight cents ($39.48) per ton for all regulated air pollutant emissions listed in Subsection 389.04 as follows: ( )

i. Greater than or equal to four thousand five hundred (4,500) tons per year not to exceed one hundred forty-three thousand dollars ($143,000); ( )

ii. Greater than or equal to three thousand (3,000) but less than four thousand five hundred (4,500) tons per year not to exceed seventy-one thousand five hundred dollars ($71,500); ( )

iii. Greater than or equal to one thousand (1,000) but less than three thousand (3,000) tons per year not to exceed thirty-five thousand one hundred dollars ($35,100); ( )

iv. Greater than or equal to five hundred (500) but less than one thousand (1,000) tons per year not to exceed twenty-five thousand twenty-five dollars ($25,025); ( )

v. Greater than or equal to two hundred (200) but less than five hundred (500) tons per year not to exceed ten thousand seven hundred twenty-five dollars ($10,725); and ( )

vi. Less than two hundred (200) tons per year not to exceed three thousand five hundred seventy-five dollars ($3,575). ( )

02. Fee-for-Service. The fee-for-service shall be as follows: Sources requesting Section 300 permit modifications or renewals, or receiving program maintenance services, including but not limited to site visits, response to public inquiries, modeling, responses to site questions and opacity readings by the Department shall be assessed a fee for actual time expended and expenses incurred by the Department in the previous calendar year in an amount not to exceed twenty thousand dollars ($20,000) per facility per year as a fee-for-service. Service shall be conducted by qualified Department staff or contractors. ( )

03. Radionuclide Registration Fee. ( )

a. A registration fee of five dollars per curie per year ($5/curie/year) shall be paid by facilities regulated under 40 CFR Part 61, Subpart H. ( )

b. The registration fee may be paid as provided in Section 397. ( )

391. REQUEST FOR INFORMATION.
Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 387 through 397 shall be furnished on request. ( )

392. REGISTRATION FEE ASSESSMENT.
All facilities to which Sections 387 through 397 apply shall pay to the Department an annual registration fee as required by Section 390. The Department shall determine the fee based on the information supplied by the registrant and the Department's analysis of information available. In the event of a failure of a facility to submit pertinent registration information, the Department may calculate the fee and shall assess the facility the fee and the costs of calculating the fee. No later than May 15 of each year, or within fifteen (15) days following the adjournment of the regular session of the Idaho State Legislature, whichever is later, the Department shall send to each registrant, to which Sections 387 through 397 apply, by certified mail, an assessment of the annual fee payable by the registrant. ( )

393. PAYMENT OF TIER I REGISTRATION FEE.

01. **Fee Payment Date**. The registration fee shall be paid to and received by the Department no later than July 1 of each year, or within forty-five (45) days following the receipt of the registration fee assessment in Section 392, whichever is later. Checks should be made payable to "Department of Environmental Quality." ( )

02. **Fee Payments Mailing Address**. All fee payments should be sent to:

Air Quality Tier I Registration Fees
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255 ( )

394. EFFECT OF DELINQUENCY ON APPLICATIONS.
No permit to construct or operate, other than those issued at the discretion of the Director, shall be accepted for processing, processed, or issued by the Department for any facility or to any person having Tier I operating permit fees delinquent in full or in part. ( )

395. APPEALS.
Persons may file an appeal within thirty-five (35) days of the date the person received an assessment issued under Section 392. The appeal shall be filed in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

396. EXEMPTIONS.

01. **Registration Fees**. The following facilities or sources are exempt from paying registration fees under Sections 387 through 397: ( )

a. Facilities and sources specified by the Department, after public notice, as exempt from the payment of registration fees; and ( )

b. Country grain elevators. ( )

02. **Registering and Paying Fees**. The following facilities or sources are exempt from registering and paying registration fees under Sections 387 through 397: ( )

a. Facilities and sources specified by the Department, after public notice, as exempt from registration and the payment of registration fees; ( )

b. Confined animal feeding operations; and ( )

c. Insignificant activities identified in Subsection 317.01. ( )

03. **Paying Fees**. The following emissions are exempt from registering and paying registration fees under Sections 387 through 397: ( )

a. Fugitive emissions from wood products. ( )

b. Fugitive dust emissions, except facilities listed in Subsections 008.10.c.i. and 008.10.c.ii. Facilities listed in that section shall not be required to pay fees for fugitive dust emission in excess of one hundred (100) tons. ( )

397. LUMP SUM PAYMENTS OF REGISTRATION FEES.

01. **Agreement**. The Department may, in its discretion, enter an agreement with any person for the lump sum payment of all, or any addition to, the registration fees required by Section 390. ( )

02. **Minimum Amount**. The minimum amount for any lump sum agreement shall be three hundred thousand dollars ($300,000). ( )

03. Payment Waiver. Upon the execution and full performance of the agreement by the person, the Department shall waive the payment requirements of Section 390. All other provisions of Sections 387 through 397 shall remain applicable to the person. ( )

398. -- 399. (RESERVED)

400. PROCEDURES AND REQUIREMENTS FOR TIER II OPERATING PERMITS.
The purpose of Sections 400 through 410 is to establish uniform procedures for the issuance of "Tier II Operating Permits." ( )

401. TIER II OPERATING PERMIT.

01. Optional Tier II Operating Permits. The owner or operator of any stationary source or facility which is not subject to (or wishes to accept limitations on the facility's potential to emit so as to not be subject to) Sections 300 through 399 may apply to the Department for an operating permit to: ( )

a. Authorize the use of alternative emission limits (bubbles) pursuant to Section 440; ( )

b. Authorize the use of an emission offset pursuant to Sections 204.02.b. or 206; ( )

c. Authorize the use of a potential to emit limitation, an emission reduction or netting transaction to exempt a facility or modification from certain requirements for a permit to construct; ( )

d. Authorize the use of a potential to emit limitation to exempt the facility from Tier I permitting requirements. ( )

e. Bank an emission reduction credit pursuant to Section 461; ( )

02. Required Tier II Operating Permits. ( )

a. A Tier II operating permit is required for any stationary source or facility which: ( )

i. Is not subject to Sections 300 through 399 with a permit to construct which establishes any emission standard different from those in these rules. ( )

ii. Has annual actual mercury emissions in excess of sixty-two (62) pounds. Fugitive emissions shall not be included in a determination of the actual mercury emissions. The owner or operator of the stationary source or facility shall submit a Tier II permit application for review and approval by the Department, no later than twelve (12) months after becoming subject to Subsection 401.02.a.ii., that includes an MBACT analysis for all sources that emit mercury. A determination of applicability under Subsection 401.02 shall be based upon best available information. An MBACT analysis for review and approval by the Department shall be included in a Tier II renewal application for any mercury emitting source not otherwise subject to MBACT. ( )

b. Stationary sources within a source category subject to 40 CFR Part 63 are exempt from the requirements of Subsection 401.02.a.ii. ( )

03. Tier II Operating Permits Required by the Department. The Director may require or revise a Tier II operating permit for any stationary source or facility whenever the Department determines that: ( )

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or ( )

b. Specific emission standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. ( )

04. Multiple Tier II Operating Permits. Subject to approval by EPA, the Director may issue one (1)

or more Tier II operating permits to a facility which allow any specific stationary source or emissions unit within that facility a future compliance date of up to three (3) years beyond the compliance date of any provision of these rules, provided the Director has reasonable cause to believe such a future compliance date is warranted. ( )

05. Tier II Operating Permits Establishing a Facility Emissions Cap. The owner or operator of any stationary source or facility may request a Tier II operating permit establishing a Facility Emissions Cap (FEC) pursuant to Sections 175 through 181. ( )

402. APPLICATION PROCEDURES.
Application for a Tier II operating permit must be made using forms furnished by the Department, or by other means prescribed by the Department. The application shall be certified by the responsible official and shall be accompanied by all information necessary to perform any analysis or make any determination required under Sections 400 through 410. ( )

01. Required Information. Site information, plans, description, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. ( )

02. Additional Specific Information. ( )

a. For emission reduction credits, a description of the emission reduction credits proposed for use, including descriptions of the stationary sources or facilities providing the reductions, a description of the system of continuous emission control which provides the emission reduction credits, emission estimates, and other information necessary to determine that the emission reductions satisfy the requirements for emission reduction credits (Section 460); and ( )

b. For alternative emission limits (bubbles) or emission offsets, information on the air quality impacts of the traded emissions as necessary to determine the change in ambient air quality that would occur. ( )

c. For restrictions on potential to emit, a description of the proposed potential to emit limitations including the proposed monitoring and recordkeeping requirements that will be used to verify compliance with the limitations. ( )

03. Estimates of Ambient Concentrations. All estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51 Appendix W (Guideline on Air Quality Models). ( )

a. Where an air quality model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted, subject to written approval of the Administrator of the U.S. Environmental Protection Agency and public comment pursuant to Subsection 404.01.c. ( )

b. Methods like those outlined in the U.S. Environmental Protection Agency's "Interim Procedures for Evaluating Air Quality Models (revised)" (1984) should be used to determine the comparability of air quality models. ( )

04. Additional Information. Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 400 through 410 shall be furnished upon request. ( )

403. PERMIT REQUIREMENTS FOR TIER II SOURCES.
No Tier II operating permit shall be granted unless the applicant shows to the satisfaction of the Department that: ( )

01. Emission Standards. The stationary source would comply with all applicable local, state or federal emission standards. ( )

02. NAAQS. The stationary source would not cause or significantly contribute to a violation of any

ambient air quality standard. ( )

404. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for Tier II operating permits. ( )

a. Within thirty (30) days after receipt of the application for a Tier II operating permit, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. ( )

b. Within sixty (60) days after the application is determined to be complete the Department shall: ( )

i. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 404.01.c. The Department shall set forth reasons for any denial; or ( )

ii. Issue a proposed approval, proposed conditional approval, or proposed denial. ( )

c. An opportunity for public comment shall be provided on an application for any Tier II operating permit pursuant to Subsection 401.01, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516 and any other application which the Director determines an opportunity for public comment should be provided. ( )

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. ( )

ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. ( )

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. ( )

iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. ( )

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. ( )

vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. ( )

d. A copy of each proposed and final permit will be sent to the U.S. Environmental Protection Agency. ( )

02. Specific Procedures. Procedures for Tier II operating permits required by the Department under Subsection 401.03. ( )

a. The Director shall send a notification to the proposed permittee by registered mail of his intention to issue a Tier II operating permit for the facility concerned. The notification shall contain a copy of the proposed permit in draft form stating the proposed emission standards and any required action, with corresponding dates, which must be taken by the proposed permittee in order to achieve or maintain compliance with the proposed Tier II

operating permit. ( )

b. The Department's proposed Tier II operating permit shall be made available to the public in at least one (1) location in the region in which the facility is located. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the facility is located. A copy of such notice shall be sent to the applicant. There shall be a thirty (30) day period after publication for comment on the Department's proposed Tier II operating permit. Such comment shall be made in writing to the Department. ( )

c. A public hearing will be scheduled to consider the standards and limitations contained in the proposed Tier II operating permit if the proposed permittee files a request therefor with the Department within ten (10) days of receipt of the notification, or if the Director determines that there is good cause to hold a hearing. ( )

d. After consideration of comments and any additional information submitted during the comment period or at any public hearing, the Director shall render a final decision upon the proposed Tier II operating permit within thirty (30) days of the close of the comment period or hearing. At this time the Director may adopt the entire Tier II operating permit as originally proposed or any part or modification thereof. ( )

e. All comments and additional information received during the comment period, together with the Department's final permit, shall be made available to the public at the same location as the proposed Tier II operating permit. ( )

03. Availability of Fluid Models and Field Studies. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. ( )

04. Permit Revision or Renewal. The Director may approve a revision of any Tier II operating permit or renewal of any Tier II operating permit provided the stationary source or facility continues to meet all applicable requirements of Sections 400 through 410. Revised permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsection 404.01.c. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. Renewed Tier II operating permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsections 404.01.c., and 404.02.b. through 404.02.e. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. The expiration of a permit will not affect the operation of a stationary source or a facility during the administrative procedure period associated with the permit renewal process. The permittee shall submit a complete application to the Department for a renewal of the terms and conditions establishing the Tier II operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing permit. To ensure that the term of the permit does not expire before the terms and conditions are renewed, the permittee is encouraged to submit the application nine (9) months prior to expiration. ( )

05. Transfer of Tier II Permit. ( )

a. Transfers by Revision. A Tier II permit may be transferred to a new owner or operator in accordance with Subsection 404.04. ( )

b. Automatic Transfers. Any Tier II permit, with or without transfer prohibition language, may be automatically transferred if: ( )

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; ( )

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and ( )

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 404.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 404.05.b.ii. ( )

405. CONDITIONS FOR TIER II OPERATING PERMITS.

01. Reasonable Conditions. The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with: ( )

a. Sampling ports of a size, number, and location as the Department may require; ( )

b. Safe access to each port; ( )

c. Instrumentation to monitor and record emissions data; ( )

d. Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility; and ( )

e. Any other sampling and testing facilities as may be deemed reasonably necessary. ( )

02. Performance Tests. Any performance tests required by the permit shall be performed in accordance with methods and under operating conditions approved by the Department. The owner or operator shall furnish to the Department a written report of the results of such performance test. ( )

a. Such test shall be at the expense of the owner or operator. ( )

b. The Department may monitor such test and may also conduct performance tests. ( )

c. The owner or operator of a stationary source or facility shall provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present. ( )

03. Permit Term. Tier II operating permits shall be issued for a period not to exceed five (5) years. This five (5) year operating permit restriction does not apply to the provisions contained in Section 461.02 (banked emission reduction credits). ( )

04. Single Tier II Operating Permit. When a facility includes more than one (1) stationary source or emissions unit, a single Tier II operating permit may be issued including all stationary sources and emissions units located at that facility. Such Tier II operating permit shall separately identify each stationary source and emissions unit to which the Tier II operating permit applies. When a single stationary source or facility is subject to permit modification, suspension or revocation, such action by the Director shall only affect that individual stationary source or emissions unit without thereby affecting any other stationary source or emissions unit subject to that Tier II operating permit. ( )

406. OBLIGATION TO COMPLY.

Receiving a Tier II operating permit shall not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal rules and regulations. ( )

407. TIER II OPERATING PERMIT PROCESSING FEE.

01. Tier II Operating Permit Processing Fee. A Tier II operating permit processing fee, calculated by the Department pursuant to the categories provided in the following table, shall be paid to the Department by the person receiving a Tier II permit or permit renewal. The fee calculation shall not include fugitive emissions.

TIER II OPERATING PERMIT CATEGORY	FEE
General permit, no facility specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis.)	$500
Stationary sources or facilities with permitted emissions of less than one (1) ton per year	$1,250
Stationary sources or facilities with permitted emissions of one (1) to less than ten (10) tons per year	$2,500
Stationary sources or facilities with permitted emissions of ten (10) to less than one hundred (100) tons per year	$5,000
Stationary sources or facilities with permitted emissions of one hundred (100) tons or more per year	$10,000
Synthetic minor stationary sources with permitted emissions below a major threshold level	$10,000

( )

02. Tier II Operating Permit Processing Fee Not Required. So long as the Department determines no other review or analysis is required, the Tier II operating permit processing fee is not required to be submitted when: ( )

a. A permit to construct issued within the last five (5) years is rolled into a Tier II permit; ( )

b. A change to correct typographical errors is requested; ( )

c. A change in the name or ownership of the holder of a Tier II operating permit is requested; or ( )

d. A synthetic minor permit is issued and the Department's processing costs can be charged against fees collected from the person receiving the permit under Title V of the federal Clean Air Act amendments of 1990. ( )

408. PAYMENT OF TIER II OPERATING PERMIT PROCESSING FEE.

01. Fee Submittal. The Tier II operating permit processing fee shall be payable upon receipt of an assessment sent, along with the final permit or permit renewal, to the person receiving a permit or permit renewal by the Department. The Tier II operating permit fee should be sent to:

Air Quality Tier II Fees
Fiscal Office
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255 ( )

02. Delinquency. Failure to submit a Tier II operating permit processing fee within forty-five (45) days of receipt of an assessment by the Department will result in a monthly accrual of interest in the amount of twelve percent (12%) per annum on the outstanding balance until the fee is paid in full. ( )

409. RECEIPT AND USAGE OF FEES.
Tier II operating permit processing fee and delinquency interest receipts shall be deposited by the Department into a stationary source permit account. Monies from this account shall be used solely toward technical, legal and administrative support of the Department's Permit to Construct and Tier II permit programs and shall not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. The Department will review the Tier II fee schedule at least every

two (2) years. ( )

410. APPEALS.
A person may be able to file an appeal within thirty-five (35) days of the date the person receives an assessment under Section 407, in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

411. -- 439. (RESERVED)

440. REQUIREMENTS FOR ALTERNATIVE EMISSION LIMITS (BUBBLES).
The owner or operator of any facility may apply to the Department for a Tier I or Tier II operating permit (or a revision thereto) to authorize an alternative emission limit for any stationary source or emissions unit within the facility. The Department may issue or revise a Tier II operating permit or issue a significant modification to a Tier I operating permit which authorizes an alternative emission limit provided that all of the following are met: ( )

01. Actual Emissions. There is no increase in actual emissions of the applicable air pollutant at the facility. ( )

02. Emission Reductions. All emission reductions satisfy the requirements for emission reduction credits (Section 460). ( )

03. Trade Requirements. All trades involve the same air pollutant and demonstrate ambient equivalence as specified in Subsection 441.02. ( )

04. Applicable Requirement Prohibition. No applicable Section of 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63, best available control technology requirement, lowest achievable emission rate requirement, or visual emission standard is exceeded. ( )

05. Actual HAP/TAP Emissions. The actual emissions of any hazardous air pollutant or any toxic air pollutant are not increased. ( )

06. Fugitive Dust Trades. Where the trade involves fugitive dust, the owner or operator shall undertake an adequate post-approval monitoring program to evaluate the ambient results of the controls. If the monitoring data indicate that the air quality effects are not equivalent, then: ( )

a. Further reductions must be proposed by the owner or operator; and/or ( )

b. The applicable emission standards in the operating permit will be adjusted by the Department; ( )

07. Compliance Schedule Extension. Any compliance schedule extension for a facility in a nonattainment area is consistent with reasonable further progress. ( )

08. EPA Approval. Approval of the U.S. Environmental Protection Agency, and where necessary the appropriate court, has been obtained for any individual stationary source or facility which is the subject of a federal enforcement action or outstanding enforcement order. ( )

441. DEMONSTRATION OF AMBIENT EQUIVALENCE.
The demonstration of ambient equivalence shall: ( )

01. VOC Trades. For trades involving volatile organic compounds, show that total emissions are not increased for the air basin in which the stationary source or facility is located. ( )

02. Other Trades. For trades involving any other air pollutant, show through appropriate dispersion modeling that the trade will not cause a significant contribution at any modeled receptor. ( )

442. -- 459. (RESERVED)

460. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.
In order to be credited in a permit to construct, Tier I operating permit or Tier II operating permit any emission reduction must satisfy the following: ( )

01. Allowable Emissions. The proposed level of allowable emissions must be less than the actual emissions of the stationary source(s) or emission unit(s) providing the emission reduction credit. No emission reduction(s) can be credited for actual emissions which exceed the allowable emissions of the stationary source(s) or emission unit(s). ( )

02. Timing of Emission Reduction. In an attainment or unclassifiable area any emission reduction which occurs prior to the minor source baseline date must have been banked with the Department prior to the minor source baseline date in order to be credited; in a nonattainment area the emission reduction must occur after the base year of any control strategy for the particular air pollutant. ( )

03. Emission Rate Calculation. The emission rate before and after the reduction must be calculated using the same method and averaging time and the characteristics necessary to evaluate any future use of the emission reduction credit must be described. ( )

04. Permit Issuance. A permit to construct, Tier I operating permit or Tier II operating permit shall be issued which establishes a new emission standard for the facility, or restricts the operating rate, hours of operation, or the type or amount of material combusted, stored or processed for the stationary source(s) or emission unit(s) providing the emission reductions. ( )

05. Imposed Reductions. Emission reductions imposed by local, state or federal regulations or permits shall not be allowed for emission reduction credits. ( )

06. Mobile Sources. The proposed level of allowable emissions must be less than the actual emissions of the mobile sources or stationary sources providing the emission reduction credit. Mobile source emission reduction credits shall be made state or federally enforceable by SIP revision. The form of the SIP revision may be a state or local regulation, operating permit condition, consent or enforcement order, or any mechanism available to the state that is enforceable. ( )

461. REQUIREMENTS FOR BANKING EMISSION REDUCTION CREDITS (ERC'S).

01. Application to Bank an ERC. The owner or operator of any facility may apply to the Department for a Tier I or Tier II operating permit (or a revision thereto) to bank an emission reduction credit. An application to bank an emission reduction credit must be received by the Department no later than one (1) year after the reduction occurs. The Department may issue or revise such a Tier I or Tier II operating permit and a "Certificate of Ownership" for an emission reduction credit, provided that all emission reductions satisfy the requirements for emission reduction credits (Section 460). ( )

02. Banking Period. Emission reduction credits may be banked with the Department. The banked emission reduction credits may be used for offsets, netting in accordance with the definition of net emissions increase at Section 007, or alternative emission limits (bubbles), or sold to other facilities. The use of banked emission reduction credits must satisfy the applicable requirements of the program in which they are proposed for use, including approval of a permit to construct or a Tier I or Tier II operating permit. ( )

03. Certificate of Ownership. Upon issuing or revising a Tier I or Tier II operating permit for an emission reduction credit, the Department will issue a "Certificate of Ownership" which will identify the owner of the credits, quantify the credited emission reduction and describe the characteristics of the emissions which were reduced and emissions unit(s) which previously emitted them. ( )

04. Adjustment by Department. If at any time the Department, or the owner or operator of a facility which has produced an emission reduction credit, finds that the actual reduction in emissions differs from that in the certificate of ownership, the Department will adjust the amount of banked emission reduction credits to reflect the actual emission reduction and issue a revised certificate of ownership. ( )

05. Proportional Discounts. If at any time the Department finds that additional emission reductions are necessary to attain and maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment, banked emission reduction credits at facilities in the affected area may be proportionally discounted by an amount which will not exceed the percentage of emission reduction required for that area. ( )

06. Transfer of Ownership. Whenever the holder of a certificate of ownership for banked emission reduction credits, sells or otherwise transfers ownership of all or part of the banked credits, the holder shall submit the certificate of ownership to the Department. The Department will issue a revised certificate(s) of ownership which reflects the old and new holder(s) and amount(s) of banked emission reduction credits. ( )

07. Public Registry. The Department will maintain a public registry of all banked emissions reduction credits, indicating the current holder of each certificate of ownership and the amount and type of credited emissions. ( )

462. -- 499. (RESERVED)

500. REGISTRATION PROCEDURES AND REQUIREMENTS FOR PORTABLE EQUIPMENT.

01. Registration Requirements. All existing portable equipment shall be registered within ninety (90) days after the original effective date of this Section 500 and at least ten (10) days prior to relocating, using forms provided by the Department, except that no registration is required for mobile internal combustion engines, marine installations and locomotives. ( )

02. Compliance with Rules and Regulations. Possessing a "Certificate of Registration" does not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal rules and regulations. ( )

501. -- 509. (RESERVED)

510. STACK HEIGHTS AND DISPERSION TECHNIQUES.
The purpose of Sections 510 through 516 is to establish criteria for good engineering practice for stack heights and dispersion techniques. ( )

511. APPLICABILITY.
The provisions of Sections 510 through 516 shall apply to existing, new, and modified stationary sources and facilities. The provisions of Sections 510 through 516 do not apply to stack heights in existence, or dispersion techniques implemented, on or before December 31, 1970, except where regulated or toxic air pollutant(s) are being emitted from such stacks or using such dispersion techniques by sources which were constructed, or reconstructed, or for which major modifications were carried out, after December 31, 1970. ( )

512. DEFINITIONS.
For the purpose of Sections 500 through 516: ( )

01. Dispersion Technique. Any technique which attempts to affect the concentration of a regulated or toxic air pollutant in the ambient air by: ( )

a. Using that portion of a stack which exceeds good engineering practice stack height; ( )

b. Varying the rate of emission of a regulated or toxic air pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or ( )

c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one (1) stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include the reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the

temperature at which it was originally discharged from the facility generating the gas stream; smoke management in agricultural or silvicultural prescribed burning programs; episodic restrictions on residential woodburning and open burning; techniques which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed five thousand (5,000) tons per year; or the merging of exhaust gas streams where: ( )

i. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams; ( )

ii. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a regulated or toxic air pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the regulated or toxic air pollutant affected by such change in operation; or ( )

iii. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, the reviewing agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source. ( )

02. Excessive Concentration. For the purpose of determining good engineering practice stack height in a fluid modeling evaluation or field study as provided for in Subsection 512.03.c. "Excessive Concentration" means: ( )

a. For sources seeking credit for stack height exceeding that established under Subsection 512.03.b., a maximum ground level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such effects, and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under Subsection 512.02.a., shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Department, an alternative emission rate shall be established in consultation with the source owner or operator. ( )

b. For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under Subsection 512.03.b., either: ( )

i. A maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects as provided in Subsection 512.02.a., except that the emission rate specified by any applicable SIP or, in the absence of such a limit, the actual emission rate shall be used; or ( )

ii. The actual presence of a local nuisance caused by the existing stack as determined by the authority administering the Department. ( )

c. For sources seeking credit after January 12, 1979, for a stack height determined under Subsection 512.03.b., where the Department requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subsection 512.03.b., a maximum ground-level

concentration due in whole or in part to downwash, wakes or eddy effects that is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects. ( )

03. Good Engineering Practice (GEP) Stack Height. The greater of: ( )

a. Sixty-five (65) meters, measured from the ground-level elevation at the base of the stack; ( )

b. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required,

$H = 2.5S$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation. For all other stacks provided that the Department may require the use of a field study or fluid model to verify GEP stack height for the source,

$H = S + 1.5L$

where: ( )

i. H = good engineering practice stack height measured from the ground-level elevation at the base of the stack. ( )

ii. S = height of nearby structure(s) measured from the ground-level elevation at the base of the stack. ( )

iii. L = lesser dimension, height or projected width, of nearby structure(s). ( )

c. The height demonstrated by a fluid model or a field study approved by the Department which ensures that the emissions from a stack do not result in excessive concentrations of any regulated or toxic air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, structures, or terrain features. ( )

04. Nearby Structures or Terrain Features. "Nearby" as applied to a specific structure or terrain feature under the definition of "good engineering practice stack height"; and ( )

a. For purposes of applying the formulae provided under Subsection 512.03.b., means that distance up to five (5) times the lesser of the height or the width dimension of a structure, but not greater than one-half (1/2) mile (0.8 km); and ( )

b. For conducting demonstrations under Subsection 512.03.c., means not greater than one-half (0.5) mile (0.8 km), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten (10) times the maximum height of the feature, not to exceed two (2) miles if such feature achieves a height one-half (0.5) mile (0.8 km) from the stack that is at least forty percent (40%) of the GEP stack height determined by the formulae provided in Subsection 512.03.b., or twenty-six (26) meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack. ( )

05. Stack in Existence. The owner or operator had: ( )

a. Begun, or caused to begin, a continuous program of physical on-site construction of the stack; or ( )

b. Entered into binding agreements or contractual obligations which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time. ( )

513. REQUIREMENTS.

The required degree of emission control of any regulated or toxic air pollutant shall not be affected by the amount of any stack height that exceeds good engineering practice (GEP) or by any other dispersion technique. ( )

514. OPPORTUNITY FOR PUBLIC HEARING.
Whenever a new or revised emission limitation is to be based on a good engineering practice stack height that exceeds the height allowed by the formulae in Subsections 512.03.a. and 512.03.b., the Department will notify the public of the availability of the demonstration study submitted under Subsection 512.03.c., and will provide an opportunity for public hearing on the demonstration study. ( )

515. APPROVAL OF FIELD STUDIES AND FLUID MODELS.
Any field study or fluid model used to demonstrate GEP stack height under Subsection 512.03.b. or 512.03.c., and any determination of "excessive concentration" under Subsection 512.02 must be approved by the EPA prior to an emission limit being established. The construction of any new stack, or any increase to the height of any existing stack to the height determined by the formulae in Subsection 512.03.b., without completing a fluid model and a field study must be approved by the EPA. ( )

516. NO RESTRICTION ON ACTUAL STACK HEIGHT.
The provisions of Sections 510 through 516 do not restrict, in any manner, the actual stack height of any stationary source or facility. ( )

517. MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM.

01. Purpose. The purpose of Sections 517 through 527 is to set forth the minimum standards for a motor vehicle inspection and maintenance program, established pursuant to Section 39-116B, Idaho Code, for registered motor vehicles as defined in Section 49-123, Idaho Code. This program is designed to follow the basic inspection and maintenance program defined in 40 CFR 51.352. ( )

02. Applicability. Sections 517 through 527 apply only to the counties of Ada and Canyon and the cities of Boise, Eagle, Garden City, Meridian, Kuna, Star, Caldwell, Greenleaf, Melba, Middleton, Nampa, Notus, Parma, and Wilder. ( )

03. Options. ( )

a. Section 39-116B, Idaho Code, provides the counties and cities listed in Subsection 517.02 with the following implementation options. The counties and cities may: ( )

i. Enter into a joint exercise of powers agreement with the Director to implement a motor vehicle inspection and maintenance program; or ( )

ii. Obtain Department approval to implement an alternative motor vehicle emissions control strategy that will result in emissions reductions equivalent to that of a motor vehicle inspection and maintenance program. ( )

b. If neither of the options listed in Subsection 517.03.a. are selected, the Department shall implement the motor vehicle inspection and maintenance program. ( )

04. Governing Authority. For the purpose of Sections 517 through 527, governing authority means the governing entity responsible for the development and implementation of the motor vehicle inspection and maintenance program. The governing entity may be the counties and cities listed in Subsection 517.02 or the Department. The governing authority shall adopt Sections 517 through 527 of these rules. ( )

05. Exemptions. Sections 517 through 527 do not apply to the following: ( )

a. Electric or hybrid motor vehicles; ( )

b. Motor vehicles with a model year less than five (5) years old; ( )

c. Motor vehicles with a model year older than 1981; ( )

d. Classic automobiles as defined by Section 49-406A, Idaho Code; ( )

e. Motor vehicles with a maximum vehicle gross weight of less than fifteen hundred (1500) pounds; ( )

f. Motor vehicles registered as motor homes as defined by Section 49-114, Idaho Code; ( )

g. Motorized farm equipment; and ( )

h. Registered motor vehicles engaged solely in the business of agriculture. ( )

518. REQUIREMENTS FOR LICENSING AUTHORIZED INSPECTION STATIONS OR RETEST STATIONS.

01. General. ( )

a. No person or enterprise shall in any manner represent any place as an inspection station or retest station unless such station is operated under a valid license issued by the governing authority. ( )

b. No license for any inspection station or retest station may be assigned, transferred or used by other than the original applicant for that specific station. ( )

02. Applications for License. Applications for license as an inspection station or retest station shall be made on the forms provided by the governing authority. No license shall be issued unless the governing authority finds that the facilities, tools and equipment of the applicant comply with the requirements set forth in Subsections 518.03 or 518.04. ( )

03. Requirements for Licensed Inspection Stations. In order to qualify for issuance and continuance of an inspection station license, an establishment must meet the following requirements: ( )

a. Must have a permanent location; ( )

b. Must ensure that at least one employee, who has been issued an emissions technician license by the governing authority, is on duty at all times of station operation; ( )

c. Must demonstrate the ability to perform the emissions test and comply with reporting and recordkeeping requirements established by the governing authority; ( )

d. Must obtain and maintain in force appropriate business liability insurance; and ( )

e. Must have the tools, equipment and supplies, as required by the governing authority, available for performance of the emissions test. ( )

04. Requirements for Licensed Retest Stations. In order to qualify for issuance and continuance of a retest station license, an establishment must meet the requirements listed in Subsection 518.03. ( )

05. Approval Procedure. ( )

a. Applications received by the governing authority will be reviewed for completeness and an inspection of the facility will be performed. An inspection report will be prepared for the governing authority's review. ( )

b. Stations which meet the requirements of Subsections 518.01 through 518.04 will be granted an inspection station license or retest station license and issued a station sign. The station sign and license shall be posted in a conspicuous place, readily visible to the public. The station sign and license shall remain the property of the governing authority. ( )

06. Revocation of Inspection Station or Retest Station License. The governing authority has the

authority to issue warnings and suspend or revoke a station license upon a showing that emission tests are not being performed in accordance with these rules and any other specifications or procedures enacted by the governing authority. ( )

519. REQUIREMENTS FOR LICENSING AUTHORIZED EMISSIONS TECHNICIANS.

01. Applications for License. Application for a license as an emissions technician shall be filed with the governing authority. Applications for the emissions technician license shall be completed on forms provided by the governing authority. ( )

02. Requirements for Issuance of an Emissions Technician License. An applicant must demonstrate the knowledge and skill necessary to perform an emissions test of motor vehicle engines. The governing authority shall require the minimum standards set forth in 40 CFR 51.367, incorporated by reference into these rules at Section 107. ( )

03. Revocation of Emissions Technician License. The governing authority has the authority to issue warnings and suspend or revoke an emissions technician license upon a showing that emission tests are not being performed in accordance with these rules or any other specifications or procedures enacted by the governing authority. ( )

520. INSPECTION FREQUENCY.
The inspections shall occur no more than once every two (2) years. If the owner of the motor vehicle obtains a waiver pursuant to Section 526, the motor vehicle must be inspected the following year. ( )

521. TEST PROCEDURE REQUIREMENTS.
The governing authority shall require the minimum standards set forth in 40 CFR 51.357(a), incorporated by reference into these rules at Section 107. ( )

522. TEST STANDARDS.
The governing authority shall require the minimum standards set forth in 40 CFR 51.357(b), incorporated by reference into these rules at Section 107. ( )

523. TEST EQUIPMENT.
The governing authority shall require the minimum standards set forth in 40 CFR 51.358, incorporated by reference in to these rules at Section 107. ( )

524. INSPECTION FEE.
The fee for a motor vehicle inspection, as established in Section 39-116B(2)(g), Idaho Code, shall not exceed twenty dollars ($20) per vehicle. This fee is necessary to carry out the provisions of Sections 517 through 527 and to fund an air quality public awareness and outreach program. ( )

525. PUBLIC OUTREACH.
The governing authority shall issue a pamphlet for distribution to owners of motor vehicles. The pamphlet shall include, but not be limited to, the reasons for and the methods of the inspection. The governing authority may also establish and operate an informational hotline, website, or any other means of outreach that is deemed to be efficient and effective by the governing authority. ( )

526. WAIVERS.
The governing authority shall require the minimum standards set forth in 40 CFR 51.360(a), incorporated by reference into these rules at Section 107. If the owner of the motor vehicle obtains a waiver, the motor vehicle must be inspected the following year. ( )

01. Financial Hardship. If repairs required under Section 526 pose a financial hardship on the owner of the motor vehicle, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a). Such determination of hardship shall be made on a case-by-case basis by the governing authority. ( )

02. Public Service Vehicles Operating Less than 1,000 Miles Per Year. For public service vehicles owned by a governmental entity and operated less than one thousand (1,000) miles per year, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a). ( )

527. EXTENSIONS.
The governing authority shall have the authority to grant extensions for vehicles or vehicle owners temporarily located outside of a testing area that cannot easily be returned to an area for testing. The extension shall not exceed one (1) year. For active duty military personnel and their families stationed outside the applicable testing area specified in Subsection 517.02, a time extension not to exceed the testing period is available. Military extensions shall be renewed with current military orders. ( )

528. -- 549. (RESERVED)

550. AIR POLLUTION EMERGENCY RULE.
The purpose of Sections 550 through 562 is to define criteria for an air pollution emergency, to formulate a plan for preventing or alleviating such an emergency, and to specify rules for carrying out the plan. The procedures for implementing Sections 550 through 562 are delineated in Chapter VI of the SIP. ( )

551. EPISODE CRITERIA.
The purpose of Sections 551 through 556 is to establish criteria for stages of atmospheric stagnation and/or degraded air quality. ( )

552. STAGES.
The Department has defined four (4) stages of atmospheric stagnation and/or degraded air quality. ( )

01. Stage 1 -- Air Pollution Forecast and Caution. An internal watch by the Department shall be actuated by a National Weather Service report that an Atmospheric Stagnation Advisory has been issued, or the equivalent local forecast of stagnant atmospheric conditions. ( )

02. Stage 2 -- Alert. This is the first stage at which air pollution control actions by industrial sources are to begin. ( )

03. Stage 3 -- Warning. The warning stage indicates that air quality is further degraded and that control actions are necessary to maintain or improve air quality. ( )

04. Stage 4 -- Emergency. The emergency stage indicates that air quality has degraded to a level that will substantially endanger the public health and that the most stringent control actions are necessary. ( )

553. EFFECT OF STAGES.
Once an episode stage is reached or the Department determines that reaching a particular stage is imminent, emergency action corresponding to that stage will remain in effect until air quality measurements indicate that another stage (either lower or higher) has been attained or the Department determines that reaching another stage (either lower or higher) is imminent. At such time, actions corresponding to the next stage will go into effect. This procedure will continue until the episode is terminated. The air quality criteria used to define each of the episode stages for carbon monoxide, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide are specified in Section 556. The levels will be determined by the Department through its analysis of meteorological and ambient air quality monitoring data. ( )

554. -- 555. (RESERVED)

556. CRITERIA FOR DEFINING LEVELS WITHIN STAGES.
The air quality criteria defining each of these levels for carbon monoxide (CO), nitrogen dioxide (NO2), ozone (03), particles with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers (PM-10), particles with an aerodynamic diameter less than or equal to a nominal two point five (2.5) micrometers (PM-2.5), and sulfur dioxide (SO2) are: ( )

01. Stage 1 -- Forecast and Caution. A Stage 1 Forecast and Caution shall be declared by the Department when particulate concentrations reach, or are forecasted to reach, and persist, at or above the levels listed below. The Department may call a Stage 1 Forecast and Caution, if it determines, after evaluating the pertinent meteorology, weather conditions and air quality conditions such as visibility, and source parameters such as source type, strength, location and projected duration, that a Stage 1 Forecast and Caution is required to protect the public health.

CO	NA
NO2	NA
O3	NA
SO2	NA
PM-2.5	80 ug/m3 1 hour average
PM-2.5	50 ug/m3 24 hour average
PM-10	385 ug/m3 1 hour average
PM-10	150 mg/m3 24 hour average

( )

02. Stage 2 -- Alert.

CO - 17 mg/m3 (15 ppm)	8-hour average
NO_2 - 1130 ug/m3 (0.6 ppm)	1-hour average
- 282 ug/m3 (0.15 ppm)	24-hour average
O_3 - 400 ug/m3 (0.2 ppm)	1-hour average
PM-10 - 350 ug/m3	24-hour average
SO_2 - 800 ug/m3 (0.3 ppm)	24-hour average

( )

03. Stage 3 -- Warning.

CO - 34 mg/m3 (30 ppm)	8-hour average
NO_2 - 2260 ug/m3 (1.2 ppm),	1-hour average
- 565 ug/m3 (0.3 ppm)	24-hour average
O_3 - 800 ug/m3 (0.4 ppm)	1-hour average
PM-10 - 420 ug/m3	24-hour average
SO_2 - 1600 ug/m3 (0.6 ppm)	24-hour average

( )

04. Stage 4 -- Emergency.

CO - 46 mg/m3 (40 ppm)	8-hour average
NO_2 - 3000 ug/m3 (1.6 ppm)	1-hour average
- 750 ug/m3 (0.4 ppm)	24-hour average

O_3 - 1000 ug/m3 (0.5 ppm)	1-hour average
PM-10 - 500 ug/m3	24-hour average
SO_2 - 2100 ug/m3 (0.8 ppm)	24-hour average

( )

557. PUBLIC NOTIFICATION.
The purpose of Sections 557 through 560 is to establish requirements for public notification regarding atmospheric stagnation and/or degraded air quality. ( )

558. INFORMATION TO BE GIVEN.

01. Information to Be Given. On the basis of degrading air quality as determined by the Director, and the criteria for emergency episode stages as shown in Section 556, the Director will utilize appropriate media and techniques including, but not limited to, print, electronic and internet, to insure that the following information is announced to the public, affected government, and commercial, industrial institutional and agricultural entities as practicable: ( )

a. Definition of the extent of the problem; ( )

b. Indication of the action taken by the Director; ( )

c. Air pollution forecast for next few days; ( )

d. Notice of when the next statement from the Department will be issued; ( )

e. Listing of all general procedures which the public, commercial, institutional and industrial sectors are required to follow; ( )

f. Specific warnings and advice to those persons who because of acute or chronic health problems, may be most susceptible to the effects of the episode. ( )

g. Location and description of the affected area. ( )

559. MANNER AND FREQUENCY OF NOTIFICATION.
Such announcements will be made by the news media during regularly scheduled television and radio news broadcasts and in all editions of specified newspapers. In addition, when the stage 4 emergency level is reached, television and radio stations designated by the Department will repeat these announcements at one (1) hour intervals during normal broadcasting hours. ( )

560. NOTIFICATION TO SOURCES.
The Department will assure that all significant sources of the applicable air pollutant(s) are notified of the emergency stage by telephone or other appropriate means. ( )

561. GENERAL RULES.
All persons in the designated stricken area shall be governed by the following rules for each emergency episode stage. The Director may waive one (1) or more of the required measures at each episode stage if, on the basis of information available to him, he judges that a measure is an inappropriate response to the specific episode conditions which then exist. ( )

01. Stage 1 -- Air Pollution Forecast and Caution. There shall be no new ignition of open burning of any kind. The Director may require, if practicable, or in an emergency situation, the cessation of any open burning. ( )

02. Stage 2 -- Alert. ( )

a. There shall be no open burning of any kind. ( )

b. The use of burners and incinerators for the disposal of any form of solid waste shall be prohibited. ( )

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. ( )

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to switch to natural gas or distillate oil if available. ( )

03. Stage 3 -- Warning. ( )

a. There shall be no open burning of any kind. ( )

b. The use of burners and incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited. ( )

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. ( )

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel are required to either: ( )

i. Switch completely to natural gas or distillate oil; or ( )

ii. If these low sulfur fuels are not available, curtail the use of existing fuels to the extent possible without causing injury to persons or damage to equipment. ( )

04. Stage 4 -- Emergency. This will be called only with specific concurrence of Governor. ( )

a. There shall be no open burning of any kind. ( )

b. The use of burners and incinerators for the disposal of any form of solid or liquid waste shall be prohibited. ( )

c. All places of employment described below shall immediately cease operations: ( )

i. All mining and quarrying operations; ( )

ii. All construction work except that which must proceed to avoid injury to persons; ( )

iii. All manufacturing establishments except those required to have in force an air pollution emergency plan; ( )

iv. All wholesale trade establishments, i.e. places of business primarily engaged in selling merchandise to retailers or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies except those engaged in the distribution of drugs, surgical supplies and food; ( )

v. All offices of local, county and State government including authorities, joint meetings, and other public bodies excepting such agencies which are determined by the chief administrative officer of local, county, or State government authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order; ( )

vi. All retail trade establishments except pharmacies, surgical supply distributors, and stores primarily

engaged in the sale of food; ( )

vii. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices; ( )

viii. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops; ( )

ix. Advertising offices, consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting; photocopying, mailing, mailing list and stenographic services; equipment rental services, commercial testing laboratories; ( )

x. Automobile repair, automobile services, garages except those located adjacent to state or interstate highways; ( )

xi. Establishments rendering amusement and recreational services including motion picture theaters; ( )

xii. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries. ( )

d. All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of the applicable air pollutant(s) from their operation by ceasing, curtailing, or postponing operations which emit the applicable air pollutants to the extent possible without causing injury to persons or damage to equipment. These actions include limiting boiler lancing or soot blowing operations for fuel burning equipment to between the hours of 12:00 pm (noon) and 4:00 p.m. ( )

e. When the emergency episode is declared for carbon monoxide, the use of motor vehicles is prohibited except in emergencies or with the approval of local or state police or the Department. ( )

562. SPECIFIC EMERGENCY EPISODE ABATEMENT PLANS FOR POINT SOURCES.
In addition to the general rules presented in Section 561, the Department shall require that specific point sources adopt and implement their own Emergency Episode Abatement Plans in accordance with the criteria set forth in Sections 551 through 556. An individual plan can be revised periodically by the Department after consultation between the Department and the owners and/or operators of the source. ( )

563. TRANSPORTATION CONFORMITY.
The purpose of Sections 563 through 574 is to adopt and implement Section 176(c) of the Clean Air Act (CAA), as amended [42 U.S.C. 7401 et seq.], and the related requirements of 23 U.S.C. 109(j), with respect to the conformity of transportation plans, programs, and projects developed, funded, or approved by the United States Department of Transportation (USDOT), and by metropolitan planning organizations (MPOs) or other recipients of funds under Title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). These sections set forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to Section 110 and Part D of the CAA. The publications referred to in Sections 563 through 574 are available from the IDEQ. ( )

564. (RESERVED)

565. ABBREVIATIONS.

01. **CAA**. Clean Air Act, as amended. ( )

02. **CFR**. Code of Federal Regulations. ( )

03. **CO**. Carbon Monoxide. ( )

04. **EPA**. Environmental Protection Agency. ( )

05. **FHWA**. Federal Highway Administration of USDOT. ( )

06. **FTA**. Federal Transit Administration of USDOT. ( )

07. **HPMS**. Highway Performance Monitoring System. ( )

08. **ICC**. Interagency Consultation Committee. ( )

09. **IDEQ**. Idaho Department of Environmental Quality. ( )

10. **ITD**. Idaho Transportation Department. ( )

11. **LHTAC** Local Highway Technical Assistance Council. ( )

12. **LRTP**. Long Range Transportation Plan. ( )

13. **MPO**. Metropolitan Planning Organization. ( )

14. **NAAQS**. National Ambient Air Quality Standards. ( )

15. **NEPA**. National Environmental Policy Act, as amended. ( )

16. **O3**. Ozone. ( )

17. **PM**. Particulate matter. ( )

18. **PMx**. Particles with an aerodynamic diameter less than or equal to a nominal X micrometers, where X denotes any size fraction number regulated by the NAAQs (e.g.: 10, 2.5). ( )

19. **STIP**. Statewide Transportation Improvement Program. ( )

20. **TCM**. Transportation Control Measure. ( )

21. **TIP**. Transportation Improvement Program. ( )

22. **USDOT**. United States Department of Transportation. ( )

23. **VMT**. Vehicle Miles Traveled. ( )

566. DEFINITIONS FOR THE PURPOSE OF SECTIONS 563 THROUGH 574 AND 582.
Terms used but not defined in Sections 563 through 574 and 582 shall have the meaning given them by the CAA, Titles 23 and 49 U.S.C., other Environmental Protection Agency (EPA) regulations, or other USDOT regulations, in that order of priority. For the purpose of Sections 563 through 574 and 582: ( )

01. **Applicable Implementation Plan**. Applicable Implementation Plan is defined in Section 302(q) of the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under Section 110 of the CAA, or promulgated under Section 110(c) of the CAA, or promulgated or approved pursuant to regulations promulgated under Section 301(d) of the CAA and which implements the relevant requirements of the CAA. ( )

02. **Consult or Consultation**. The lead agency confers with other ICC members and persons on the distribution list and considers their views prior to taking actions relating to transportation conformity. The lead agency shall distribute all appropriate information necessary to make a conformity determination and, prior to making a conformity determination, shall consider the views of such parties and shall provide a timely, written response to those views. Such views and written responses shall be included in the record of decision or action. Consultation shall not occur with respect to a transportation plan or transportation improvement program (TIP)

revision that merely adds or exempts projects listed in 40 CFR 93.126. ( )

03. Distribute. Make available relevant documents and information by electronic and manual means, whichever is more appropriate, to all ICC members and persons on the distribution list. Electronic distribution may include existing and future technological applications, such as electronic mail, internet web-site posting including downloadable files, or the use of an electronic mail reply system based on the distribution list. Manual distribution may include the United States Postal Service, the state internal mail system, a facsimile machine, or any commercially available mail service provider. ( )

04. Distribution List. A list containing the names and addresses of ICC members and any person(s) expressing an interest in receiving information and material pertaining to ICC meetings. To express interest, a person may contact the lead agency by postal mail, electronic mail, telephone or in person, and inform the ICC member of their interest in being on the distribution list for information and material pertaining to ICC meetings. ( )

05. Exempt Projects. Projects exempt from conformity requirements based on the general criteria of safety, mass transit, and other factors, as described in 40 CFR 93.126. ( )

06. Lead Agency. The transportation or air quality agency responsible for conducting the consultation process, as identified in Subsections 568.01 through 568.03. ( )

07. Lead Air Quality Agency. An agency designated pursuant to Section 174 of the CAA as responsible for developing an applicable implementation plan, or alternatively the agency designated by the Governor as the lead air quality agency for a county, region, or any jurisdiction. ( )

08. Local Highway Jurisdiction. A county with jurisdiction over a highway system, a city with jurisdiction over a highway system, or a highway district, as defined by Section 40-113(3), Idaho Code. ( )

09. Local Highway Technical Assistance Council (LHTAC). The public agency created in Chapter 24, Title 40, Idaho Code. ( )

10. Maximum Priority. ( )

a. All possible actions must be taken to shorten the time periods necessary to complete essential steps in TCM implementation - for example, by increasing the funding rate - even though timing of other projects may be affected. It is not permissible to have prospective discrepancies with the applicable implementation plan's TCM implementation schedule due to: ( )

i. Lack of funding in the TIP; ( )

ii. Lack of commitment to the project by the sponsoring agency; ( )

iii. Unreasonably long periods to complete future work due to lack of staff or other agency resources; ( )

iv. Lack of approval or consent by local governmental bodies; or ( )

v. Failure to have applied for a permit where necessary work preliminary to such application has been completed. ( )

b. Where statewide and metropolitan funding resources, planning, and management capabilities are fully consumed within the flexibility of the Transportation Equity Act of 1998 (TEA-21), Pub. L. No. 105-178, 112 Stat 107, as amended by Pub. L. No. 105-206, 112 Stat 685, or future federal omnibus transportation funding bills, with responding to damage from natural disasters, civil unrest, or terrorist acts, TCM implementation can be determined to be timely without regard to the above, provided reasonable efforts are being made. ( )

11. Metropolitan Planning Organization (MPO). The organization designated as being responsible, together with the State, for conducting the continuing cooperative and comprehensive transportation planning process

under 23 U.S.C. 134 and 49 U.S.C. 5303 and 23 CFR 450. It is the forum for cooperative transportation decision-making. ( )

12. **Public Notice**. Distribution of the meeting times, location, duration and agenda, to all the ICC members and persons on the distribution list. ( )

13. **Recipient of Funds Designated Under Title 23 U.S.C. or the Federal Transit Laws**. Any agency at any level of state, county, city, or regional government that routinely receives Title 23 U.S.C. or Federal Transit Laws funds to construct FHWA/FTA projects, operate FHWA/FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners, developers, contractors, or entities that are only paid for services or products created by their own employees. ( )

14. **Regionally Significant Project**. A transportation project, other than an exempt project, that is on a facility which serves regional transportation needs (such as access to and from the area outside the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including, at a minimum: ( )

a. All principal arterial highways; ( )

b. All fixed guideway transit facilities that offer an alternative to regional highway travel; and ( )

c. Any other facilities determined to be regionally significant through Section 570, interagency consultation. ( )

15. **Transportation Agency**. The public agency responsible for one (1) or more of the following transportation modes: ( )

a. Air; ( )

b. Rail; ( )

c. Water; ( )

d. Highway; ( )

e. Bicycle and pedestrian paths; and ( )

f. Transit. ( )

16. **Transit Agency**. Any agency involved in providing mass transportation services by bus, rail, or other conveyance providing general or special service to the public on a regular and continuing basis. The term "Transit Agency" does not include school buses or charter or sightseeing services. ( )

567. AGENCIES AFFECTED BY CONSULTATION.
This Section identifies those agencies and other entities (federal, tribal, state and local) involved in the consultation process and those general actions requiring consultation. ( )

01. **Interagency Consultation Committee**. A committee of representatives shall be formed in each nonattainment or maintenance area of the state, to convene on conformity determinations, as necessary, and shall be called the Interagency Consultation Committee (ICC) for that nonattainment or maintenance area. The ICC shall undertake consultation procedures, as applicable, in preparing for and before making conformity determinations in developing long-range transportation plans (LRTP), transportation improvement programs (TIP), and applicable implementation plans. ( )

02. **ICC Members**. The ICC shall consist of the following agencies or entities, as applicable: ( )

a. A Metropolitan Planning Organization (MPO) where one exists; ( )

b. The Idaho Transportation Department (ITD); ( )

c. The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) divisional office; ( )

d. The Idaho Department of Environmental Quality (IDEQ); ( )

e. Affected Local Highway Jurisdictions involved in transportation, ( )

f. Affected Transit agency(ies); ( )

g. The Local Highway Technical Assistance Council (LHTAC); ( )

h. Indian Tribal governments with transportation planning responsibilities; and ( )

i. The United States Environmental Protection Agency (EPA). ( )

03. Agencies Entitled to Participate. Agencies which may be affected by the consultation process and which are entitled to participate in the consultation process include: ( )

a. Any local transit agency or provider, local highway jurisdiction, and any city or county transportation or air quality board or agency where the nonattainment or maintenance area is located; and ( )

b. Any other state or federal or tribal organization in the state responsible under state or federal law for developing, submitting or implementing transportation related provisions of an implementation plan. ( )

04. More Than One Pollutant. Areas that are nonattainment for more than one (1) pollutant may conduct consultation, as specified in this section, through a single committee for all pollutants. ( )

05. Open to the Public. All meetings of the ICC shall be open to the public. ( )

06. Delegation. An ICC member may delegate its role or responsibility in the consultation process to another entity pursuant to applicable state law. An ICC member making such delegation shall notify all other ICC members in writing when the delegation occurs. The written notice shall provide the name, address, and telephone number of one (1) or more contact persons representing the entity accepting the delegated role or responsibility. ( )

07. General Actions Requiring Consultation. The ICC shall undertake the consultation process prior to the development of the following: ( )

a. The implementation plan(s), including the emission budget and list of TCMs in the applicable implementation plan(s), prepared by the lead air quality agency in a nonattainment or maintenance area; ( )

b. All other conformity determinations for transportation plans, projects, and programs; and ( )

c. Revisions to the preceding documents which may directly or indirectly affect conformity determinations. ( )

568. ICC MEMBER ROLES IN CONSULTATION.
The lead agency as identified in this section is the ICC member responsible for initiating the consultation process, preparing the initial and final drafts of the document or decision, and assuring the adequacy of the consultation process for all conformity processes and procedures. ( )

01. Designated Lead Air Quality Agency. IDEQ or the MPO, as the designated lead air quality

agency, shall be the lead agency for the development of the implementation plan, the associated emission budgets, and the list of Transportation Control Measures (TCMs) in the plan. The concurrence of IDEQ on each applicable implementation plan is required before IDEQ adopts the plan and submits it to EPA for inclusion in the applicable implementation plan. ( )

02. Areas with an MPO. For areas in which an MPO has been established, the designated MPO shall be the lead agency responsible for conformity determinations, development of the LRTP, development of the TIP, and project level documentation under 23 CFR 450. ( )

03. Areas Without an MPO. For areas in which an MPO has not been established, ITD shall be the lead agency for preparing the final document on conformity determinations, the development of the statewide transportation plan, the development of the STIP, and project level documentation under 23 CFR 450. ( )

569. ICC MEMBER RESPONSIBILITIES IN CONSULTATION.
This Section identifies the specific responsibilities of ICC members. ( )

01. Designated Lead Air Quality Agency Responsibilities. The designated lead air quality agency shall be responsible for developing or providing and distributing draft and final documentation, data and analyses for: ( )

a. Air emission inventories; ( )

b. Emission budgets; ( )

c. Attainment and maintenance demonstrations; ( )

d. Control strategy implementation plan revisions; ( )

e. Updated motor vehicle emission factors; ( )

f. Proposal and evaluation of TCMs; and ( )

g. Public outreach on draft air quality plans pursuant to 40 CFR Part 51. ( )

02. Designated MPO Responsibilities. The designated MPO shall be responsible for: ( )

a. Conformity determinations corresponding to LRTPs and TIPs; ( )

b. Making conformity determinations for the entire nonattainment or maintenance area, including areas beyond the boundaries of the MPO, where no agreement is in effect as required by 23 CFR 450.310(f); ( )

c. Identify regionally significant projects through the consultation process; ( )

d. Implementing TCMs in air quality nonattainment and/or maintenance areas, as applicable; ( )

e. Providing technical and policy input on emissions budgets; ( )

f. Performing transportation modeling, regional emissions analyses, and project level analysis, as necessary; ( )

g. Documenting timely implementation of TCMs, as required, for determining conformity; and ( )

h. Distributing relevant draft and final project environmental documents to ICC members and persons on the distribution list per the schedule in Subsection 570.01.c. ( )

03. Non-MPO Area Responsibilities. In areas without an established MPO, ITD shall be responsible for: ( )

a. Conformity determinations corresponding to STIPs and project-level analyses; ( )

b. Providing technical and policy input on proposed revisions to motor vehicle emissions factors and to emission budgets; ( )

c. Distributing relevant draft and final project environmental documentation prepared by, or for ITD, to ICC members and persons on the distribution list per the schedule in Subsection 570.01.c.; ( )

d. Convening air quality technical review meetings on specific projects when requested by other ICC members, or as needed; ( )

e. Convening interagency consultation meetings required for purposes of making conformity determinations in nonattainment or maintenance areas, outside of MPO boundaries, as necessary; ( )

f. Making conformity determinations in nonattainment or maintenance areas, outside of MPO boundaries, as necessary; and ( )

g. Implementing TCMs in air quality nonattainment and/or maintenance areas, as applicable. ( )

04. FHWA and FTA Responsibilities. FHWA and FTA shall be responsible for: ( )

a. Assuring timely action on final findings of conformity for transportation plans, TIPs, and federally funded projects, including the basis for those findings after consultation with other agencies as provided in Section 569 and 40 CFR 93.105; and ( )

b. Providing guidance on conformity and the transportation planning process to ICC members. FHWA and FTA may rely solely on the consultation process initiated by ITD or the MPO, where one exists, and shall not be required to duplicate that process. ( )

05. EPA Responsibilities. EPA shall be responsible for providing policy and technical guidance on conformity criteria to ICC members. ( )

06. Responsibility to Disclose Potentially Regionally Significant Projects. ITD, the local highway jurisdiction, transit agency, or transportation project sponsor shall be responsible for disclosing potentially regionally significant projects within air quality nonattainment and maintenance areas to the ICC in a timely manner. ( )

a. Local Highway Jurisdictions shall disclose of potentially regionally significant projects upon written request of ITD within fourteen (14) days of such request, or when annual local and MPO project lists are due to ITD District Offices as part of the annual STIP development process; ( )

b. In an MPO area, to help assure timely disclosure, the sponsor of any potentially regionally significant project shall disclose such projects to the MPO annually on or before March 1 of that calendar year; and ( )

c. In MPO nonattainment and maintenance areas, the TIP and associated conformity demonstration shall be deemed to be incomplete if any regionally significant project has not been disclosed to the ICC in a timely manner. Therefore, such a TIP shall be considered to be non-conforming to applicable implementation plan(s). ( )

570. GENERAL CONSULTATION PROCESS.

Section 570 provides the general procedures for interagency consultation (federal, tribal, state, and local) and public participation for transportation conformity determinations in air quality nonattainment and maintenance areas in the state of Idaho. ( )

01. Lead Agency in Consultation. The following are the responsibilities of the lead agency at each stage of the consultation process: ( )

a. Initiating the consultation process by notifying other ICC members of the document or decision that must undergo the consultation process and by scheduling and convening consultation meetings and agendas; ( )

b. Developing and maintaining a distribution list of all ICC members and any other persons expressing an interest in receiving information and materials pertaining to ICC meetings; ( )

c. Distributing an agenda and all supporting material, including minutes of ICC meetings, to ICC members and persons on the distribution list as follows: ( )

i. Fourteen (14) days in advance of an ICC meeting if there are non-technical issues to be resolved by the ICC; ( )

ii. Thirty (30) days in advance of an ICC meeting if there are technical issues to be resolved by the ICC; or ( )

iii. If distribution of technical material pursuant to Subsection 570.01.c.ii. is not feasible thirty (30) days prior to an ICC meeting, then the lead agency shall notify the ICC members and persons on the distribution list in writing at least thirty (30) days prior to the ICC meeting. Together with the notification, the lead agency shall distribute and disclose all available material and documentation to the ICC members and persons on the distribution list, informing them of the nature, purpose, and details of possible program changes that are expected to occur from earlier analyses of the actions. All technical material and documentation shall be distributed at a minimum of fourteen (14) days prior to the ICC meeting. ( )

d. Conferring with other agencies and persons not on the distribution list that have expressed an interest in the document or decision to be developed; ( )

e. Providing ICC members and persons on the distribution list access to all information needed for meaningful input; ( )

f. Soliciting early and continuing input from other ICC members and persons on the distribution list; ( )

g. Following the public consultation procedures outlined in Section 574; ( )

h. Providing an opportunity for informal question and answer on the draft document or proposed decision; ( )

i. Considering the views of ICC members and persons on the distribution list and responding in writing to significant comments in a timely and substantive manner prior to finalizing or taking any final action on those documents or determinations enumerated in Section 567.07.a. through 567.07.c.; and ( )

j. Assuring all comments and written responses of ICC members and persons on the distribution list are made part of the record of any action. ( )

02. Public Comment Period to Satisfy Thirty Day Document Distribution Requirement. A lead agency may use all or any part of another public comment period established for public outreach procedures pursuant to 23 CFR 450 for a transportation plan, program, or project to satisfy the thirty (30) day advance distribution requirement for technical issues, and shall notify all ICC members and other persons on the distribution list when so doing fourteen (14) days prior to commencement of the public comment period. ( )

03. Separate Times or in Combination. The above actions may be conducted at separate times or in combination, as required, to enhance the efficiency of the process. ( )

04. Final Document Distribution. A lead agency, upon completion of a final document subject to the consultation process under Sections 563 through 574 of these rules (including any federal agency), shall distribute each final document to all other ICC members and persons on the distribution list within thirty (30) days of adopting or approving such document or making such determination. ( )

05. Use of Checklist for Distribution of Material. The lead agency may supply a checklist of available supporting information to ICC members and persons on the distribution list to be used to request all or part of the supporting information, in lieu of generally distributing all supporting information. ( )

06. Use of Other Meetings for Consultation. A meeting that is scheduled or required for another purpose may be used for the purposes of consultation only if the public notice for the meeting identifies consultation as an agenda item. ( )

571. CONSULTATION PROCEDURES.
The consultation process among ICC members and persons on the distribution list shall be undertaken for the following specific major activities (federal, tribal, state, and local), specific routine activities and specific air quality related activities, in accordance with the procedures in Section 570. Participating agencies shall be all ICC members unless otherwise specified in Subsections 571.01 through 571.04. ( )

01. Specific Major Activities. The consultation process shall be undertaken for the following specific major activities. The lead agency for each activity shall be the designated MPO or ITD in the absence of an MPO. ( )

a. Evaluating and choosing each air quality model and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses including vehicle miles traveled forecasting. The hot-spot analyses shall be performed consistent with procedures described in 40 CFR 93.116 and 40 CFR 93.123 and regional emissions analysis shall be performed using procedures outlined on 40 CFR 93.122. ( )

b. Determining which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis, in addition to those functionally classified as principal arterial or higher or fixed guideway transit systems or extensions that offer an alternative to regional highway travel. ( )

c. Evaluating whether projects otherwise exempted from meeting the requirements of Sections 563 through 574 of these rules should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason per 40 CFR 93.126 and 127. ( )

d. Making a determination as to whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs. This consultation procedure shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs with other emission reduction measures. ( )

e. Identifying projects located at sites in PM nonattainment or maintenance areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM hot-spot analysis. In case a method for quantitative hot-spot analysis has not been formally adopted by EPA, a sound qualitative analysis developed in conjunction with FHWA may be used for the same. ( )

f. Making a determination whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, and whether the project's design concept and scope have changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility. ( )

g. For areas in the state with no MPOs, making a determination whether a project has undergone project-level analysis and whether the project's design concept and scope have changed significantly from those

which were included in the project-level analysis, or in a manner which would significantly impact use of the facility. ( )

h. Establishing appropriate public participation opportunities for project-level conformity determinations, as applicable, in the manner specified by Section 574, to be initiated by the recipient of the funds designated under 23 U.S.C. or the Federal Transit Act. ( )

i. Choosing conformity tests and methodologies for isolated and rural nonattainment and maintenance areas as required by 40 CFR 93.109(g)(2)(iii). ( )

02. Specific Routine Activities. The consultation process shall be undertaken for the following specific routine activities. The lead agency shall be the MPO or ITD in the absence of an MPO. ( )

a. Evaluating events that will trigger new conformity determinations in addition to those triggering events established in 40 CFR 93.104. Participating agencies shall be the MPO and state, tribal, regional, and local air quality planning agencies. ( )

b. Consulting on emissions analysis for transportation activities that cross the borders of MPOs or nonattainment or maintenance areas. Participating agencies shall be the MPO and state, tribal, regional, and local air quality planning agencies. ( )

c. Determining whether the project sponsor or MPO has demonstrated that the requirements are satisfied without a particular mitigation, such as emissions offsets or other control measures, or determining that a conforming project approved with mitigation no longer requires mitigation. ( )

d. Assuring that plans for construction of regionally significant projects that are not FHWA/FTA projects, including projects for which alternative locations, design concept and scope, or the no-build option are still being considered, are disclosed to the MPO or ITD in the absence of an MPO on a regular basis, and assuring that any changes to those plans are immediately disclosed. ( )

e. Determining whether a project, which was previously found to conform, has or will have a significant change in design concept and scope since the project plan and TIP conformity determination. ( )

f. Designing, scheduling, and funding of research and data collection effort pertaining to transportation or air quality planning with implications for transportation conformity. ( )

g. Reviewing and recommending regional transportation model development by the MPO (e.g., household/travel transportation surveys). ( )

h. Development of transportation improvement programs. ( )

i. Development of regional transportation plans. ( )

j. Consulting when the metropolitan planning area does not include the entire nonattainment area or maintenance area, for planning requirements which may fall under the jurisdiction of more than one (1) MPO or the MPO and ITD. ( )

03. Specific Air Quality Related Activities. The consultation process shall be undertaken when preparing an applicable implementation plan that includes the revision or addition of a motor vehicle emissions inventory and budget activities in accordance with the procedures in Section 570. Consultation is not required for administrative amendments that do not affect conformity. The lead agency for each activity shall be IDEQ or the MPO. In addition to the Section 570 consultation process, the lead agency shall undertake the following: ( )

a. Scheduling consultation meetings early in the process of decision on the applicable implementation plan, and prior to making a final recommendation to their management, committees, boards or commissions, for a final decision on such documents; ( )

b. Arranging for technical committees or teams to assist ICC members in reviewing documents provided by the lead agency. The lead agency may convene technical meetings as necessary; and ( )

c. Scheduling and conducting meetings of the ICC at regularly scheduled intervals, no less frequently than quarterly. ( )

d. The ICC may appoint subcommittees to address specific issues pertaining to applicable implementation plan development. Any recommendations of a subcommittee shall be considered by the ICC. ( )

04. Notification Process. The designated MPO, or ITD in the absence of an MPO, shall notify ICC members and persons on the distribution list of a transportation plan or TIP revisions that merely add or delete exempt projects listed in 40 CFR 93.126 early in the process of decision, and by supplying all relevant documents and information to the same. ( )

572. FINAL CONFORMITY DETERMINATIONS BY USDOT.
Section 572 establishes the process USDOT shall follow when making final determinations on proposed or anticipated transportation actions subject to transportation conformity. ( )

01. Final Conformity Determination Process. USDOT will make making final determinations on proposed or anticipated STIP or transportation plan or project conformity by: ( )

a. Distributing a draft conformity determination to EPA for review and comment. USDOT shall allow a maximum of thirty (30) days for EPA to respond; and ( )

b. USDOT shall respond in writing to any significant comments raised by EPA within fourteen (14) days of receipt in writing before making a final decision. ( )

02. New or Revised Information. If USDOT requests any new or revised information to support a STIP, TIP or transportation plan or project conformity determination, then USDOT shall either return the conformity determination for additional consultation pursuant to Section 570, or USDOT shall distribute the new information to the ICC members and persons on the distribution list for review and comment; ( )

a. When USDOT distributes such new or additional information to ICC members and persons on the distribution list, USDOT shall allow for a maximum of thirty (30) days for the lead agency to respond to any new or revised supporting information; and ( )

b. USDOT shall distribute a written response within fourteen (14) days of receipt to any significant comments raised by the ICC members and persons on the distribution list on the new or revised supporting information before making a final decision. ( )

573. RESOLVING CONFLICTS.
Conflicts between state agencies or between state agencies and the MPO regarding a determination of conformity, applicable implementation plan submittal, or other policy decision under Sections 563 through 574, shall be resolved in the following manner. ( )

01. Conflict Resolution at the Level of IDEQ Regions and ITD Districts. Every effort shall be made to resolve any conflicts among state agencies or between state agencies and an MPO at the regional level. The regional administrator of IDEQ, the District Engineer of ITD and the other agency managers at the regional level of the affected jurisdictions, or their designated representatives shall be involved in conflict resolution at the regional level. ( )

02. Conflict Resolution at the Level of IDEQ and ITD Headquarters. If conflict(s) are not resolved at the regional level, the issue shall be raised to the level of agency directors for resolution. ( )

03. Conflict Resolution at the Governor's Level. If conflict(s) are not resolved through Subsection 569.02, then IDEQ shall raise the conflict to the Governor, as follows: ( )

a. The IDEQ administrator shall request in writing that ITD or the MPO provide IDEQ with written notification of resolution of IDEQ's comments. ITD or the MPO shall provide IDEQ with the requested written notification within fourteen (14) days of receipt of IDEQ's written request. ( )

b. Within fourteen (14) days of its receipt of the requested written notification, IDEQ may appeal the conformity determination in writing to the Governor. If IDEQ appeals to the Governor, then the final conformity determination must have the concurrence of the Governor. If IDEQ does not appeal in writing to the Governor within fourteen (14) days of its receipt of written notification of resolution of it's comments, then the lead transportation agency may proceed with the final conformity determination. ( )

c. The fourteen (14) days shall start on the date when the IDEQ administrator receives notification of the written resolution of his comments regarding a determination of conformity, applicable implementation plan submittal, or other decision under Sections 563 through 574. ( )

04. Process for Conflict Resolution at the Governor's Level. The Governor may delegate to another independent official or agency within the state his or her role in this process. The Governor may not delegate his or her role to the head or staff of the state air quality agency or any local air quality agency, ITD, a state transportation commission or board, any agency that has responsibility for any one (1) of these functions, or an MPO. ( )

574. PUBLIC CONSULTATION PROCEDURES.

Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, reasonable public access to technical and policy information considered by the agency, and consistent with these requirements and those of 23 CFR 450. Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.95. In addition, these agencies must specifically address, in writing, all public comments relating to known plans for a regionally significant project, which is not receiving FHWA or FTA funding, or approval. This is especially important if the project's emissions have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. These agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law. ( )

575. AIR QUALITY STANDARDS AND AREA CLASSIFICATION.

Ambient Air Quality Standards. The purpose of Sections 575 through 587 is to establish air quality standards for the state of Idaho which define acceptable ambient concentrations consistent with established air quality criteria. ( )

576. GENERAL PROVISIONS FOR AMBIENT AIR QUALITY STANDARDS.

01. Applicability. The ambient air quality standards established herein shall apply to all of the state. ( )

02. Standard Conditions. Where applicable, air quality measurements shall be corrected to a reference temperature of twenty-five degrees Celsius (25C) and to a reference pressure of seven hundred and sixty (760) millimeters of mercury absolute. ( )

03. Revisions. As pertinent air quality criteria information becomes available, such information shall be considered and new or revised air quality standards promulgated as appropriate. ( )

04. Control of Unregulated Contaminants. The absence of an air quality standard for a specific contaminant shall not preclude action by the Department to control such contaminants to assure the health, welfare and comfort of the people of the State. ( )

05. Methods. All measurement techniques for determining compliance with 40 CFR Part 50 shall be consistent with those specified in 40 CFR Parts 50 and 53. ( )

577. AMBIENT AIR QUALITY STANDARDS FOR FLUORIDES.
Primary and secondary air quality standards are those concentrations in the ambient air which result in a total fluoride content in vegetation used for feed and forage of no more than: ( )

01. Annual Standard. Forty (40) ppm, dry basis -- annual arithmetic mean. ( )

02. Bimonthly Standard. Sixty (60) ppm, dry basis -- monthly concentration for two (2) consecutive months. ( )

03. Monthly Standard. Eighty (80) ppm, dry basis -- monthly concentration never to be exceeded. ( )

578. DESIGNATION OF ATTAINMENT, UNCLASSIFIABLE, AND NONATTAINMENT AREAS.

01. Annual Review. The Department shall annually review the available ambient air quality data and when appropriate, redesignate areas as attainment, unclassifiable or nonattainment with the standards in 40 CFR Part 50. ( )

02. Boundaries. Boundaries for such areas will be based, as much as possible, on actual ambient concentrations and shall take into account such things as the location of air pollutant sources, modeled air quality concentrations, terrain, geographical boundaries and political jurisdictions. ( )

03. Area Designation. Designation of attainment and unclassifiable areas shall generally be made on a county basis. Redesignation of attainment or unclassifiable areas cannot intersect or be smaller than the area of impact of any major facility or major modification which establishes the baseline date or is subject to a PSD permit. ( )

04. Redesignations. Redesignations shall be adopted by the Department after public notice and opportunity for a public hearing and will be submitted by the Governor (or if delegated, the Director) to the U.S. Environmental Protection Agency. ( )

579. BASELINES FOR PREVENTION OF SIGNIFICANT DETERIORATION.

01. Baseline Date(s). ( )

a. Major Source Baseline Date. ( )

i. In the case of PM_{10} and sulfur dioxide, January 6, 1975; ( )

ii. In the case of nitrogen dioxide, February 8, 1988; and ( )

iii. In the case of $PM_{2.5}$, October 20, 2010. ( )

b. Minor Source Baseline Date. The earliest date after the trigger date on which a major stationary source or a major modification subject to prevention of significant deterioration (PSD) submits a complete application. The trigger date is: ( )

i. In the case of PM_{10} and sulfur dioxide, August 7, 1977; and ( )

ii. In the case of nitrogen dioxide, February 8, 1988. ( )

iii. In the case of $PM_{2.5}$, October 20, 2011. ( )

c. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if: ( )

i. The area in which the proposed source or modification would construct is designated as attainment

or unclassifiable under Section 107(d) of the Clean Air Act for the pollutant on the date of its complete prevention of significant deterioration (PSD) application; and ( )

ii. In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant. ( )

d. Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that the Department may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Department, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM_{10} emissions. ( )

02. Baseline Area. Any intrastate area designated as attainment or unclassifiable under 42 U.S.C. Section 7407(d), in which the major facility or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than 1 $\mu g/m^3$ (annual average) for SO_2, NO_2, or PM_{10}; or equal or greater than 0.3 $\mu g/m^3$ (annual average) for $PM_{2.5}$. ( )

03. Baseline Concentration. The ambient concentration for a particular regulated air pollutant which exists in the applicable baseline area on the applicable minor source baseline date. ( )

a. The baseline concentration shall represent: ( )

i. The actual emissions from sources in existence on the applicable minor source baseline date; and ( )

ii. The allowable emissions of major facilities and major modifications which commenced construction before the applicable major source baseline date, but were not in operation by the applicable minor source baseline date. ( )

b. The baseline concentration shall not include the actual emissions of new major facilities and major modifications which commenced construction on or after the applicable major source baseline date. ( )

580. CLASSIFICATION OF PREVENTION OF SIGNIFICANT DETERIORATION AREAS.

01. Restrictions On Area Classification. ( )

a. All of the following areas which were in existence on August 7, 1977, are Class I and may not be redesignated: ( )

i. International parks; ( )

ii. National wilderness areas which exceed five thousand (5,000) acres; ( )

iii. National memorial parks which exceed five thousand (5,000) acres; ( )

iv. National parks which exceed six thousand (6,000) acres. ( )

b. The following areas are Class II and may be redesignated only as Class I or II: ( )

i. National monuments, national primitive areas, national preserves, national recreational areas, national wild and scenic rivers, national wildlife refuges, and national lakeshores or seashores which exceed ten thousand (10,000) acres; or ( )

ii. National parks or national wilderness areas established after August 7, 1977, which exceed ten thousand (10,000) acres. ( )

c. All other areas in the State are Class II and may be redesignated Class I, II or III. ( )

02. Procedures for Redesignation of Prevention of Significant Deterioration (PSD) Areas. The Governor may submit to the U.S. Environmental Protection Agency a proposal to redesignate areas as a revision to the SIP. In preparing any such proposal the Department shall: ( )

a. Consult with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation; ( )

b. Prepare a discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposal. This document will be made available for public inspection at least thirty (30) days prior to the public hearing on the proposed redesignation and the notice announcing the hearing will include notification of the availability of the document; ( )

c. Provide written notice to the appropriate Federal Land Manager of any federal lands proposed for redesignation and provide at least thirty (30) days for the Federal Land Manager to confer with the Department and to submit written comments and recommendations. If written comments and recommendations are submitted, the Department shall publish a list of any inconsistency between the proposed redesignation and the comments and recommendations, including the reasons for making a redesignation against the recommendation of the Federal Land Manager; ( )

d. Notify other states, Indian governing bodies, and federal land managers whose land may be affected by the proposed redesignation at least thirty (30) days prior to the public hearing; ( )

e. For a redesignation to Class III: After consulting with the appropriate committees of the legislature, if it is in session, or the leadership of the legislature, if it is not in session, obtain specific approval by the Governor and by all general purpose units of local government representing a majority of the residents of the area to be redesignated; demonstrate that the redesignation would not cause, or contribute to, violations of any ambient air quality standard, or violations of PSD increments in any other area; and make available, for public inspection prior to the public hearing, any permit application and accompanying material for any major facility or major modification which could only be permitted if the area were designated as Class III; and ( )

f. Hold at least one (1) public hearing on the proposed redesignation. ( )

581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS.

The purpose of Section 581 is to establish the allowable degree of deterioration for the areas within the State which have air quality better than the ambient standards. ( )

01. Incorporated Federal Program Requirements - Class I, II and III Areas. Class I, II, and III area PSD increment requirements contained in 40 CFR 52.21(c) are incorporated by reference into these rules at Section 107. These CFR sections have been codified in the electronic CFR at www.ecfr.gov. ( )

02. Exceedances. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location. ( )

03. Exclusions. The following concentrations shall be excluded in determining compliance with the maximum allowable increases: ( )

a. Concentrations attributable to the increase in emissions from facilities which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, over the emissions from such facilities before the effective date of such order or plan; this shall not apply more than five (5) years after the effective date of such order or plan; ( )

b. Concentrations of PM-10 attributable to the increase in emissions from construction or other

temporary emission-related activities of new or modified facilities; ( )

c. The increase in concentrations attributable to new facilities outside the United States over the concentrations attributable to existing facilities which are included in the baseline concentration; and ( )

d. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen dioxide, or particulate matter from facilities which are affected by a revision to the SIP approved by the U.S. Environmental Protection Agency; this exclusion shall not exceed two (2) years unless a longer time is approved by the U.S. Environmental Protection Agency, is not renewable, and applies only to revisions which: ( )

i. Would not affect the applicable pollutant concentrations in a Class I area or an area where an applicable increment is known to be violated and would not cause or contribute to a violation of an ambient air quality standard; and ( )

ii. Require limitations to be in effect at the end of the approved time period which would ensure that the emissions from facilities affected by the revision would not exceed those concentrations occurring before the revision was approved. ( )

582. -- 584. (RESERVED)

585. TOXIC AIR POLLUTANTS NON-CARCINOGENIC INCREMENTS.
The screening emissions levels (EL) and acceptable ambient concentrations (AAC) for non-carcinogens are as provided in the following table. The AAC in this section are twenty-four (24) hour averages. ( )

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
60-35-5	Acetamide (NY)	--	0.002	0.0003
64-19-7	Acetic acid	25	1.67	1.25
108-24-7	Acetic anhydride	20	1.33	1
67-64-1	Acetone	1780	119	89
75-05-8	Acetonitrile	67	4.47	3.35
540-59-0	Acetylene dichloride, See 1,2-Dichloroethylene			
79-27-6	Acetylene tetrabromide	15	1	.75
107-02-8	Acrolein	0.25	0.017	0.0125
79-10-7	Acrylic acid	30	2	1.5
107-18-6	Allyl alcohol	5	0.333	.25
106-92-3	Allyl glycidyl ether	22	1.47	1.1
2179-59-1	Allyl propyl disulfide	12	0.8	0.6
7429-90-5	Aluminum Including:			
NA	Metal & Oxide	10	0.667	0.5
NA	Pyro powders	5	0.333	0.25
NA	Soluble salts	2	0.133	0.10
NA	Alkyls not otherwise classified	2	0.133	0.10

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
141-43-5	2-Aminoethanol, See Ethanolamine			
504-29-0	2-Aminopyridine	2	0.133	0.10
7664-41-7	Ammonia	18	1.2	0.9
12125-02-9	Ammonium chloride fume	10	0.667	0.5
3825-26-1	Ammonium perfluo-octanoate	0.1	0.007	0.05
7773-06-0	Ammonium sulfamate	10	0.667	0.5
628-63-7	n-Amyl acetate	530	35.3	26.5
626-38-0	Sec-Amyl acetate	665	44.3	33.25
7440-36-0	Antimony & compounds, as Sb (handling & use)	0.5	0.033	0.025
86-88-4	ANTU	0.3	0.02	0.015
7784-42-1	Arsine	0.2	0.013	0.01
86-50-0	Azinphos-methyl	0.2	0.013	0.01
7440-39-3	Barium, soluble compounds, as Ba	0.5	0.033	0.025
17804-35-2	Benomyl	10	0.67	0.5
7106-51-4	p-Benzoquinone, See Quinone			
94-36-0	Benzoyl peroxide	5	0.333	0.25
92-52-4	Biphenyl	1.5	0.1	0.075
1304-82-1	Bismuth telluride undoped	10	0.667	0.05
NA	Bismuth telluride if selenium doped	5	0.333	0.25
1303-96-4	Borates, tetra odium salts - Including:			
NA	Anhydrous	1	0.067	0.05
NA	Decahydrate	5	0.333	0.25
NA	Pentahydrate	1	0.067	0.05
1303-86-2	Boron oxide	10	0.667	0.5
10294-33-4	Boron tribromide	10	0.667	0.5
7637-07-2	Boron trifluoride	3	0.2	0.25
314-40-9	Bromacil	10	0.667	0.5
7726-95-6	Bromine	0.7	0.047	0.035
7789-30-2	Bromine penta-fluoride	0.7	0.047	0.035
75-25-2	Bromoform	5	0.333	0.25
109-79-5	Butanethiol, see Butyl mercaptan			
78-93-3	2-Butanone, see Methyl ethyl ketone			
112-07-2	2-butoxyethyl acetate	---	8.33	1.25
111-76-2	2-Butoxyethanol (EGBG)	120	8	6

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
123-86-4	n-Butyl acetate	710	47.3	35.5
105-46-4	sec-Butyl acetate	950	63.3	47.5
540-88-5	tert-Butyl acetate	950	63.3	47.5
141-32-2	Butyl acrylate	55	3.67	2.75
71-36-3	n-Butyl alcohol	150	10	7.5
78-92-2	Sec-Butyl alcohol	305	20.3	15.25
75-65-0	tert-Butyl alcohol	300	20	15
109-73-9	Butylamine	15	1	.75
124-17-4	Butyl carbitol acetate (ID)	---	0.846	.625
1189-85-1	tert-Butyl chromate, as CrO3	0.1	0.007	.005
2426-08-6	n-Butyl glycidyl ether	135	9	6.75
138-22-7	n-Butyl lactate	25	1.67	1.25
109-79-5	Butyl mercaptan	1.8	0.12	0.09
89-72-5	o-sec-Butylphenol	30	2	1.5
98-51-1	p-tert-Butyltoluene	60	4	3
1317-65-3	Calcium carbonate	10	0.667	0.5
156-62-7	Calcium cyanamide	0.5	0.033	0.025
1305-62-0	Calcium hydroxide	5	0.333	0.25
1305-78-8	Calcium oxide	2	0.133	0.1
1344-95-2	Calcium silicate (synthetic)	10	0.667	0.5
13397-24-5	Calcium sulfate	10	0.667	0.5
76-22-2	Camphor, synthetic	12	0.8	0.6
105-60-2	Caprolactam - Including:			
	Dust	1	0.067	0.05
	Vapor	20	1.33	1.0
1333-86-4	Carbon black	3.5	0.23	0.175
2425-06-1	Captafol	0.1	0.007	0.005
133-06-2	Captan	5	0.333	0.25
463-58-1	Carbonyl sulfide	0.4	0.027	0.02
63-25-2	Carbaryl	5	0.333	0.25
1563-66-2	Carbofuran	0.1	0.007	0.005
75-15-0	Carbon disulfide	30	2	1.5
558-13-4	Carbon tetrabromide	1.4	0.093	0.07
75-44-5	Carbonyl chloride, See Phosgene			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
353-50-4	Carbonyl fluoride	5	0.333	0.25
120-80-9	Catechol	20	1.33	1.0
21351-79-1	Cesium hydroxide	2	0.133	0.10
133-90-4	Chloramben (PL)	---	887	133
8001-35-2	Chlorinated camphene	0.5	0.0333	0.025
31242-93-0	Chlorinated diphenyl oxide	0.5	0.033	0.025
7782-50-5	Chlorine	3	0.2	0.15
10049-04-4	Chlorine dioxide	0.3	0.02	0.015
7790-91-2	Chlorine trifluoride (CL)	0.38	0.025	0.002
107-20-0	Chloroacetaldehyde	0.32	0.021	0.015
78-95-5	Chloroacetone	0.38	0.0253	0.019
532-27-4	a-Chloroacetophenone	0.32	0.021	0.016
79-04-9	Chloroacetyl chloride	0.2	0.013	0.01
108-90-7	Chlorobenzene	350	23.3	17.5
510-15-6	Chlorobenzilate (PL1)	---	0.047	0.035
2698-41-1	O-Chlorobenzylidene malononitrile (CL)	0.4	0.0027	0.03
126-99-8	2-Chloro-1,3-butadiene, see B-Chloroprene			
107-07-3	2-Chloroethanol, see Ethylene chlorohydrin			
600-25-9	1-Chloro-1-nitro propane	10	0.667	0.5
95-57-8	2-Chlorophenol (and all isomers) (ID)	---	0.033	0.025
76-06-2	Chloropicrin	0.7	0.047	0.037
126-99-8	B-chloroprene	36	2.4	1.8
2039-87-4	o-Chlorostyrene	285	19	14.25
95-49-8	o-Chlorotoluene	250	16.7	12.5
1929-82-4	2-Chloro-6-(tri-chloromethyl) pyridine, see Nitrapyrin			
2921-88-2	Chlorpyrifos	0.2	0.013	0.01
7440-47-3	Chromium metal - Including:	0.5	0.033	0.025
7440-47-3	Chromium (II) compounds, as Cr	0.5	0.033	0.025
16065-83-1	Chromium (III) compounds, as Cr	0.5	0.033	0.025
2971-90-6	Clopidol	10	0.667	0.5
NA	Coal dust (<5% silica)	2	0.133	0.1
10210-68-1	Cobalt carbonyl as Co	0.1	0.007	0.005
16842-03-8	Cobalt hydrocarbonyl as Co	0.1	0.007	0.005
7440-48-4	Cobalt metal, dust, and fume	0.05	0.0033	0.0025

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7440-50-8	Copper:			
7440-50-8	Fume	0.2	0.013	0.01
7440-50-8	Dusts & mists, as Cu	1	0.067	0.05
95-48-7	o-Cresol	22	1.47	1.1
108-39-4	m-Cresol	22	1.47	1.1
106-44-5	p-Cresol	22	1.47	1.1
1319-77-3	Cresols/Cresylic Acid (isomers and mixtures)	22	1.47	1.1
123-73-9	Crotonaldehyde	5.7	0.38	0.285
299-86-5	Cruformate	5	0.333	0.25
98-82-8	Cumene	245	16.3	12.25
420-04-2	Cyanamide	2	0.133	0.1
592-01-8	Cyanide and compounds as CN	5	0.333	0.25
110-82-7	Cyclohexane	1050	70	52.5
108-93-0	Cyclohexanol	200	13.3	10
108-94-1	Cyclohexanone	100	6.67	5
110-83-8	Cyclohexene	1015	67.7	50.75
108-91-8	Cyclohexylamine	41	2.73	2.05
121-82-4	Cyclonite	1.5	0.1	0.075
542-92-7	Cyclopentadiene	200	13.3	10
287-92-3	Cyclopentane	1720	114.667	86
94-75-7	2,4-D	10	0.667	0.5
17702-41-9	Decaborane	0.3	0.02	0.015
8065-48-3	Demeton	0.1	0.007	0.005
123-42-2	Diacetone alcohol	240	16	12
39393-37-8	Dialkyl phthalate (ID)	---	16.4	2.46
107-15-3	1,2-Diaminoethane, See Ethylenediamine			
333-41-5	Diazinon	0.1	0.007	0.005
334-88-3	Diazomethane	0.34	0.023	0.017
19287-45-7	Diborane	0.1	0.007	0.005
102-81-8	2-N-Dibutylamino ethanol	14	0.933	0.7
2528-36-1	Dibutyl phenyl phosphate	3.5	0.233	0.175
107-66-4	Dibutyl phosphate	8.6	0.573	0.43
84-74-2	Dibutyl phthalate	5	0.333	0.25
7572-29-4	Dichloroacetylene	0.39	0.0026	0.0195

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
95-50-1	o-Dichlorobenzene	300	20	15
106-46-7	1,4-Dichlorobenzene	450	30	22.5
118-52-5	1,3-Dichloro-5, 5-dimethyl hydantoin	0.2	0.013	0.025
75-34-3	Dichloroethane	405	27	20.25
540-59-0	1,2-Dichloroethylene	790	52.7	39.5
111-44-4	Dichloroethyl ether	30	2	1.5
75-43-4	Dichlorofluoromethane	40	2.67	2
594-72-9	1, l-Dichloro-l-nitroethane	10	0.667	0.5
78-87-5	1,2-Dichloropropane, see Propylene dichloride			
75-99-0	2,2-Dichloropropionic acid	6	0.4	0.3
62-73-7	Dichlorvos	1	0.067	0.05
141-66-2	Dicrotophos	0.25	0.017	0.125
77-73-6	Dicyclopentadiene	30	2	1.5
102-54-5	Dicyclopentadienyl iron	10	0.667	0.5
111-42-2	Diethanolamine	15	1	0.75
109-89-7	Diethylamine	30	2	1.5
100-37-8	2-Diethylamino-ethanol	50	3.33	2.5
111-40-0	Diethylene triamine	4	0.267	0.2
60-29-7	Diethyl ether	1200	80	60
96-22-0	Diethyl Ketone	705	47	35.25
84-66-2	Diethyl phthalate	5	0.333	0.25
2238-07-5	Diglycidyl ether (DGE)	0.53	0.035	0.0265
123-31-9	Dihydroxybenzene, see Hydroquinone			
108-83-8	Diisobutyl ketone	145	9.67	7.25
108-18-9	Diisopropylamine	20	1.33	1
127-19-5	Dimethyl acetamide	35	2.33	1.75
124-40-3	Dimethylamine	9.2	0.613	0.46
60-11-7	Dimethyl aminoazo-benzene (NY)	---	0.002	0.0003
1300-73-8	Dimethylamino-benzene, see Xylidine			
121-69-7	Dimethylaniline (N,N-Dimethylaniline)	25	1.67	1.25
1330-20-7	Dimethylbenzene, see Xylene			
300-76-5	Dimethyl-1,2-dibromo-2-dichloroethyl phosphate, see Naled			
68-12-2	Dimethylformamide	30	2	1.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
108-83-8	2,6-Dimethyl-4-heptanone, see Diisobutyl ketone			
131-11-3	Dimethylphthalate	5	0.333	0.25
148-01-6	Dinitolmide	5	0.333	0.25
528-29-0	Dinitrobenzene	1	0.067	0.05
99-65-0	m (or) 1,3-Dinitrobenzene	1	0.067	0.05
100-25-4	p (or) 1,4-Dinitrobenzene	1	0.067	0.05
534-52-1	Dinitro-o-cresol	0.2	0.013	0.01
148-01-6	3,5-Dinitro-o-toluamide, see Dinitolmide			
117-84-0	N-Dioctyl Phthalate	5	0.333	0.25
78-34-2	Dioxathion	0.2	0.013	0.01
92-52-4	Diphenyl, see Biphenyl			
122-39-4	Diphenylamine	10	0.667	0.5
	Diphenyl methane diisocyanate, see Methylenediphenyl diisocyanate			
34590-94-8	Dipropylene glycol methyl ether	600	40	30
123-19-3	Dipropyl ketone	235	15.7	11.75
85-00-7	Diquat	0.5	0.033	0.01
97-77-8	Disulfiram	2	0.133	0.1
298-04-4	Disulfoton	0.1	0.007	0.005
128-37-0	2,6-Ditert. butyl-p-cresol	10	0.667	0.5
330-54-1	Diuron	10	0.667	0.5
108-57-6	Divinyl benzene	50	3.33	2.5
1302-74-5	Emery (corundum) total dust (> 1% silica)	10	0.667	0.5
115-29-7	Endosulfan	0.1	0.007	0.005
72-20-8	Endrin	0.1	0.007	0.005
13838-16-9	Enflurane	566	37.7	28.3
1395-21-7	Enzymes, see Subtilisins			
2104-64-5	EPN (Ethoxy-4-Nitro-phenoxy phenylphosphine)	0.5	0.033	0.025
106-88-7	1,2-Epoxybutane (MI)	---	0.8	0.6
75-56-9	1,2-Epoxypropane, see Propylene oxide			
556-52-5	2,3-Epoxy-1-propanol, see Glycidol			
75-08-1	Ethanethiol, see Ethyl mercaptan			
141-43-5	Ethanolamine	8	0.533	0.4
563-12-2	Ethion	0.4	0.027	0.02

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
110-80-5	2-Ethoxyethanol	19	1.27	0.95
111-15-9	2-Ethoxyethyl acetate (EGEEA)	27	1.8	1.35
141-78-6	Ethyl acetate	1400	93.3	70
64-17-5	Ethyl alcohol	1880	125	94
75-04-7	Ethylamine	18	1.2	0.9
541-85-5	Ethyl amyl ketone	130	8.67	6.5
100-41-4	Ethyl benzene	435	29	21.75
74-96-4	Ethyl bromide	22	1.47	1.1
106-35-4	Ethyl butyl ketone	230	15.3	11.5
51-79-6	Ethyl carbamate (Urethane) (WA)	---	0.002	0.0015
75-00-3	Ethyl chloride	2640	176	132
107-07-3	Ethylene chlorohydrin	3	0.2	0.15
107-15-3	Ethylenediamine	25	1.67	1.25
107-06-2	Ethylene dichloride	40	2.667	2
107-21-1	Ethylene glycol vapor (CL)	127	0.846	6.35
628-96-6	Ethylene glycol denigrate	0.31	0.021	0.016
110-49-6	Ethylene glycol methyl ether acetate, see 2-Methoxyethyl acetate			
96-45-7	Ethylene thiourea (PL2)	---	0.047	0.035
109-94-4	Ethyl formate	300	20	15
16219-75-3	Ethylidene norbornene (CL)	25	0.167	1.25
75-08-1	Ethyl mercaptan	1	0.067	0.05
100-74-3	N-Ethylmorpholine	23	1.53	1.15
78-10-4	Ethyl silicate	85	5.67	4.25
22224-92-6	Fenamiphos	0.1	0.007	0.005
115-90-2	Fensulfothion	0.1	0.007	0.005
55-38-9	Fenthion	0.2	0.013	0.01
14484-64-1	Ferbam	10	0.667	0.5
12604-58-9	Ferrovanadium dust	1	0.067	0.05
NA	Fibrous glass dust	10	0.667	0.5
NA	Fine Mineral Fibers - Including: mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less. (ID)	--	0.661	0.5
NA	Fluorides, as F	2.5	0.167	0.125

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7782-41-4	Fluorine	2	0.133	0.1
944-22-9	Fonofos	0.1	0.007	0.005
75-12-7	Formamide	30	2	1.5
64-18-6	Formic acid	9.4	0.627	0.47
98-01-1	Furfural	8	0.533	0.4
98-00-0	Furfuryl alcohol	40	2.67	2
7782-65-2	Germanium tetrahydride	0.6	0.04	0.03
NA	Glass, Fibrous or dust, see Fibrous glass dust			
111-30-8	Glutaraldehyde (CL)	0.82	0.0047	0.041
556-52-5	Glycidol	75	5	3.75
110-80-5	Glycol monoethyl ether, see 2-Ethoxyethanol			
7440-58-6	Hafnium	0.5	0.033	0.025
110-43-0	2-Heptanone, see Methyl n-amyl ketone			
106-35-4	3-Heptanone, see Ethyl butyl ketone			
151-67-7	Halothane	404	26.9	20.2
142-82-5	Heptane (n-Heptane)	1640	109	82
77-47-4	Hexachlorocyclopentadiene	0.1	0.007	0.005
1335-87-1	Hexachloronaphthalene	0.2	0.013	0.010
684-16-2	Hexafluoroacetone	0.7	0.047	0.035
822-06-0	Hexamethylene diisocyanate	0.03	0.002	0.0015
680-31-9	Hexamethylphosphoramide (WA)	---	0.002	0.0015
110-54-3	Hexane (n-Hexane)	180	12	9
591-78-6	2-Hexanone, see Methyl n-butyl ketone			
108-10-1	Hexone, see Methyl isobutyl ketone			
108-84-9	sec-Hexyl acetate	300	20	15
107-41-5	Hexylene glycol (CL)	121	0.806	6.05
37275-59-5	Hydrogenated terphenyls	5	0.333	0.25
10035-10-6	Hydrogen bromide (CL)	10	0.0667	0.5
7647-01-0	Hydrogen chloride (CL)	7.5	0.05	0.375
7722-84-1	Hydrogen peroxide	1.5	0.1	0.075
7783-06-4	Hydrogen sulfide	14	0.933	0.7
123-31-9	Hydroquinone	2	0.133	0.1
123-42-2	4-Hydroxy-4-Methyl-2-pentanone, see Diacetone alcohol			
999-61-1	2 -Hydroxypropyl acrylate	3	0.2	0.15

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
95-13-6	Indene	45	3	2.25
7440-74-6	Indium & compounds as In	0.1	0.007	0.005
7553-56-2	Iodine (CL)	0.1	0.0067	0.005
75-47-8	Iodoform	10	0.667	0.5
1309-37-1	Iron oxide fume (Fe2O3) as Fe	5	0.333	0.25
13463-40-6	Iron pentacarbonyl as Fe	0.8	0.053	0.04
7439-89-6	Iron salts, soluble, as Fe	1	0.067	0.05
123-92-2	Isoamyl acetate	525	35	26.25
123-51-3	Isoamyl alcohol	360	24	18
110-19-0	Isobutyl acetate	700	46.7	35
78-83-1	Isobutyl alcohol	150	10	6
26952-21-6	Isooctyl alcohol	270	18	13.5
78-59-1	Isophorone	28	1.867	1.4
4098-71-9	Isophorone diisocyanate	0.09	0.006	0.0045
109-59-1	Isopropoxyethanol	105	7	5.25
108-21-4	Isopropyl Acetate	1040	69.3	52
67-63-0	Isopropyl alcohol	980	65.3	49
75-31-0	Isopropylamine	12	0.8	0.6
643-28-7	N-Isopropylaniline	10	0.667	0.5
108-20-3	Isopropyl ether	1040	69.3	52
4016-14-2	Isopropyl glycidyl ether (IGE)	240	16	12
1332-58-7	Kaolin (respirable dust)	2	0.133	0.1
463-51-4	Ketene	0.9	0.06	0.045
7580-67-8	Lithium hydride	0.025	0.002	0.00125
546-93-0	Magnesite	10	0.667	0.5
1309-48-4	Magnesium oxide fume	10	0.667	0.5
121-75-5	Malathion	10	0.667	0.5
108-31-6	Maleic anhydride	1	0.067	0.05
7439-96-5	Manganese as Mn Including:			
7439-96-5	Dust & compounds	5	0.333	0.25
7439-96-5	Fume	1	0.067	0.05
101-68-8	MDI, see Methylene diphenyl isocyanate			
NA	Mercaptans not otherwise listed (ID)	---	0.033	0.025
141-79-7	Mesityl oxide	60	4	3

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
79-41-4	Methacrylic acid	70	4.67	3.5
74-93-1	Methanethiol, see Methyl mercaptan			
67-56-1	Methanol	260	17.3	13
16752-77-5	Methomyl	2.5	0.17	0.125
72-43-5	Methoxychlor	10	0.667	0.5
109-86-4	2-Methoxyethanol	16	1.07	0.8
110-49-6	2-Methoxyethyl acetate	24	1.6	1.2
150-76-5	4-Methoxyphenol	5	0.333	0.25
108-65-6	1-methoxy-2-proanol acetate (ID)	n/a	24	3.6
79-20-9	Methyl acetate	610	40.7	30.5
74-99-7	Methyl acetylene	1640	109	82
NA	Methyl acetylene-propadiene mix (MAPP)	1640	109	82
96-33-3	Methyl acrylate	35	2.33	1.75
126-98-7	Methylacrylonitrile	3	0.2	0.15
74-89-5	Methylamine	12	0.8	0.6
108-11-2	Methyl emyl alcohol, see Methyl isobutyl carbinol			
110-43-0	Methyl n-amyl ketone	235	15.7	11.75
100-61-8	N-Methyl aniline	2	0.133	0.1
74-83-9	Methyl bromide	19	1.27	0.95
591-78-6	Methyl n-butyl ketone	20	1.33	1
74-87-3	Methyl chloride	103	6.867	5.15
71-55-6	Methyl chloroform	1910	127	95.5
137-05-3	Methyl 2-cyano-acrylate	8	0.533	0.4
25639-42-3	Methylcyclohexanol	235	15.7	11.75
583-60-8	o-Methylcyclohexanone	230	15.3	11.5
8022-00-2	Methyl demeton	0.5	0.033	0.01
101-68-8	Methylenediphenyl diisocyanate (MDI)	0.05	0.003	0.0025
5124-30-1	Methylene bis (4-cyclohexyl isocyanate)	0.11	0.007	0.0055
78-93-3	Methyl ethyl ketone (MEK)	590	39.3	29.5
1338-23-4	Methyl ethyl ketone peroxide (CL)	1.5	0.01	0.0075
107-31-3	Methyl formate	246	16.4	12.3
541-85-5	5-Methyl-3-heptanone, see Ethyl amyl ketone			
110-12-3	Methyl isoamyl ketone	240	16	12
108-11-2	Methyl isobutyl carbinol	104	6.93	5.2

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
108-10-1	Methyl isobutyl ketone	205	13.7	10.25
624-83-9	Methyl isocyanate	0.05	0.003	0.0025
563-80-4	Methyl isopropyl ketone	705	47	35.25
74-93-1	Methyl mercaptan	0.5	0.033	0.025
80-62-6	Methyl methacrylate	410	27.3	20.5
298-00-0	Methyl parathion	0.2	0.013	0.01
107-87-9	Methyl propyl ketone	700	46.7	35
681-84-5	Methyl silicate	6	0.4	0.3
98-83-9	a-Methyl styrene	240	16	10.20
109-87-5	Methylal (dimethoxymethane)	3110	207	155.5
108-87-2	Methylcyclohexane	1610	107	80.5
21087-64-9	Metribuzin	5	0.333	0.25
7786-34-7	Mevinphos	0.1	0.007	0.005
12001-26-2	Mica (Respirable dust)	3	0.2	0.15
NA	Mineral Wool Fiber (no asbestos)	10	0.667	0.5
7439-98-7	Molybdenum as Mo - Including:			
NA	Soluble compounds	5	0.333	0.25
NA	Insoluble compounds	10	0.667	0.5
108-90-7	Monochlorobenzene, see Chlorobenzene			
6923-22-4	Monocrotophos	0.25	0.017	0.0125
110-91-8	Morpholine	70	4.67	0.35
300-76-5	Naled	3	0.2	0.15
91-20-3	Naphthalene	50	3.33	2.5
54-11-5	Nicotine	0.5	0.033	0.025
1929-82-4	Nitrapyrin	10	0.667	0.5
7697-37-2	Nitric acid	5	0.333	0.25
100-01-6	p-Nitroaniline	3	0.2	0.15
98-95-3	Nitrobenzene	5	0.333	0.25
100-00-5	p-Nitrochlorobenzene	3	0.2	0.15
79-24-3	Nitroethane	310	20.7	15.5
7783-54-2	Nitrogen trifluoride	29	1.93	1.45
55-63-0	Nitroglycerin	0.46	0.031	0.023
75-52-5	Nitromethane	50	3.333	2.5
108-03-2	1-Nitropropane	90	6	4.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
99-08-1	m (or) 3-Nitrotoluene	11	0.733	0.55
88-72-2	o (or) 2-Nitrotoluene	11	0.733	0.55
99-99-0	p (or) 4-Nitrotoluene	11	0.733	0.55
76-06-2	Nitrotrichloromethane, see Chloropicrin			
10024-97-2	Nitrous oxide	90	6	4.5
111-84-2	Nonane	1050	70	52.5
2234-13-1	Octachloronaphthalene	0.1	0.007	0.005
111-65-9	Octane	1400	93.3	70
NA	Oil mist, mineral	5	0.333	0.25
20816-12-0	Osmium tetroxide as Os	0.002	0.0001	0.0001
144-62-7	Oxalic acid	1	0.067	0.05
7783-41-7	Oxygen difluoride (CL)	0.11	0.0007	0.0005
8002-74-2	Paraffin wax fume	2	0.133	0.1
4685-14-7	Paraquat	0.1	0.007	0.007
NA	Paraquat, all Compounds	0.1	0.007	0.005
56-38-2	Parathion	0.1	0.007	0.005
19624-22-7	Pentaborane	0.01	0.001	0.0005
1321-64-8	Pentachloronaphthalene	0.5	0.033	0.025
82-68-8	Pentachloronitrobenzene	0.5	0.0333	0.025
87-86-5	Pentachlorophenol	0.5	0.033	0.025
109-66-0	Pentane	1770	118	88.5
107-87-9	2-Pentanone, see Methyl propyl ketone			
594-42-3	Perchloromethyl mercaptan	0.8	0.053	0.04
7616-94-6	Perchloryl Fluoride	13	0.867	0.65
93763-70-3	Perlite	10	0.667	0.5
532-27-4	Phenacyl chloride, see a-Chloroacetophenone			
108-95-2	Phenol	19	1.27	0.95
92-84-2	Phenothiazine	5	0.333	0.25
108-45-2	m-Phenylenediamine	0.1	0.0067	0.005
106-50-3	p-Phenylenediamine	0.1	0.007	0.005
101-84-8	Phenyl ether, vapor	7	0.467	0.035
122-60-1	Phenyl glycidyl ether (PGE)	6	0.4	0.3
108-98-5	Phenyl mercaptan	2	0.133	0.1
638-21-1	Phenylphosphine (CL)	0.25	0.0017	0.00125

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
298-02-2	Phorate	0.05	0.003	0.001
7786-34-7	Phosdrin, see Mevinphos			
75-44-5	Phosgene	0.4	0.027	0.02
7803-51-2	Phosphine	0.4	0.027	0.02
7664-38-2	Phosphoric acid	1	0.067	0.05
7723-14-0	Phosphorus	0.1	0.007	0.005
10025-87-3	Phosphorus oxychloride	0.6	0.04	0.030
10026-13-8	Phosphorus penta-chloride	1	0.067	0.05
1313-80-3	Phosphorus penta-sulfide	1	0.067	0.05
1314-56-3	Phosphorus pentoxide (ID)	--	0.067	0.05
7719-12-2	Phosphorus trichloride	1.5	0.1	0.075
85-44-9	Phthalic anhydride	6	0.4	0.3
626-17-5	m-Phthalodinitrile	5	0.333	0.25
1918-02-1	Picloram	10	0.667	0.5
88-89-1	Picric acid	0.1	0.006	0.005
83-26-1	Pindone	0.1	0.007	0.005
142-64-3	Piperazine dihydro-chloride	5	0.333	0.25
83-26-1	2-Pivaloyl-l,3-indandione, see Pindone			
7440-06-4	Platinum - Including:			
7440-06-4	Metal	1	0.067	0.05
NA	Soluble salts, as Pt	0.002	0.0001	0.0001
65997-15-1	Portland cement	10	0.667	0.5
1310-58-3	Potassium hydroxide	2	0.133	0.1
107-19-7	Propargyl alcohol	2.3	0.153	0.115
123-38-6	Propionaldehyde (LA)	0.43	0.0287	0.0215
79-09-4	Propionic acid	30	2	1.5
114-26-1	Propoxur (Baygon)	0.5	0.033	0.025
109-60-4	n-Propyl acetate	840	56	42
71-23-8	Propyl alcohol	500	33.3	25
78-87-5	Propylene dichloride	347	23.133	17.35
6423-43-4	Propylene glycol dinitrate	0.34	0.023	0.017
107-98-2	Propylene glycol monomethyl ether	360	24	18
75-56-9	Propylene oxide	48	3.2	2.4
627-13-4	n-Propyl nitrate	105	7	5.25

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
8003-34-7	Pyrethrum	5	0.333	0.25
110-86-1	Pyridine	15	1	0.75
120-80-9	Pyrocatechol, see Catechol			
106-51-4	Quinone	0.4	0.027	0.02
121-84-4	RDX, see Cyclonite			
NA	Refractory Ceramic Fibers (see entry for specific content of emissions, ex: silica)			
108-46-3	Resorcinol	45	3	2.25
7440-16-6	Rhodium - Including:			
7440-16-6	Metal	1	0.067	0.05
NA	Insoluble compounds, as Rh	1	0.067	0.05
NA	Soluble compounds, as Rh	0.01	0.001	0.0005
299-84-3	Ronnel	10	0.667	0.5
83-79-4	Rotenone (commercial)	5	0.333	0.25
8030-30-6	Rubber solvent (Naphtha)	1590	106	79.5
14167-18-1	Salcoine as CO	0.1	0.007	0.005
7782-49-2	Selenium	0.2	0.013	0.010
NA	Selenium and compounds as Se	0.2	0.013	0.01
136-78-7	Sesone	10	0.667	0.5
7803-62-5	Silane, see silicon tectrahydride			
NA	Silica - amorphous - Including:			
61790-53-2	Diatomaceous earth (uncalcined)	10	0.667	0.5
112926-00-8	Precipitated silica	10	0.667	0.5
112926-00-8	Silica gel	10	0.667	0.5
NA	Silica, crystalline - Including:			
14464-46-1	Cristobalite	0.05	0.0033	0.0025
14808-60-7	quartz	0.1	0.0067	0.005
60676-86-0	silica, fused	0.1	0.0067	0.005
15468-32-3	tridymite	0.05	0.0033	0.0025
1317-95-9	Tripoli	0.1	0.0067	0.005
7440-21-3	Silicon	10	0.667	0.5
409-21-2	Silicon carbide	10	0.667	0.5
7803-62-5	Silicon tetrahydride	7	0.467	0.35

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7440-22-4	Silver - Including			
7440-22-4	Metal	0.1	0.007	0.005
7440-22-4	Soluble compounds, as Ag	0.01	0.001	0.005
26628-22-8	Sodium azide (CL)	0.3	0.002	0.0015
7631-90-5	Sodium bisulfite	5	0.333	0.25
136-78-7	Sodium 2,4-dichloro-phenoxyethyl sulfate, see Sesone			
62-74-8	Sodium fluoroacetate	0.05	0.003	0.0025
1310-73-2	Sodium hydroxide	2	0.133	0.1
7681-57-4	Sodium metabisulfite	5	0.333	0.25
NA	Stearates (not including toxic metals)	10	0.667	0.5
7803-52-3	Stibine	0.5	0.033	0.025
8052-41-3	Stoddard solvent	525	35	26.25
57-24-9	Strychnine	0.15	0.01	0.0075
60-41-3	Strychnine sulfate as strichnine	0.15	0.01	0.01
100-42-5	Styrene monomer (ID)	--	6.67	1
1395-21-7	Subtilisins (Proteolytic enzymes as 100% pure crystalline enzyme)	0.00006	4.OE-07	3.0E-7
3689-24-5	Sulfotep	0.2	0.013	0.01
7664-93-9	Sulfuric acid	1	0.067	0.05
10025-67-9	Sulfur monochloride (CL)	6	0.04	0.03
5714-22-7	Sulfur pentafluoride (CL)	0.1	0.0007	0.0005
7783-60-0	Sulfur tetrafluoride (CL)	0.4	0.0027	0.002
2699-79-8	Sulfuryl fluoride	20	1.33	1
35400-43-2	Sulprofos	1	0.067	0.05
8065-48-3	Systox, see Demeton			
93-76-5	2,4,5-Trichlorophen-oxyacetic acid (2,4,5,-T)	10	0.667	0.05
7440-25-7	Tantalum	5	0.333	0.25
3689-24-5	TEDP, see Sulfotep			
13494-80-9	Tellurium & Compounds as Te	0.1	0.007	0.005
7783-80-4	Tellurium hexafluoride as Te	0.2	0.013	0.01
3383-96-8	Temephos	10	0.667	0.5
107-49-3	TEPP (Tetraethyl-pyrophosphate)	0.05	0.003	0.0025
26140-60-3	Terphenyls	4.7	0.313	0.235
1335-88-2	Tetrachloronaphthalene	2	0.133	0.10

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
78-00-2	Tetraethyl Lead	0.1	0.007	0.005
597-64-8	Tetraethyltin as organic tin	0.1	0.007	0.005
109-99-9	Tetrahydrofuran	590	39.3	29.5
75-74-1	Tetramethyl lead, as Pb	0.15	0.01	0.0075
3333-52-6	Tetramethyl succinonitrile	3	0.2	0.15
509-14-8	Tetranitromethane	8	0.533	0.4
7722-88-5	Tetrasodium pyrophosphate	5	0.333	0.25
479-45-8	Tetryl	1.5	0.1	0.075
7440-28-0	Thallium, soluble Compounds, as Tl	0.1	0.007	0.005
96-69-5	4,4-Thiobis (6 tert, butyl-m-cresol)	10	0.667	0.5
68-11-1	Thioglycolic acid	4	0.267	0.2
7719-09-7	Thionyl chloride (CL)	4.9	0.0327	0.245
137-26-8	Thiram	5	0.333	0.25
7440-31-5	Tin - Including:			
7440-31-5	Metal	2	0.133	0.1
NA	Oxide & inorganic compounds, except SnH4, as Sn	2	0.133	0.1
NA	Organic compounds as Sn	0.1	0.007	0.005
108-88-3	Toluene (toluol)	375	25	18.75
584-84-9	Toluene-2,4-di-isocyanate (TDI)	0.04	0.003	0.002
10-41-54	p-Toluenesulfonic acid (ID)	n/a	0.067	0.05
126-73-8	Tributyl phosphate	2.2	0.147	0.11
76-03-9	Trichloroacetic acid	7	0.467	0.35
120-82-1	1,2,4-Trichlorobenzene (CL)	37	2.47	1.85
79-01-6	Trichloroethylene	269	17.93	13.45
1321-65-9	Trichloronaphthalene	5	0.333	0.25
76-06-2	Trichloronitromethane, See Chloropicrin			
95-95-4	2,4,5-Trichlorophenol (MA)	---	---	0.0016
96-18-4	l,2,3-Trichloropropane	60	4	3
121-44-8	Triethylamine	4.1	0.27	0.2
1582-09-8	Trifluralin (PL3)	---	7.7	1.15
552-30-7	Trimellitic anhydride	0.04	0.003	0.002
75-50-3	Trimethylamine	12	0.8	0.6
25551-13-7	Trimethyl benzene (mixed and individual isomers)	123	8.2	6.15
540-84-1	2,2,4-Trimethyl-pentane	350	23.3	17.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
121-45-9	Trimethyl phosphite	10	0.667	0.5
479-45-8	2,4,6-Trinitrophenyl-methylnitramine, see Tetryl			
78-30-8	Triorthocresyl phosphate	0.1	0.007	0.005
603-34-9	Triphenyl amine	5	0.333	0.25
115-86-6	Triphenyl phosphate	3	0.2	0.15
7440-33-7	Tungsten - Including:			
NA	Insoluble compounds	5	0.333	0.25
NA	Soluble compounds	1	0.067	0.05
8006-64-2	Turpentine	560	37.3	28
7440-61-1	Uranium (natural) Soluble & insoluble compounds as U	0.2	0.013	0.01
110-62-3	n-Valeraldehyde	175	11.7	8.75
1314-62-1	Vanadium, as V2O5 Respirable Dust & fume	0.05	0.003	0.0025
108-05-4	Vinyl acetate	35	2.3	1.75
25013-15-4	Vinyl toluene	240	16	12
8032-32-4	VM & P Naphtha	1370	91.3	68.5
81-81-2	Warfarin	0.1	0.007	0.005
1330-20-7	Xylene (o-, m-, p-isomers)	435	29	21.75
1477-55-0	m-Xylene a, a-diamine (CL)	0.1	0.0007	0.0005
1300-73-8	Xylidine	2.5	1.67	0.125
7440-65-5	Yttrium (Metal and compounds as Y)	1	0.067	0.05
7440-66-6	Zinc metal (ID)	--	0.667	0.5
7646-85-7	Zinc chloride fume	1	0.067	0.05
1314-13-2	Zinc oxide fume	5	0.333	0.05
1314-13-2	Zinc oxide dust	10	0.667	0.5
7440-67-7	Zirconium compounds as Zr	5	0.333	0.25

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586. TOXIC AIR POLLUTANTS CARCINOGENIC INCREMENTS.
The screening emissions levels (EL) and acceptable ambient concentrations (AACC) for carcinogens are as provided in the following table. The AACC in this section are annual averages.

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
75-07-0	Acetaldehyde	2.2E-06	3.0E-03	4.5E-01

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
79-06-1	Acrylamide	1.3E-03	5.1E-06	7.7E-04
107-13-1	Acrylonitrile	6.8E-05	9.8E-05	1.5E-02
309-00-2	Aldrin	4.9E-03	1.3E-06	2.0E-04
62-53-3	Aniline	7.4E-06	9.0E-04	1.4E-01
140-57-8	Aramite	7.1E-06	9.3E-04	1.4E-01
NA	Aroclor, all (PCB) (ID)	---	6.6E-05	1.0E-02
7440-38-2	Arsenic compounds	4.3E-03	1.5E-06	2.3E-04
1332-21-4	Asbestos (Fibers /M.L.)	2.3E-01	N/A	4.0E-06
71-43-2	Benzene	8.3E-06	8.0E-04	1.2E-01
92-87-5	Benzidine	6.7E-02	9.9E-08	1.5E-05
50-32-8	Benzo(a)pyrene	3.3E-03	2.0E-06	3.0E-04
7440-41-7	Beryllium & compounds	2.4E-04	2.8E-05	4.2E-03
106-99-0	1,3-Butadiene	2.8E-04	2.4E-05	3.6E-03
111-44-4	Bis (2-chloroethyl) ether	3.3E-04	2.0E-05	3.0E-03
542-88-1	Bis (chloromethyl) ether	6.2E-02	1.0E-07	1.6E-05
108-60-1	Bis (2-chloro-1-methyl- ethyl) ether	2.0E-05	3.3E-04	5.0E-02
117-81-7	Bis (2-ethylhexyl) phthalate	2.4E-07	2.8E-02	4.2E+00
7440-43-9	Cadmium and compounds	1.8E-03	3.7E-06	5.6E-04
56-23-5	Carbon tetrachloride	1.5E-05	4.4E-04	6.7E-02
57-74-9	Chlordane	3.7E-04	1.8E-04	2.7E-03
67-66-3	Chloroform	2.3E-05	2.8E-04	4.3E-02
18540-29-9	Chromium (VI) & compounds as Cr+6	1.2E-02	5.6E-07	8.3E-05
NA	Coal Tar Volitiles as benzene			
NA	Coke oven emissions	6.2E-04	1.1E-05	1.6E-03
8001-58-9	Creosote (ID) See coal tar volatiles as benzene extractables			
50-29-3	DDT (Dichlorodi phenyltrichloroethane)	9.7E-05	6.8E-05	1.0E-02
96-12-8	1,2-Dibromo-3-chloropropane	6.3E-03	1.0E-06	1.6E-04
75-34-3	1,1 dichloroethane	2.6E-05	2.5E-04	3.8E-02
107-06-2	1,2 dichloroethane	2.6E-05	2.5E-04	3.8E-02
75-35-4	1,1 dichloroethylene	5.0E-05	1.3E-04	2.0E-02
75-09-2	Dichloromethane (Methylenechloride)	4.1E-06	1.6E-03	2.4E-01
542-75-6	1,3 dichloropropene	4.0E-06	1.7E-03	2.5E-01
764-41-0	1,4-Dichloro-2-butene	2.6E-03	2.5E-06	3.8E-04

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
60-57-1	Dieldrin	4.6E-03	1.4E-06	2.1E-04
56-53-1	Diethylstilbestrol	1.4E-01	4.7E-08	7.1E-06
123-91-1	1,4 dioxane	1.4E-06	4.8E-03	7.1E-01
	Dioxin and Furans (2,3,7,8,TCDD & mixtures) Dioxin and Furan emissions shall be considered as one TAP and expressed as an equivalent emission of 2,3,7,8, TCDD based on the relative potency of the isomers in accordance with US EPA guidelines. U.S. EPA (Environmental Protection Agency), (2010) Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds. Risk Assessment Forum, Washington, DC. EPA/600/R-10/005.			
122-66-7	1,2-Diphenylhydrazine	2.2E-04	3.0E-05	4.5E-03
106-89-8	Epichlorohydrin	1.2E-06	5.6E-03	8.3E-01
106-93-4	Ethylene dibromide	2.2E-04	3.0E-05	4.5E-03
75-21-8	Ethylene oxide	1.0E-04	6.7E-05	1.0E-02
50-00-0	Formaldehyde	1.3E-05	5.1E-04	7.7E-02
76-44-8	Heptachlor	1.3E-03	5.1E-06	7.7E-04
1024-57-3	Heptachlor Epoxide	2.6E-03	2.5E-06	3.5E-04
118-74-1	Hexachlorobenzene	4.9E-04	1.3E-05	2.0E-03
87-68-3	Hexachlorobutadiene	2.0E-05	3.3E-04	5.0E-02
	Hexachlorocyclo-hexane, Technical	5.1E-04	1.3E-05	1.9E-03
319-84-6	Hexachlorocyclohexane (Lindane) Alpha (BHC)	1.8E-03	3.7E-06	5.6E-04
319-85-7	Hexachlorocyclohexane (Lindane) Beta (BHC)	5.3E-04	1.3E-05	1.8E-03
58-89-9	Hexachlorocyclohexane (Lindane) Gamma (BHC)	3.8E-04	1.7E-05	2.6E-03
67-72-1	Hexachloroethane	4.0E-06	1.7E-03	2.5E-01
302-01-2	Hydrazine	2.9E-03	2.3E-06	3.4E-04
10034-93-2	Hydrazine Sulfate	2.9E-03	2.2E-06	3.5E-04
56-49-5	3-methylcholanthrene	2.7E-03	2.5E-06	3.7E-04
75-09-2	Methylene Chloride	4.1E-06	1.6E-03	2.4E-01
74-87-3	Methyl chloride	3.6E-06	1.9E-03	2.8E-01
101-14-4	4,4-Methylene bis(2-Chloroaniline)	4.7E-05	1.4E-04	2.1E-02
60-34-4	Methyl hydrazine	3.1E-04	2.2E-05	3.2E-03
7440-02-0	Nickel	2.4E-04	2.7E-05	4.2E-03
12035-72-2	Nickel Subsulfide	4.8E-04	1.4E-05	2.1E-02
7440-02-0	Nickel Refinery Dust	2.4E-04	2.8E-05	4.2E-02
79-46-9	2-Nitropropane	2.7E-02	2.5E-07	3.7E-05
55-18-5	N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)	4.3E-02	1.5E-07	2.3E-05

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
62-75-9	N-Nitrosodimethylamine	1.4E-02	4.8E-07	7.1E-05
924-16-3	N-Nitrosodi-n-butylamine	1.6E-03	4.1E-06	6.3E-04
930-55-2	N-Nitrosopyrolidine	6.1E-04	1.1E-05	1.6E-03
684-93-5	N-Nitroso-N-methylurea (NMU)	3.5E-01	1.9E-08	2.9E-06
82-68-8	Pentachloronitrobenzene	7.3E-05	9.1E-05	1.4E-02
127-18-4	Perchloroethylene (see tetrachloroethylene)			
NA	Polyaromatic Hydrocarbons (except 7-PAH group)	7.3E-05	9.1E-05	1.4E-02
	(Polycyclic Organic Matter or 7-PAH group) For emissions of the 7-PAH group, the following PAHs shall be considered together as one TAP, equivalent in potency to benzo(a)pyrene: benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenzo(a,h)anthracene, chrysene, indenol(1,2,3,-cd)pyrene, benzo(a)pyrene. (WA)			
23950-58-5	Promanide	4.6E-06	1.5E-03	2.2E-01
50-55-5	Reserpine	3.0E-03	2.2E-06	3.3E-04
1746-01-6	2,3,7,8,-Tetrachlorodibenzo-p-dioxin (2,3,7,8, -TCDD)	4.5.E+01	1.5E-10	2.2E-08
NA	Soots and Tars (ID) See coal tar volatiles as benzene extractables.			
79-34-5	1,1,2,2,Tetrachloro-ethane	5.8E-05	1.1E-05	1.7E-02
127-18-4	Tetrachloroethylene	4.8E-07	1.3E-02	2.1E+00
79-00-5	1,1,2 - trichloroethane	1.6E-05	4.2E-04	6.2E-02
62-56-6	Thiourea	5.5E-04	1.2E-05	1.8E-03
8001-35-2	Toxaphene	3.2E-04	2.0E-05	3.0E-03
79-01-6	Trichloroethylene	1.3E-06	5.1E-04	7.7E-01
88-06-2	2,4,6 - Trichlorophenol	5.7E-06	1.2E-03	1.8E-01
75-01-4	Vinyl chloride	7.1E-06	9.4E-04	1.4E-01

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587. LISTING OR DELISTING TOXIC AIR POLLUTANT INCREMENTS.
Persons may request the listing of any toxic substance or delisting of any toxic air pollutant in Sections 585 or 586 by filing a petition for adoption of rules in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

588. -- 591. (RESERVED)

592. STAGE 1 VAPOR COLLECTION.
The purpose of Sections 592 through 598 is to set forth requirements for Stage 1 vapor collection systems. Section 599 sets forth the requirements for gasoline cargo tanks that deliver gasoline to those required to install and operate Stage 1 vapor collection systems. These sections apply to gasoline dispensing facilities (GDF) and gasoline cargo tanks in Ada and Canyon Counties only. Nothing in these rules is intended to supersede or render inapplicable any federal, state, or local laws, including, but not limited to, the National Emission Standards for Hazardous Air

Pollutants for Source Category: Gasoline Dispensing Facilities, 40 CFR Part 63, Subpart CCCCCC, of the federal Clean Air Act. ( )

593. AFFECTED EQUIPMENT OR PROCESSES.

01. Applicability. Sections 592 through 598 apply to transfers of gasoline to underground storage tanks with a tank capacity of ten thousand (10,000) gallons and not otherwise subject to 40 CFR 63.11118. The emission sources include the underground gasoline storage tanks and associated equipment components in vapor or liquid gasoline service at new, reconstructed, or existing GDFs. Pressure/vacuum vents on underground gasoline storage tanks and the equipment necessary to unload product from cargo tanks into the storage tanks at GDFs are covered emission sources. ( )

02. New Sources. A source is a new source if construction commenced on the source after April 1, 2009. ( )

03. Reconstructed Sources. A source is reconstructed if meeting the criteria for reconstruction as defined in 40 CFR 63.2, incorporated by reference into these rules at Section 107. ( )

04. Existing Sources. A source is an existing source if it is not new or reconstructed. ( )

594. COMPLIANCE DATES.

01. New or Reconstructed Sources. For a new or reconstructed source, the owner or operator must comply with the standards in Sections 595 and 596 no later than April 1, 2009 or upon startup, whichever is later. Owners or operators of new sources shall install dual point systems. ( )

02. Existing Sources. For an existing source, the owner or operator must comply with the standards in Sections 595 and 596 upon installation of the Stage 1 vapor collection system, or by May 1, 2010, whichever is earlier. ( )

595. SUBMERGED FILL REQUIREMENTS.
The owner or operator must only load gasoline into underground storage tanks at the facility by utilizing submerged filling. ( )

01. Installed On or Before November 9, 2006. Submerged fill pipes installed on or before November 9, 2006 must be no more than twelve (12) inches from the bottom of the storage tank. ( )

02. Installed After November 9, 2006. Submerged fill pipes installed after November 9, 2006 must be no more than six (6) inches from the bottom of the storage tank. ( )

596. VAPOR BALANCE REQUIREMENTS.
The owner or operator of a GDF must comply with the following requirements on and after the applicable compliance date in Section 594: ( )

01. Loading. When loading an underground gasoline storage tank equipped with a vapor balance system, connect and ensure the proper operation of the vapor balance system whenever gasoline is being loaded. ( )

02. Maintenance. Maintain all equipment associated with the vapor balance system to be vapor tight and in good working order. ( )

03. Inspection. In order to ensure that the vapor balance equipment is maintained to be vapor tight and in good working order, inspect the vapor balance equipment on an annual basis to discover potential or actual equipment failures. A log form is available on the Department's website at http://www.deq.idaho.gov. ( )

04. Repair. Replace, repair or modify any worn or ineffective component or design element within twenty-four (24) hours to ensure the vapor-tight integrity and efficiency of the vapor balance system. If repair parts

must be ordered, either a written or verbal order for those parts must be initiated within two (2) working days of detecting such a leak. Such repair parts must be installed within five (5) working days after receipt. ( )

597. TESTING AND MONITORING REQUIREMENTS.
The owner or operator of a GDF must comply with the following requirements within ninety (90) days of registration under Section 598 and every three (3) years thereafter. ( )

01. Testing. ( )

a. The owner or operator must demonstrate compliance with the leak rate and cracking pressure requirements, specified in item 1(g) of Table 1 to 40 CFR Part 63, Subpart CCCCCC, incorporated by reference into these rules at Section 107, for pressure-vacuum vent valves installed on underground gasoline storage tanks using the test methods identified in Subsection 597.01.a.i. or 597.01.a.ii. ( )

i. California Air Resources Board Vapor Recovery Test Procedure TP-201.1E,--Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, adopted October 8, 2003 (see 40 CFR 63.14, incorporated by reference into these rules at Section 107). ( )

ii. Use alternative test methods and procedures in accordance with the alternative test method requirements in 40 CFR 63.7(f), incorporated by reference into these rules at Section 107. ( )

b. The owner or operator must demonstrate compliance with the static pressure performance requirement, specified in item 1(h) of Table 1 to 40 CFR Part 63, Subpart CCCCCC, for the vapor balance system by conducting a static pressure test on the underground gasoline storage tanks using the test methods identified in paragraph 597.01.b.i. or 597.01.b.ii. ( )

i. California Air Resources Board Vapor Recovery Test Procedure TP-201.3,--Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, adopted April 12, 1996, and amended March 17, 1999 (see 40 CFR 63.14, incorporated by reference into these rules at Section 107). ( )

ii. Use alternative test methods and procedures in accordance with the alternative test method requirements in 40 CFR 63.7(f), incorporated by reference into these rules at Section 107. ( )

02. Alternative Testing. The owner or operator of a GDF, choosing, under the provisions of 40 CFR 63.6(g), to use a vapor balance system other than that described in Table 1 to 40 CFR Part 63, Subpart CCCCCC, must demonstrate to the Department the equivalency of their vapor balance system to that described in Table 1 to 40 CFR Part 63, Subpart CCCCCC, using the procedures specified in Subsections 597.02.a. and 597.02.b. ( )

a. The owner or operator must demonstrate compliance by conducting a performance test on the vapor balance system to demonstrate that the vapor balance system achieves 95 percent reduction using the California Air Resources Board Vapor Recovery Test Procedure TP-201.1,--Volumetric Efficiency for Phase I Vapor Recovery Systems, adopted April 12, 1996, and amended February 1, 2001, and October 8, 2003, (see 40 CFR 63.14, incorporated by reference into these rules at Section 107). ( )

b. The owner or operator must, during the performance test required under Subsection 597.02.a., determine and document alternative acceptable values for the leak rate and cracking pressure requirements specified in item 1(g) of Table 1 to 40 CFR Part 63, Subpart CCCCCC, and for the static pressure performance requirement in item 1(h) of Table 1 to 40 CFR Part 63, Subpart CCCCCC. ( )

598. REGISTRATION, RECORDKEEPING, AND REPORTING REQUIREMENTS.

01. Registration. ( )

a. Any GDF subject to these rules shall: ( )

i. Within thirty (30) days of installation of the Stage 1 vapor collection system, the owner or operator

of the GDF shall submit to the Department a registration which provides, at a minimum, the operation name and address, signature of the owner or operator in accordance with Section 123 of these rules, the location of records and reports required by Subsections 598.02 and 598.03 (including contact person's name, address and telephone number), the number of underground gasoline storage tanks, the number of gasoline tank pipe vents, and the date of completion of installation of the Stage 1 vapor collection system and pressure/vacuum relief valve; and ( )

ii. The registration certification shall be displayed at the GDF. ( )

b. Upon modification of an existing Stage 1 vapor collection system or pressure/vacuum relief valve, the owner or operator of the GDF shall submit to the Department a registration that details the changes to the information provided in the previous registration and which includes the signature of the owner or operator. The registration must be submitted to the Department within thirty (30) days after completion of such modification. ( )

c. A new registration must be submitted to the Department within thirty (30) days after any change in ownership of the GDF. ( )

02. Recordkeeping Requirements. ( )

a. Each owner or operator must keep the following records: ( )

i. Records of all tests performed under Section 597; ( )

ii. Records related to the operation and maintenance of vapor balance equipment required under Section 596. Any vapor balance component defect must be logged and tracked by station personnel on a monthly basis using forms provided by the Department or a reasonable facsimile; and ( )

iii. Records of permanent changes made at the GDF and vapor balance equipment which may affect emissions. ( )

b. Records required under 598.02.a. must be kept for a period of five (5) years and must be made available for inspection by the Department upon request. ( )

03. Reporting Requirements. Each owner or operator subject to the management practices in Section 596 must report to the Department the results of all volumetric efficiency tests required under Section 597. Reports submitted under these rules must be submitted within thirty (30) days of the completion of the performance testing. ( )

599. GASOLINE CARGO TANKS.

01. Prohibitions. After May 1, 2010, or if a Stage 1 vapor collection system is installed and operating, whichever is earlier, owners or operators of gasoline cargo tanks that unload gasoline into an underground gasoline storage tank with a capacity of ten thousand (10,000) gallons or more, in Ada or Canyon Counties, shall comply with Table 2 to 40 CFR Part 63, Subpart CCCCCC, incorporated by reference into these rules at Section 107. Table 2 requires that the following conditions are met prior to unloading the gasoline: ( )

a. All hoses in the vapor balance system are properly connected; ( )

b. The adapters or couplers that attach to the vapor line on the storage tank have closures that seal upon disconnect; ( )

c. All vapor return hoses, couplers, and adapters used in the gasoline delivery are vapor-tight; ( )

d. All tank truck vapor return equipment is compatible in size and forms a vapor-tight connection with the vapor balance equipment on the GDF storage tank; and ( )

e. All hatches on the tank truck are closed and securely fastened. ( )

f. The filling of storage tanks at GDF shall be limited to unloading by vapor-tight gasoline cargo tanks. Documentation that the cargo tank has met the specifications of EPA Method 27 (40 CFR Part 60, Appendix A-8, incorporated by reference into these rules at Section 107), shall be carried on the cargo tank. ( )

02. Compliance. The owner or operator of a gasoline cargo tank subject to Section 599 shall ensure compliance with Table 2 to 40 CFR Part 63, Subpart CCCCCC, by visually inspecting the requirements set out in Subsections 599.01.a., 599.01.b., 599.01.d., and 599.01.e. and by successfully completing the testing requirements set out in Subsections 599.01.c. and 599.01.f. ( )

03. Recordkeeping and Reporting. ( )

a. The owner or operator of the gasoline cargo tank subject to Section 599 shall maintain records of all certification testing and repairs. The records must identify the gasoline cargo tank; the date of the test or repair; and if applicable, the type of repair and the date of retest. The records must be maintained in a legible, readily available condition for at least two (2) years after the date of testing or repair was completed and must be available for inspection by the Department upon request. ( )

b. Copies of all tests required under Subsection 599.01 shall be submitted to the Department within thirty (30) days of certification testing. ( )

600. RULES FOR CONTROL OF OPEN BURNING.

The purpose of Sections 600 through 624 is to reduce the amount of emissions and minimize the impact of open burning to protect human health and the environment from air pollutants resulting from open burning as well as to reduce the visibility impairment in mandatory Class I Federal Areas in accordance with the regional haze long-term strategy referenced at Section 667. ( )

601. FIRE PERMITS, HAZARDOUS MATERIALS, AND LIABILITY.

Compliance with the provisions of Sections 600 through 623 does not exempt or excuse any person from complying with applicable laws and ordinances of other jurisdictions responsible for fire control or hazardous material disposal or from liability for damages or injuries which may result from open burning. ( )

602. NONPREEMPTION OF OTHER JURISDICTIONS.

The provisions of Sections 600 through 623 are not intended to interfere with the rights of any city, county or other governmental entities or agencies to provide equal or more stringent control of open burning within their respective jurisdictions. ( )

603. GENERAL RESTRICTIONS.

01. Categories and Materials. No person shall allow, suffer, cause or permit any open burning operation unless it is a category of open burning set forth in Sections 600 through 623 and the materials burned do not include any of the following: ( )

a. Garbage, as defined in Section 006. ( )

b. Dead animals, animal parts, or animal wastes (feces, feathers, litter, etc.) except as provided in Section 616. ( )

c. Motor vehicles, parts, or any materials resulting from a salvage operation. ( )

d. Tires or other rubber materials or products. ( )

e. Plastics. ( )

f. Asphalt or composition roofing or any other asphaltic material or product. ( )

g. Tar, tar paper, waste or heavy petroleum products, or paints. ( )

h. Lumber or timbers treated with preservatives. ( )

i. Trade waste, as defined in Section 006, except as specifically allowed under Sections 600 through 623. ( )

j. Insulated wire. ( )

k. Pathogenic wastes. ( )

l. Hazardous wastes. ( )

02. Air Pollution Episodes. No person shall allow, suffer, cause or permit any open burning to be initiated during any stage of an air pollution episode declared by the Department in accordance with Sections 550, through 562. ( )

03. Emergency Authority. In accordance with Title 39, Chapter 1, Idaho Code, the Department has the authority to require immediate abatement of any open burning in cases of emergency requiring immediate action to protect human health or safety. ( )

604. -- 605. (RESERVED)

606. CATEGORIES OF ALLOWABLE BURNING.
The purpose of Sections 606 through 623 is to establish categories of open burning that are allowed when done according to prescribed conditions. Unless specifically exempted each category in Sections 606 through 623 is subject to all of the provisions of Sections 600 through 605. ( )

607. RECREATIONAL AND WARMING FIRES.
Fires used for the preparation of food or for recreational purposes (e.g. campfires, ceremonial fires, and barbecues), or small fires set for handwarming purposes, are allowable forms of open burning. ( )

608. WEED CONTROL FIRES.
Open outdoor fires used for the purpose of weed abatement such as along fence lines, canal banks, and ditch banks is an allowable forms of open burning. ( )

609. TRAINING FIRES.
Fires used by qualified personnel to train firefighters in the methods of fire suppression and fire fighting techniques, or to display certain fire ecology or fire behavior effects are allowable forms of open burning. Training facilities shall notify the Department prior to igniting any training fires. Training fires shall not be allowed to smolder after the training session has terminated. Training fires are exempt from Subsections 603.01.c. and 603.01.e. through 603.01.j. ( )

610. INDUSTRIAL FLARES.
Industrial flares, used for the combustion of flammable gases are allowable forms of open burning. Industrial flares are subject to permitting requirements in Sections 200 through 223. ( )

611. RESIDENTIAL SOLID WASTE DISPOSAL FIRES.

01. Fires Allowed. Open outdoor fires used to dispose of solid waste (e.g. rubbish, tree leaves, yard trimmings, gardening waste, etc.) excluding garbage produced by the operation of a domestic household is an allowable form of open burning when the following provisions are met: ( )

a. No scheduled house to house solid waste collection service is available; and ( )

b. The burning is conducted on the property where the solid waste was generated. ( )

02. Fires Exempt. Open outdoor fires used to dispose of tree leaves, gardening waste or yard trimmings are exempt from Subsection 611.01.a. when conducted in accordance with local governmental ordinances or rules which allow for the open burning of tree leaves, gardening waste or yard trimming during certain periods of the year. ( )

612. LANDFILL DISPOSAL SITE FIRES.
The use of fires for the disposal of solid waste at any solid waste landfill disposal site or facility is an allowable form of open burning only if conducted in accordance with IDAPA 58.01.06, "Solid Waste Management Rules and Standards" or the Solid Waste Facilities Act, Chapter 74, Title 39, Idaho Code. ( )

613. ORCHARD FIRES.
The use of heating devices to protect orchard crops from frost damage and the use of fires to dispose of orchard clippings are allowable forms of open burning when the following provisions are met: ( )

01. Open-Pot Heaters. The use of stackless open-pot heaters is prohibited. ( )

02. Heating Device Opacity. Orchard heating device with visible emissions exceeding forty percent (40%) opacity at normal operating conditions shall not be used. Opacity shall be determined by the procedures contained in Section 625. ( )

03. Heating Device Emissions. All heaters purchased after September 21, 1970, shall emit no more than one (1.0) gram per minute of solid carbonaceous matter at normal operating conditions as certified by the manufacturer. At the time of purchase, the seller shall certify in writing to the purchaser that all new equipment is in compliance with Section 613. ( )

04. Orchard Clippings. The open burning of orchard clippings shall be conducted on the property where the clippings were generated. ( )

614. PRESCRIBED BURNING.
The use of open outdoor fires to obtain the objectives of prescribed fire management burning is an allowable form of open burning when the provisions of Section 614 are met. ( )

01. Burning Permits or Prescribed Fire Plans. ( )

a. Whenever a burning permit or prescribed fire plan is required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed burning shall meet all permit and/or plan conditions and terms which control smoke. ( )

b. The Department will seek interagency agreements to assure permits or plans issued by agencies referred to in Subsection 614.01.a. provide adequate consideration for controlling smoke from prescribed burning. ( )

02. Smoke Management Plans for Prescribed Burning. ( )

a. Whenever a permit or plan is not required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed burning shall meet all conditions set forth in a Smoke Management Plan for Prescribed Burning. ( )

b. The Department will develop and put into effect a Smoke Management Plan for Prescribed Burning consistent with the purpose of Sections 600 through 616. ( )

03. Rights-of-Way Fires. The open burning of woody debris generated during the clearing of rights of way shall be open burned according to Sections 38-101 and 38-401, Idaho Code, IDAPA 20 Title 16 and Sections 606 through 616 of these rules. ( )

615. DANGEROUS MATERIAL FIRES.
Fires used or permitted by a public or military fire chief to dispose of materials (including military ordnance) which present a danger to life, valuable property or the public welfare, or for the purpose of prevention of a fire hazard when no practical alternative method of disposal or removal is available are allowable forms of open burning. ( )

616. INFECTIOUS WASTE BURNING.
Upon the order of a public health officer, fires used to dispose of diseased animals or infested material are an allowable form of open burning and exempt from Subsection 603.01.k. ( )

617. CROP RESIDUE DISPOSAL.
The open burning of crop residue on fields where the crops were grown is an allowable form of open burning if conducted in accordance with Section 39-114, Idaho Code, and Sections 618 through 624 of these rules. ( )

618. PERMIT BY RULE.

01. General Requirements. All persons shall be deemed to have a permit by rule if they comply with all the provisions of Sections 618 through 624. No person shall conduct an open burn of crop residue without obtaining the applicable permit by rule. Those persons applying for a spot burn, baled agricultural residue burn, or propane flaming permit shall comply with the provisions in Section 624. The permit by rule does not relieve the applicant from obtaining all other required permits and approvals required by other state and local fire agencies or permitting authorities. ( )

02. Forms. The Department shall provide the appropriate forms to complete the permit by rule. Forms may be available at the Department offices or on the Department website http://www.deq.idaho.gov. ( )

619. REGISTRATION FOR PERMIT BY RULE.
Any person applying to burn crop residue shall annually provide the following registration information to the Department at least thirty (30) days prior to the date the applicant proposes to burn: ( )

01. Location of Property. Street address of the property upon which the proposed burning of crop residue will occur or, if there is no street address of the property, the legal description of the property using longitude and latitude coordinates or township, range and section for the Idaho meridian; ( )

02. Applicant Information. Name, mailing address, and telephone number of the applicant, and the person who will be responsible for conducting the proposed burning of crop residue and the portable form of communication referenced in Subsection 622.01.c. of this rule; ( )

03. Plot Plan. A plot plan showing the location of each proposed crop residue burning area in relation to the property lines and indicating the distances and directions of the nearest residential, public, and commercial properties, and roads; ( )

04. Type, Acreage and Fuel Characteristics of Crop Residue Proposed to be Burned. The crop type, area over which burning will be conducted (acres), and other fuel characteristics; ( )

05. Preventive Measures. A description of the measures that will be taken to prevent escaped burns or withhold additional material such that the fire burns down, including but not limited to, the availability of water and plowed firebreaks; and ( )

06. Date of Burning. The requested date(s) when the proposed crop residue burning would be conducted or the proposed date the field will be available to be burned. ( )

620. BURN FEE.

01. Burn Fee. The burn fee in Section 39-114, Idaho Code, shall be paid in its entirety within thirty (30) days following the receipt of the annual burn fee invoice. See also Subsection 624.02.a. for registration and fee requirements for burning under a spot and baled agricultural residue burn permit. The burn fee should be sent to:

Crop Residue Burn Fee
Fiscal Office
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255 ( )

02. Effect of Delinquent Fee Payment. The Department shall not accept or process a registration for a permit by rule to burn for any person having burn fees delinquent, in full or in part. ( )

621. BURN DETERMINATION.

01. Burn Approval Criteria. The Department shall develop a Crop Residue Operating Guide to use in assisting in the determination of burn approvals. The permittee shall obtain initial approval from the Department for the proposed burn at least twelve (12) hours in advance of the burn. The permittee shall confirm, with the Department, the approval the morning of the proposed burn. The Department may shorten this time frame if meteorological or other applicable conditions change that will impact the air quality during the proposed burn period. To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed ninety percent (90%) of the ozone national ambient air quality standard (NAAQS) and seventy-five percent (75%) of the level of any other NAAQS on any day and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556 of these rules. In making this determination, the Department shall consider the following: ( )

a. Expected Emissions. Expected emissions from all burns proposed for the same dates; ( )

b. Proximity of Other Burns. The proximity of other burns and other potential emission sources within the area to be affected by the proposed burn; ( )

c. Moisture Content. Moisture content of the material to be burned; ( )

d. Acreage, Crop Type, and Fuel Characteristics. Acreage, crop type, and fuel characteristics to be burned; ( )

e. Meteorological Conditions. Meteorological conditions; ( )

f. Proximity to Institutions with Sensitive Populations. The proximity of the burn to institutions with sensitive populations, including public schools while in session; hospitals; residential health care facilities for children, the elderly or infirm; and other institutions with sensitive populations as approved by the Department. The Department shall not authorize a burn if conditions are such that institutions with sensitive populations will be adversely impacted or when the plume is predicted to impact such institutions; ( )

g. Proximity to Public Roadways. Proximity to public roadways; ( )

h. Proximity to Airports. Proximity to airports; and ( )

i. Other Relevant Factors. Any other factors relevant to preventing exceedances of the air quality concentrations of Section 621. ( )

02. Notification of Approval. If the Department approves the burn, then it will post on its website written notification of the approval and any specific conditions under which the burn is approved. Special conditions may include, but are not limited to: ( )

a. Conditions for burns near institutions with sensitive populations; ( )

b. The requirement to withhold additional material such that the fire burns down if the Department determines pollutant concentrations reach the levels in Subsection 621.01 of this rule; ( )

c. Conditions to ensure the burn does not create a hazard for travel on a public roadway; and ( )

d. The requirement to consult with the Department to determine actions to be taken if conditions at the burn site fail to satisfy the conditions specified in the notice of approval to burn. ( )

622. GENERAL PROVISIONS.

01. Burn Provisions. All persons in Idaho intending to dispose of crop residue through burning shall abide by the following provisions: ( )

a. Burning Prohibitions. Burning of crop residue shall not be conducted on weekends, federal or state holidays, or after sunset or before sunrise; ( )

b. Designated Burn Day. Burning of crop residue shall not be conducted unless the Department has designated that day a burn day and the permittee has received individual approval specifying the conditions under which the burn may be conducted; ( )

c. Portable Form of Communication. The person conducting the burning must have on their possession a portable form of communication such as a cellular phone or radio of compatible frequency with the Department in order to receive burn approval information or information that might require measures to withhold additional material such that the fire burns down; ( )

d. Location of Field Burning. Open burning of crop residue shall be conducted in the field where it was generated; ( )

e. Limitations on Burning. When required by the conditions of the notice of approval to burn, the permittee burning in proximity to institutions with sensitive populations shall immediately extinguish the fire or withhold additional material such that the fire burns down, unless the Department determines that the burn will not have an adverse impact on such institutions; ( )

f. Training Session. All persons intending to burn crop residue shall attend a crop residue burning training session provided by the Idaho Department of Environmental Quality or the Idaho State Department of Agriculture and shall attend a crop residue disposal refresher training session every five (5) years; ( )

g. Air Stagnation or Degraded Air Quality. All field burning shall be prohibited when the Department issues an air quality forecast and caution, alert, warning or emergency as identified in Section 552 of these rules; ( )

h. Allowable Forms of Open Burning. The use of reburn machines, propane flamers, or other portable devices to ignite or reignite a field for the purposes of crop residue burning shall be considered an allowable form of open burning. Tires and other restricted material described in Subsection 603.01, of this rule, are not allowed for ignition of fields; ( )

i. Additional Burn Permits. All persons intending to burn crop residue shall obtain any additional applicable permits from federal, state or local fire control authorities prior to receiving approval from the Department to burn crop residue; and ( )

j. Reporting to the Department. All persons burning crop residue shall report to the Department the date burning was conducted, the actual number and location of acres burned, and other information as required by the Department. The Department may restrict further burning by a permittee until completed burns are reported. ( )

k. Specific Conditions. The open burning of crop residue shall be conducted in accordance with the specific conditions in the permittee's permit by rule. ( )

02. Annual Report. The Department shall develop an annual report that shall include, at a minimum, an analysis of the causes of each exceedance of a limitation in Section 621 of this rule, if any, and an assessment of the circumstances associated with any reported endangerment to human health associated with a burn. The report shall include any proposed revisions to these rules or the Crop Residue Operating Guide deemed necessary to prevent

future exceedances. ( )

03. Advisory Committee. The Department will assemble an advisory committee consisting of representatives from environmental organizations, farming organizations, health organizations, tribal organizations, the Idaho State Department of Agriculture, the Idaho Department of Environmental Quality, and others to discuss open burning of crop residue issues. ( )

623. PUBLIC NOTIFICATION.

01. Designation of Burn Days. The Director or his designee shall designate for a given county or airshed within a county burn or no-burn days. ( )

02. Posting on Website. The Department shall post daily on its website (www.deq.idaho.gov): ( )

a. Whether a given day is a burn or no-burn day; ( )

b. The location and number of acres permitted to be burned; ( )

c. Meteorological conditions and any real time ambient air quality monitoring data; and ( )

d. A toll-free number to receive requests for information (1-800-345-1007). ( )

03. E-Mail Update Service. The Department shall provide an opportunity for interested persons to sign up to receive automatic e-mail updates for information regarding the open burning of crop residue. ( )

624. SPOT BURN, BALED AGRICULTURAL RESIDUE BURN, AND PROPANE FLAMING PERMITS.

01. Applicability. ( )

a. Spot Burn. A spot burn includes no more than one (1) acre of evenly distributed crop residue or two (2) tons of piled crop residue. The open burning of weed patches, spots of heavy residue, equipment plugs and dumps, pivot corners of fields, and pastures may constitute a spot burn. Spot burn does not include the open burning of wind rows. ( )

b. Baled Agricultural Residue Burn. An open burn used to dispose of broken, mildewed, diseased, or otherwise pest-ridden bales still in the field where they were generated. ( )

c. Propane Flaming. The use of flame-generating equipment to briefly apply flame and/or heat to the topsoil of a cultivated field of pre-emerged or plowed-under crop residue with less than five hundred fifty (550) pounds of burnable, non-green residue per acre in order to control diseases, insects, pests, and weed emergence. ( )

02. Spot and Baled Agricultural Residue Burn Permit. ( )

a. Registration and Fee Requirements. Any person applying for a spot and baled agricultural residue burn permit under Section 624 shall provide the registration information listed in Subsections 619.01 and 619.02 and pay a nonrefundable fee of twenty dollars ($20) to the Department (see Section 620) at least fourteen (14) days prior to the date the applicant proposes to conduct the first burn of the calendar year. ( )

b. Term and Acreage. A spot and baled agricultural residue burn permit is valid for the calendar year in which it is issued and is good for a cumulative total of no more than ten (10) acres of spots and/or equivalent piled or baled agricultural residue during the year and no more than one (1) acre of spots and/or equivalent piled or baled agricultural residue per day. Two (2) tons of piled or baled agricultural residue is assumed to be equivalent to one (1) acre. ( )

03. Propane Flaming Permit. Persons conducting propane flaming as defined under Subsection 624.01.c. shall be deemed to have a permit by rule if they comply with the applicable provisions in Subsections 624.04 and 624.05. ( )

04. General Provisions. All persons intending to burn under Section 624 shall comply with the provisions of Subsections 622.01.c., 622.01.d., 622.01.f., through 622.01.i., and 622.01.k. in addition to the following: ( )

a. The permittee is responsible to ensure that adequate measures are taken so the burn does not create a hazard for travel on a public roadway. ( )

b. Burning is not allowed if the proposed burn location is within three (3) miles of an institution with a sensitive population and the surface wind speed is greater than twelve (12) miles per hour or if the smoke is adversely impacting or is expected to adversely impact an institution with a sensitive population. ( )

c. Designated Burn Day. Burning shall not be conducted unless the Department has designated that day a burn day, which for purposes of Section 624 may include weekends and holidays, and the permittee burns within the burn window provided on the Department's website at www.deq.idaho.gov. Spot and baled agriculture residue burns shall not smolder and create smoke outside of the designated time period burning is allowed. ( )

05. Recordkeeping. Permittees shall record the date, time frame, type of burn, type of crop, and amount burned on the date of the burn. Records of such burns shall be retained for two (2) years and made available to the Department upon request. ( )

625. VISIBLE EMISSIONS.
A person shall not discharge any air pollutant into the atmosphere from any point of emission for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than twenty percent (20%) opacity as determined by this section. ( )

01. Exemptions. The provisions of this section shall not apply to: ( )

a. Kraft Process Lime Kilns, if operating prior to January 24, 1969; or ( )

b. Carbon Monoxide Flare Pits on Elemental Phosphorous Furnaces, if operating prior to January 24, 1969; or ( )

c. Liquid Phosphorous Loading Operations, if operating prior to January 24, 1969; or ( )

d. Wigwam Burners; or ( )

e. Kraft Process Recovery Furnaces. ( )

f. Calcining Operations Utilizing an Electrostatic Precipitator to Control Emissions, if operating prior to January 24, 1969. ( )

02. Standards for Exempted Sources. Except as provided in Section 626, for sources exempted from the provisions of this section, a person shall not discharge into the atmosphere from any point of emission, for any air pollutant for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than forty percent (40%) opacity as determined by this section. ( )

03. Exception. The provisions of this section shall not apply when the presence of uncombined water, nitrogen oxides and/or chlorine gas are the only reason(s) for the failure of the emission to comply with the requirements of this rule. ( )

04. Test Methods and Procedures. The appropriate test method under this section shall be EPA Method 9 (contained in 40 CFR Part 60) with the method of calculating opacity exceedances altered as follows: ( )

a. Opacity evaluations shall be conducted using forms available from the Department or similar forms approved by the Department. ( )

b. Opacity shall be determined by counting the number of readings in excess of the percent opacity limitation, dividing this number by four (4) (each reading is deemed to represent fifteen (15) seconds) to find the number of minutes in excess of the percent opacity limitation. This method is described in the Procedures Manual for Air Pollution Control, Section II (Evaluation of Visible Emissions Manual), September 1986. ( )

c. Sources subject to New Source Performance Standards must calculate opacity as detailed above and as specified in 40 CFR Part 60. ( )

05. Applicability. Section 625 shall not apply to the open burning of crop residue. ( )

626. GENERAL RESTRICTIONS ON VISIBLE EMISSIONS FROM WIGWAM BURNERS.
Except for a period of one (1) hour following start up a person shall not discharge into the atmosphere from any wigwam burner any air pollutant for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than twenty percent (20%) opacity as determined by the procedures contained in Section 625. ( )

627. -- 649. (RESERVED)

650. RULES FOR CONTROL OF FUGITIVE DUST.
The purpose of Sections 650 through 652 is to require that all reasonable precautions be taken to prevent the generation of fugitive dust. ( )

651. GENERAL RULES.
All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. In determining what is reasonable, consideration will be given to factors such as the proximity of dust emitting operations to human habitations and/or activities, the proximity to mandatory Class I Federal Areas and atmospheric conditions which might affect the movement of particulate matter. Some of the reasonable precautions may include, but are not limited to, the following: ( )

01. Use of Water or Chemicals. Use, where practical, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land. ( )

02. Application of Dust Suppressants. Application, where practical, of asphalt, oil, water or suitable chemicals to, or covering of dirt roads, material stockpiles, and other surfaces which can create dust. ( )

03. Use of Control Equipment. Installation and use, where practical, of hoods, fans and fabric filters or equivalent systems to enclose and vent the handling of dusty materials. Adequate containment methods should be employed during sandblasting or other operations. ( )

04. Covering of Trucks. Covering, when practical, open bodied trucks transporting materials likely to give rise to airborne dusts. ( )

05. Paving. Paving of roadways and their maintenance in a clean condition, where practical. ( )

06. Removal of Materials. Prompt removal of earth or other stored material from streets, where practical. ( )

652. AGRICULTURAL ACTIVITIES.
For agricultural activity purposes, operating in conformance with generally recognized agricultural practices constitutes reasonable control of fugitive dust. For the purpose of Section 652: ( )

01. Agricultural Activity. An “agricultural activity” means any activity that is exempt from the

requirement to obtain a permit to construct under Subsection 222.02.f., wherein "agricultural activities and services" is defined in Section 007, that occurs in connection with the production of agricultural products for food, fiber, fuel, feed and other lawful purposes, and including, but not limited to: ( )

a. Preparing land for agricultural production; ( )

b. Applying or handling pesticides herbicides, or other chemicals, compounds or substances labeled for insects, pests, crops, weeds, water or soil; ( )

c. Planting, irrigating, growing, fertilizing, harvesting or producing agricultural, horticultural, floricultural and viticulture crops, fruits and vegetable products, field grains, seeds, hay, sod and nursery stock, and other plant products, plant by-products, plant waste and animal compost; ( )

d. Breeding, hatching, raising, producing, feeding and keeping livestock, dairy animals, swine, fur-bearing animals, poultry, eggs, fish and other aquatic species, and other animals, animal products and animal by-products, animal waste, animal compost, and bees, bee products and bee by-products; ( )

e. Transporting agricultural products to or from an agricultural facility; ( )

f. Grinding, chopping, cubing, or any other means of preparing or converting a commodity for animal feed; and ( )

g. Piling, stacking or other means of storing commodities outdoors. ( )

02. Generally Recognized Agricultural Practices. "Generally recognized agricultural practices" means economically feasible practices that are customary among or appropriate to farms and ranches of a similar nature in the local area. In determining whether an agricultural activity is consistent with generally recognized agricultural practices, the Idaho Department of Environmental Quality shall consult with the Idaho Department of Agriculture. ( )

653. -- 664. (RESERVED)

665. REGIONAL HAZE RULES.
The purpose of Sections 665 through 668 is to address regional haze visibility impairment in mandatory Class I Federal Areas. The intent of Sections 665 through 668 is to set forth the requirements to implement the federal programs for visibility protection and regional haze. ( )

666. REASONABLE PROGRESS GOALS.
The Department will establish reasonable progress goals, expressed in deciviews for each mandatory Class I Federal Area located within Idaho. These goals will provide for reasonable progress toward achieving natural visibility conditions. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The reasonable progress goals are not directly enforceable, but will be implemented through enforceable strategies in the long-term strategy. ( )

01. Process for Setting Reasonable Progress Goals. In establishing a reasonable progress goal for any mandatory Class I Federal Area within Idaho, the Department shall: ( )

a. Consider the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources, and include a demonstration showing how these factors were taken into consideration in selecting the goal. ( )

b. Analyze and determine the rate of progress needed to attain natural visibility conditions by the year 2064. To calculate this rate of progress, the Department will compare baseline visibility conditions to natural visibility conditions in the mandatory Class 1 Federal Area and determine the uniform rate of visibility improvement (measured in deciviews) that would need to be maintained during each implementation period in order to attain natural visibility conditions by 2064. In establishing the reasonable progress, the Department will consider the

uniform rate of improvement in visibility and the emission reduction measures needed to achieve it for the period covered by the implementation plan. ( )

c. Consult with those states which may reasonably be anticipated to cause or contribute to visibility impairment in the mandatory Class I Federal Area. ( )

02. Justification for Reasonable Progress Goals. If the Department establishes a reasonable progress goal that provides for a slower rate of improvement in visibility than the rate that would be needed to attain natural conditions by 2064, the Department will demonstrate, based on the factors in Subsection 666.01.a., that the rate of progress for the implementation plan to attain natural conditions by 2064 is not reasonable; and that the progress goal adopted by the Department is reasonable. The Department will provide to the public for review, as part of its implementation plan, an assessment of the number of years it would take to attain natural conditions if visibility improvement continues at the rate of progress selected by the Department as reasonable. ( )

667. LONG-TERM STRATEGY FOR REGIONAL HAZE.
The purpose of Section 667 is to develop a long-term strategy for making reasonable progress toward the national goal of preventing any future and remedying any existing impairment of visibility in mandatory Class I Federal Areas in which impairment results from man-made air pollution. ( )

01. Submittal of Long-Term Strategy. The Department will submit to EPA a long-term strategy that addresses regional haze visibility impairment for each mandatory Class I Federal Area within the state and for each mandatory Class I Federal Area located outside the state which may be affected by emissions from the state. ( )

02. Enforceable Emission Limitations. The long-term strategy must include enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals established by the Department. ( )

03. Requirements for Long-Term Strategy. In establishing long-term strategy for regional haze, the Department will meet the following requirements: ( )

a. The Department will document the technical basis, including modeling, monitoring and emissions information, on which the state is relying to determine its apportionment of emission reduction obligations necessary for achieving reasonable progress in each mandatory Class I Federal Area it affects. The Department may meet this requirement by relying on technical analyses developed by the regional planning organization and approved by all state participants. The Department will identify the baseline emission inventory on which its strategies are based. The baseline emissions inventory year is presumed to be the most recent year of the consolidated periodic emissions inventory. ( )

b. The Department will identify all anthropogenic sources of visibility impairment considered by the Department in developing its long-term strategy. The Department should consider major and minor stationary sources, mobile sources, and area sources. ( )

c. The Department will consider, at a minimum, the following factors in developing its long-term strategy: ( )

i. Emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; ( )

ii. Measures to mitigate the impacts of construction activities; ( )

iii. Emissions limitations and schedules for compliance to achieve the reasonable progress goal; ( )

iv. Source retirement replacement schedules; ( )

v. Smoke management techniques for agricultural and forestry management purposes including plans as currently exist with the state for these purposes; ( )

vi. Enforceability of emissions limitations and control measures; and ( )

vii. The anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. ( )

04. Interstate Consultation. The Department will undertake the following process in developing the long-term strategy where interstate consultation is required. ( )

a. Where Idaho has emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal Area located in another state or states, the Department will consult with the other state(s) in order to develop coordinated emission management strategies. ( )

b. The Department will consult with any other state having emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal Area within Idaho. ( )

c. Where other states cause or contribute to impairment in a mandatory Class I Federal Area, the Department must demonstrate that the state has included in its implementation plan all measures necessary to obtain its share of the emission reductions needed to meet the progress goal for the area. If the state of Idaho has participated in a regional planning process, the Department must ensure the state has included all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. ( )

668. BART REQUIREMENT FOR REGIONAL HAZE.
The purpose of Section 668 is to implement the BART requirements in 40 CFR 51.308(e). The following analysis and documentation is required for each BART-eligible source: ( )

01. BART-Eligible Sources. The Department shall identify a list of all BART-eligible sources within the state. ( )

02. BART Determination. The Department shall complete a determination of BART for each BART-eligible source in the state that emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any mandatory Class 1 Federal Area. All such sources are subject to BART. ( )

a. A single source that is responsible for a one (1.0) deciview change or more in any mandatory Class I Federal Area is considered to "cause" visibility impairment. ( )

b. A single source that is responsible for a one-half (0.5) deciview change or more in any mandatory Class I Federal Area is considered to "contribute" to visibility impairment. ( )

c. The determination of BART must be based on an analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each BART-eligible source that is subject to BART within the state. In this analysis, the following must be taken into consideration: ( )

i. Costs of compliance; ( )

ii. Energy and non-air quality environmental impacts of compliance; ( )

iii. Any pollution control equipment in use at the source; ( )

iv. The remaining useful life of the source; and ( )

v. The degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. ( )

d. The Department may determine that a BART determination is not required: ( )

i. For sulfur dioxide (SO_2) or for nitrogen oxides (NO_x) if a BART-eligible source has the potential to

emit less than forty (40) tons per year of such pollutant(s); or ( )

ii. For PM10 if a BART-eligible source emits less than fifteen (15) tons per year of such pollutant. ( )

03. Alternative to Infeasible Emission Standards. If the Department determines in establishing BART that technological or economic limitations on the applicability of measurement methodology to a particular source would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice, or other operational standard, or combination thereof, to require the application of BART. Such standard, to the degree possible, is to set forth the emission reduction to be achieved by implementation of such design, equipment, work practice, or operation and must provide for compliance by means which achieve equivalent results. ( )

04. BART Installation and Operation Due Date. Each source subject to BART is required to install and operate BART as expeditiously as practicable, but in no event later than five (5) years after approval of the implementation plan. ( )

05. Maintenance of BART Equipment. Each source subject to BART is required to maintain the control equipment required by the Department and establish procedures to ensure such equipment is properly operated and maintained. ( )

06. BART Alternative. As an alternative to the installation of BART for a source or sources, the Department may approve a BART alternative. If the Department approves source grouping as a BART alternative, only sources (including BART-eligible and non-BART eligible sources) causing or contributing to visibility impairment to the same mandatory Class I Federal Area may be grouped together. ( )

a. If a source(s) proposes a BART alternative, the resultant emissions reduction and visibility impacts must be compared with those that would result from the BART options evaluated for the source(s). ( )

b. Source(s) proposing a BART alternative must demonstrate that this BART alternative will achieve greater reasonable progress than would be achieved through the installation and operation of BART. ( )

c. Source(s) proposing a BART alternative shall include in the BART analysis an analysis and justification of the averaging period and method of evaluating compliance with the proposed emission limitation. ( )

07. Reasonable Progress Goal Requirements for BART-Eligible Sources. Once the Department has met the requirements for BART or BART alternative, as identified in Subsection 668.06, BART-eligible sources will be subject to the requirements of reasonable progress goals, as defined in 40 CFR 51.308(d), in the same manner as other sources. ( )

669. -- 674. (RESERVED)

675. FUEL BURNING EQUIPMENT -- PARTICULATE MATTER.
The purpose of Sections 675 through 681 is to establish particulate matter emission standards for fuel burning equipment. ( )

676. STANDARDS FOR NEW SOURCES.
A person shall not discharge into the atmosphere from any fuel burning equipment with a maximum rated input of ten (10) million BTU's per hour or more, and commencing operation on or after October 1, 1979, particulate matter in excess of the concentrations shown in the following table:

FUEL TYPE	ALLOWABLE PARTICULATE gr/dscf	EMISSIONS Oxygen
Gas	.015	3%
Liquid	.050	3%

FUEL TYPE	ALLOWABLE PARTICULATE gr/dscf	EMISSIONS Oxygen
Coal	.050	8%
Wood Product	.080	8%

The effluent gas volume shall be corrected to the oxygen concentration shown. ( )

677. STANDARDS FOR MINOR AND EXISTING SOURCES.
A person shall not discharge into the atmosphere from any fuel burning equipment in operation prior to October 1, 1979, or with a maximum rated input of less than ten (10) million BTU per hour, particulate matter in excess of the concentrations shown in the following table:

FUEL TYPE	ALLOWABLE PARTICULATE gr/dscf	EMISSIONS Oxygen
Gas	.015	3%
Liquid	.050	3%
Coal	.100	8%
Wood Product	.200	8%

The effluent gas volume shall be corrected to the oxygen concentration shown. ( )

678. COMBINATIONS OF FUELS.
When two (2) or more types of fuel are burned concurrently, the allowable emission shall be determined by proportioning the gross heat input and emission standards for each fuel. ( )

679. AVERAGING PERIOD.
For purposes of Sections 675 through 680, emissions shall be averaged according to the following, whichever is the lesser period of time: ( )

01. One Cycle. One (1) complete cycle of operation; or ( )

02. One Hour. One (1) hour of operation representing worst-case conditions for the emission of particulate matter. ( )

680. ALTITUDE CORRECTION.
For purposes of Sections 675 through 680, standard conditions shall be adjusted for the altitude of the source by subtracting one-tenth (0.10) of an inch of mercury for each one hundred (100) feet above sea level from the standard atmospheric pressure at sea level of twenty-nine and ninety-two one hundredths (29.92) inches of mercury. ( )

681. TEST METHODS AND PROCEDURES.
The appropriate test method under Sections 675 through 680 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures shall also comply with Section 157. ( )

682. -- 699. (RESERVED)

700. PARTICULATE MATTER -- PROCESS WEIGHT LIMITATIONS.

01. Particulate Matter Emission Limitations. The purpose of Sections 700 through 703 is to establish particulate matter emission limitations for process equipment. ( )

02. Minimum Allowable Emission. Notwithstanding the provisions of Sections 701 and 702, no source shall be required to meet an emission limit of less than one (1) pound per hour. ( )

03. Averaging Period. For the purposes of Sections 701 through 703, emissions shall be averaged according to the following, whichever is the lesser period of time: ( )

a. One (1) complete cycle of operation; or ( )

b. One (1) hour of operation representing worst-case conditions for the emissions of particulate matter. ( )

04. Test Methods and Procedures. The appropriate test method under Sections 700 thought 703 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. ( )

701. PARTICULATE MATTER -- NEW EQUIPMENT PROCESS WEIGHT LIMITATIONS.

01. General Restrictions. No person shall emit into the atmosphere from any process or process equipment commencing operation on or after October 1, 1979, particulate matter in excess of the amount shown by the following equations, where E is the allowable emission from the entire source in pounds per hour, and PW is the process weight in pounds per hour. ( )

a. If PW is less than 9,250 pounds per hour,
$E = 0.045(PW)^{0.60}$ ( )

b. If PW is equal to or greater than 9,250 pounds per hour,
$E = 1.10(PW)^{0.25}$ ( )

02. Exemption. The provisions of Section 701 shall not apply to fuel burning equipment. ( )

03. Emission Standards -- Table. The following table illustrates the emission standards set forth in Section 701.

PROCESS WEIGHT	ALLOWABLE EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
175 or less	1	20,000	13.08
200	1.08	40,000	15.56
400	1.64	60,000	17.22
600	2.09	80,000	18.50
800	2.40	100,000	19.56
1,000	2.84	200,000	23.26
2,000	4.30	400,000	27.66
4,000	6.52	600,000	30.61
6,000	8.32	800,000	32.90
8,000	9.89	1,000,000	34.79
10,000	11.00	2,000,000	41.37

( )

702. PARTICULATE MATTER -- EXISTING EQUIPMENT PROCESS WEIGHT LIMITATIONS.

The provisions of Section 702 shall become effective on January 1, 1981. ( )

01. General Restrictions. No person shall emit into the atmosphere from any process or process equipment operating prior to October 1, 1979, particulate matter in excess of the amount shown by the following equations, where E is the allowable emission from the entire source in pounds per hour, and PW is the process weight in pounds per hour: ( )

a. If PW is less than 17,000 pounds per hour,
$E = 0.045\ (PW)^{0.60}$ ( )

b. If PW is equal to or greater than 17,000 pounds per hour,
$E = 1.12\ (PW)^{0.27}$. ( )

02. Exemptions. The provisions of Section 702 shall not apply to: ( )

a. Fuel burning equipment; or ( )

b. Equipment used exclusively to dehydrate sugar beet pulp or alfalfa. ( )

03. Emission Standards -- Table. The following table illustrates the emission standards set forth in Section 702.

PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
175 or less	1	20,000	16.24
200	1.08	40,000	19.58
400	1.64	60,000	21.84
600	2.09	80,000	23.61
800	2.48	100,000	25.07
1,000	2.84	200,000	30.23
2,000	4.30	400,000	36.46
4,000	6.52	600,000	40.67
6,000	8.32	800,000	43.96
8,000	9.89	1,000,000	46.69
10,000	11.30	2,000,000	56.30

( )

703. PARTICULATE MATTER -- OTHER PROCESSES.

01. Other Processes. No person with processes exempt under Subsection 702.02.b. shall emit particulate matter to the atmosphere from any process or process equipment in excess of the amount shown in the following equations, where E is the total rate of emission from all emission points from the source in pounds per hour and P is the process weight rate in pounds per hour. ( )

a. If P is less than sixty thousand (60,000) pounds per hour,
$E = 0.02518(P)^{0.67}$ ( )

b. If P is greater than or equal to sixty thousand (60,000) pounds per hour,
$E = 23.84(P)^{0.11} - 40$ ( )

02. Emission Standards -- Table. The following table illustrates the emission standards set forth in Section 703.

ALLOWABLE RATE OF EMISSION BASED ON PROCESS WEIGHT RATE			
Process Weight Rate	Rate of Emission	Process Weight Rate	Rate of Emission
Lb/Hr	Lb/Hr	Lb/Hr	Lb/Hr
100	0.551	16,000	16.5
200	0.877	18,000	17.9
400	1.40	20,000	19.2
600	1.83	30,000	25.2
800	2.22	40,000	30.5
1,000	2.58	50,000	35.4
1,500	3.38	60,000	40.0
2,000	4.10	70,000	41.3
2,500	4.76	80,000	42.5
3,000	5.38	90,000	43.6
3,500	5.96	100,000	44.6
4,000	6.52	120,000	46.3
5,000	7.58	140,000	47.8
6,000	8.56	160,000	49.0
7,000	9.49	200,000	51.2
8,000	10.4	1,000,000	69.0
9,000	11.2	2,000,000	77.6
10,000	12.0	6,000,000	92.7
12,000	13.6		

( )

704. -- 724. (RESERVED)

725. RULES FOR SULFUR CONTENT OF FUELS.
This section applies to fuel burning sources in Idaho. Its purpose is to prevent excessive ground level concentrations of sulfur dioxide. The reference test method for measuring fuel sulfur content shall be ASTM method, D129-95 Standard Test for Sulfur in Petroleum Products (General Bomb Method) or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157.
( )

01. Definitions. ( )

a. **ASTM**. American Society for Testing and Materials. ( )

b. **Distillate Fuel Oil**. Any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils. ( )

c. **Residual Fuel Oil**. Any oil meeting the specifications of ASTM Grade 4, Grade 5 and Grade 6 fuel oils. ( )

02. **Residual Fuel Oils**. No person shall sell, distribute, use or make available for use, any residual fuel oil containing more than one and three-fourths percent (1.75%) sulfur by weight. ( )

03. **Distillate Fuel Oil**. No person shall sell, distribute, use or make available for use, any distillate fuel oil containing more than the following percentages of sulfur: ( )

a. **ASTM Grade 1**. ASTM Grade 1 fuel oil - zero point three percent (0.3%) by weight. ( )

b. **ASTM Grade 2**. ASTM Grade 2 fuel oil - zero point five percent (0.5%) by weight. ( )

04. **Coal**. No person shall sell, distribute, use or make available for use, any coal containing greater than one percent (1.0%) sulfur by weight. ( )

05. **Alternative**. The Department may approve in a permit issued in accordance with these rules an alternative fuel sulfur content if the applicant demonstrates that, through control measures or other means, sulfur dioxide emissions (based on a one (1) hour averaging period) are equal to or less than those resulting from the combustion of fuels complying with the limitations of Subsections 725.01 through 725.04. ( )

726. -- 749. (RESERVED)

750. RULES FOR CONTROL OF FLUORIDE EMISSIONS.
The purpose of Sections 750 through 751 is to prevent the emission of fluorides such that the accumulation of fluorine in feed and forage for livestock does not exceed the safe limits specified below. ( )

751. GENERAL RULES.
Any owner or operator of a facility subject to Sections 750 and 751 shall demonstrate compliance with Section 751 by January 1, 1982, in accordance with a compliance schedule, listing increments of progress, which shall be submitted to the Department on or before August 1, 1980. ( )

01. **Emission Limitations -- Phosphate Fertilizer Plants**. No person shall allow, suffer, cause or permit the discharge into the atmosphere of total fluoride emissions in gaseous and in particulate form, expressed as fluoride (F-), from the phosphate fertilizer plant sources listed in Subsection 751.03 in excess of thirty hundredths (0.30) pounds of fluoride per ton of P2O5 input to the calciner operation, calculated at maximum rated capacity. ( )

02. **Monitoring, Testing, and Reporting Requirements**. Compliance with Subsection 751.01 will be adjudged upon the results of the continuing program of fluoride sampling of potential grazing areas and alfalfa growing areas conducted by the Department. Sampling conducted by any person subject to Section 751 may be accepted for determining compliance with Subsection 751.01 if such sampling is conducted at sites approved by the Department in advance of sampling, using analytical procedures appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods) or equivalent methods approved by the Department in advance of sampling. Compliance with Subsection 751.01 shall be demonstrated by testing methods approved in advance by the Department. When approved by the Director in advance of sampling, engineering calculations may be submitted in lieu of emission data. Monitoring and reporting requirements shall be included in operating permits granted to each facility. ( )

03. **Source Specific Permits**. To assure compliance with Subsection 751.01, the Director shall specify methods for calculating total allowable emissions and shall issue source specific permits containing emission limitations for the following sources within phosphate fertilizer plants: ( )

a. Calciner operation; and ( )

b. Wet phosphoric acid plants; and ( )

c. Super phosphoric acid production; and ( )

d. Diammonium phosphate plants; and ( )

e. Monoammonium phosphate production; and ( )

f. Triple super phosphate (mono calcium phosphate) production. ( )

04. Exemptions. The provisions of Subsections 751.01, 751.02, and 751.03 shall not apply to any phosphate fertilizer facility which produces mono ammonium phosphate exclusively if no animal feed is grown or if no animal grazing occurs or if the animal feed and forage meets the ambient air quality standards for fluorides specified in Section 577 within a three (3) mile radius of such facility. This exemption shall only apply if the owner or operator of the facility, on an annual basis: ( )

a. Conducts a fluoride sampling program of potential grazing areas at locations approved in advance of sampling by the Department, using analytical techniques appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods); and ( )

b. Submits the results of such sampling program to the Department as soon as they become available. ( )

752. -- 759. (RESERVED)

760. RULES FOR THE CONTROL OF AMMONIA FROM DAIRY FARMS.
The purpose of Sections 760 through 764 is to set forth the requirements for the control of ammonia through best management practices (BMPs) for certain size dairy farms licensed by the Idaho State Department of Agriculture to sell raw milk for human consumption. Compliance with these sections does not relieve the owner or operator of a dairy farm from the responsibility of complying with all other federal, state and local applicable laws, regulations, and requirements, including, but not limited to, Sections 161, 650 and 651 of these rules. Registration forms and guidance documents relating to these rules are located at www.deq.idaho.gov. ( )

761. GENERAL APPLICABILITY.
The requirements of Sections 760 through 764 apply to the following size dairy farms:

SUMMARY: Animal Unit (AU) or mature cow threshold to produce 100 ton NH_3/year

Animal Unit (AU) Basis	Drylot	Free Stall/Scrape	Free Stall/Flush
	AU (100 t NH3) Threshold		
No land app	7089	3893	2293
27% volatilization 1	6842	3827	
80% volatilization 2	6397	3700	
Cow Basis (1400 lbs)	Drylot	Free Stall/Scrape	Free Stall/Flush
	Total Cows (100 t NH3) Threshold		

No land app	5063	2781	1638
27% volatilization 1	4887	2733	
80% volatilization 2	4569	2643	

1 Assumes: Expected level of N->NH3 volatilization for: drop-hose or ground level liquid manure application

2 Assumes: Expected level of N->NH3 volatilization for: center pivot or other conventional sprinkler irrigation liquid manure application

( )

762. PERMIT BY RULE.

01. General Requirement. Owners and operators of dairy farms shall be deemed to have a permit by rule if they comply with all of the applicable provisions of Sections 760 through 764. Owners and operators of dairy farms subject to Sections 760 through 764 shall not operate without obtaining the applicable permit by rule within the time frame specified. ( )

02. Optional Permit by Rule. Nothing in Sections 760 through 764 shall preclude any owner or operator of a dairy farm from requesting and obtaining an air quality permit pursuant to Section 200, nor shall Sections 760 through 764 preclude an owner or operator of a dairy farm below the threshold size in Section 761 from complying with Sections 760 through 764 and thereby obtaining a permit by rule. ( )

03. Exemption. If a dairy farm not subject to Sections 760 through 764 otherwise would become subject to those sections as a result of an emergency, the dairy farm shall notify the Director in writing within fourteen (14) days of the emergency. The notification shall include an explanation of the emergency circumstances. The dairy farm shall be exempt from the requirements of Sections 760 through 764 as long as the consequences of the emergency continue (but in no case for more than one (1) year) unless for good cause the Director determines it is appropriate to limit, condition or revoke the exemption. For the purpose of this rule "emergency" shall be defined as a serious situation or occurrence that happens unexpectedly and demands immediate action. ( )

763. REGISTRATION FOR PERMIT BY RULE.

01. Registration Process. Any owner or operator of a new dairy farm subject to sections 760 through 764, or an existing dairy farm that becomes subject to these sections due to change in size or type of operation, shall register prior to fifteen (15) days of triggering the threshold for which a permit is required. ( )

02. Registration Due Date. Any owner or operator of an existing dairy farm subject to Sections 760 through 764 shall register within fifteen (15) days of the effective date of Sections 760 through 764. ( )

03. Registration Information. The following information shall be provided by the registrant to the Department of Environmental Quality and the Department of Agriculture: ( )

a. Name, address, location of dairy farm, and telephone number. ( )

b. Information sufficient to establish that the dairy farm is of the size and type described in Section 761. ( )

c. Information describing what BMPs, as described in Section 764, are employed to total twenty-seven (27) points. ( )

04. Exemption from Registration Fee. Dairy farms subject to Sections 760 through 764 are exempt from paying the permit by rule registration fee set forth in Section 800. ( )

05. Inspection. Within thirty (30) days of receipt of the registration information, the state of Idaho

shall conduct a qualifying inspection to ensure the requisite point total of BMPs are employed. ( )

764. DAIRY FARM BEST MANAGEMENT PRACTICES.

01. BMPs. Each dairy farm subject to Sections 760 through 764, or that otherwise obtains a permit by rule under these sections, shall employ BMPs for the control of ammonia to total twenty-seven (27) points. Points may be obtained through third party export with sufficient documentation. The table located at Subsection 764.02. lists available BMPs and the associated point value. As new information becomes available or upon request, the Director may determine a practice not listed in the table constitutes a BMP and assign a point value. ( )

02. Table - Ammonia Control Practices for Idaho Dairies.

		Ammonia Control Effectiveness [1]			
System	**Component**	**Open Lot**	**Freestall Scrape**	**Freestall Flush**	**Compliance Method[3]**
Waste Storage and Treatment Systems	Synthetic Lagoon Cover	15	20	20	1
	GeoteXtile Covers	10	13	13	1
	Solids Separation	3	3	3	3, 4
	Composting	4	4	4	1
	Separate Slurry and Liquid Manure Basins	6	10	-	1
	In-House Separation	0	12	0	1
	Direct Utilization of Collected Slurry	6	10	-	1, 3, 4
	Direct Utilization of Parlor Wastewater	10	10	10	1
	Direct Utilization of Flush Water	8	0	13	3, 4
	Anaerobic Digester	-	-	-	-
	Anaerobic Lagoon	-	-	-	-
	Aerated Lagoon	10	12	15	2
	Sequencing-Batch Reactor	15	20	20	2
	Lagoon Nitrification/Denitrification Systems	15	20	20	2
	Fixed-Media Aeration Systems	15	20	20	2
	Zeolite Treatment of Liquid Manure 1lb/cow/day	4	5	5	2
	Zeolite Treatment of Liquid Manure 2lb/cow/day	8	10	10	2
General Practices	Vegetative or Wooded Buffers (established)	7	7	7	1

		Ammonia Control Effectiveness [1]			
System	**Component**	**Open Lot**	**Freestall Scrape**	**Freestall Flush**	**Compliance Method[3]**
	Vegetative or Wooded Buffers (establishing)	2	2	2	1
	Alternatives to Copper Sulfate	-	-	-	-
Freestall Barns	Scrape Built Up Manure	-	3	3	1
	Frequent Manure Removal	UD	UD	UD	-
	Tunnel Ventilation	-	-	-	-
	Tunnel Ventilation w/Biofilters	-	10	10	1
	Tunnel Ventilation w/Washing Wall	-	10	10	3, 4
Open Lots and Corrals	Rapid Manure Removal	4	2	2	1, 2
	Corral Harrowing	4	2	2	1
	Surface Amendments	10	5	5	2
	In-Corral Composting / Stockpiling	4	2	2	1
	Summertime Deep Bedding	10	5	5	1
Animal Nutrition	Manage Dietary Protein	2	2	2	2
Composting Practices	Alum Incorporation	12	8	6	2
	Carbon:Nitrogen Ratio (C:N) Ratio Manipulation	10	7.5	5	2
	Composting with Windrows	-	-	-	-
	Composting Static Pile	6	4.5	3	1
	Forced Aeration Composting	10	7.5	5	1
	Forced Aeration Composting with Biofilter	12	8	6	1
	Zeolite Incorporation	12	8	6	2
Land Application[2]	Soil Injection - Slurry	10	15	7.5	2
	Incorporation of Manure within 24 hrs	10	10	10	2

		Ammonia Control Effectiveness [1]			
System	Component	Open Lot	Freestall Scrape	Freestall Flush	Compliance Method[3]
	Incorporation of Manure within 48 hrs	5	5	5	2
	Nitrification of Lagoon Effluent	10	10	15	3, 4
	Low Energy/Pressure Application Systems	7	7	10	1
	Freshwater Dilution	5	8	8	1, 2
	Pivot Drag Hoses	8	8	10	1
	Subsurface Drip Irrigation	10	10	12	1

Notes:
1. The ammonia emission reduction effectiveness of each practice is rated numerically based on practical year-round implementation. Variations due to seasonal practices and expected weather conditions have been factored into these ratings. Not implementing a BMP when it is not practicable to do so, does not reduce the point value assigned to the BMP, nor does it constitute failure to perform the BMP. UD indicates that the practice is still under development.

2. Land application practices assume practice is conducted on all manure; points will be pro-rated to reflect actual waste treatment; points can be obtained on exported material with sufficient documentation.

3. Method used by inspector to determine compliance
   1=Observation by Inspector
   2=On-Site Recordkeeping Required
   3, 4=Deviation Reporting Required. Equipment upsets and/or breakdowns shall be recorded in a deviation log and if repaired in a reasonable timeframe does not constitute non-compliance with this rule.

( )

765. -- 774. (RESERVED)

775. RULES FOR CONTROL OF ODORS.
The purpose of Sections 775 through 776 is to control odorous emissions from all sources for which no gaseous emission control rules apply. ( )

776. GENERAL RULES.

01. General Restrictions. No person shall allow, suffer, cause or permit the emission of odorous gases, liquids or solids into the atmosphere in such quantities as to cause air pollution. ( )

02. Restrictions on Rendering Plants. No person shall allow, suffer, cause or permit any plant engaged in the processing of animal, mineral, or vegetable matter or chemical processes utilizing animal, mineral or vegetable matter to be operated without employing reasonable measures for the control of odorous emissions including wet scrubbers, incinerators, chemicals or such other measures as may be approved by the Department. ( )

777. -- 784. (RESERVED)

785. RULES FOR CONTROL OF INCINERATORS.
The purpose of Sections 785 through 788 is to prevent excessive emissions of particulate matter from incinerators. ( )

786. EMISSION LIMITS.

01. General Restrictions. No person shall allow, suffer, cause or permit any incinerator to discharge more than two-tenths (0.2) pounds of particulates per one hundred (100) pounds of refuse burned. ( )

02. Averaging Period. For the purposes of Section 786, emissions shall be averaged according to the following, whichever is the lesser period of time: ( )

a. One (1) complete cycle of operation; or ( )

b. One (1) hour of operation representing worst-case conditions for the emissions of particulate matter. ( )

03. Test Methods and Procedures. The appropriate test method under Sections 785 thought 788 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. ( )

787. EXCEPTIONS.
Sections 785 and 786 do not apply to wigwam burners. ( )

788. -- 789. (RESERVED)

790. RULES FOR THE CONTROL OF NONMETALLIC MINERAL PROCESSING PLANTS.
The purpose of Sections 790 through 799 is to set forth the requirements for nonmetallic mineral processing plants, frequently referred to as rock crushers. Definitions specific to nonmetallic mineral processing permits are located in Section 011 while other general terms may be defined in Sections 006 through 008. Compliance with Section 790 does not relieve the owner or operator of a nonmetallic mineral processing plant from the responsibility of complying with other federal, state, and local applicable laws, regulations, and requirements. ( )

791. GENERAL CONTROL REQUIREMENTS.

01. Prohibition. No owner or operator of a nonmetallic mineral processing plant shall allow, suffer, or cause the emissions of any air pollutant to the atmosphere in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. ( )

02. Control of Fugitive Dust. In accordance with Sections 650 and 651, owners and operators of nonmetallic mineral processing plants shall take all reasonable precautions to prevent the generation of fugitive dust. In determining what is reasonable, consideration will be given to factors such as the proximity to human habitations and/or activities and atmospheric conditions which might affect the movement of particulate matter. ( )

792. EMISSIONS STANDARDS FOR NONMETALLIC MINERAL PROCESSING PLANTS SUBJECT TO 40 CFR 60, SUBPART OOO.

01. Applicability and Designation of Affected Facilities. The provisions of 40 CFR 60.670(a)(1) are applicable to the following affected facilities in fixed or portable nonmetallic mineral processing plants that commence construction, modification, or reconstruction after August 31, 1983: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, and enclosed truck or railcar loading station. Also, crushers and grinding mills at hot mix asphalt facilities that reduce the size of nonmetallic minerals embedded in recycled asphalt pavement and subsequent affected facilities up to, but not including the first storage silo or bin, are subject to the provisions of 40 CFR 60.670(a)(1). ( )

02. Facilities Not Applicable to 40 CFR 60.670(a)(2), (b), and (c). The provisions of 40 CFR

60.670(a)(2), (b), and (c) do not apply to the following operations: all facilities located in underground mines, plants without crushers or grinding mills above ground, and wet processing operations (as defined in 40 CFR 60.671). ( )

a. An affected facility that is subject to the provisions of 40 CFR 60, Subpart F (Standards of Performance for Portland Cement Plants) or Subpart I (Standards of Performance for Hot Mix Asphalt Plants) or that follows the in plant process any facility subject to the provisions of 40 CFR 60, Subparts F or I, is not subject to the provisions of 40 CFR 60, Subpart OOO. ( )

b. Facilities at the following plants are not subject to the provisions of 40 CFR 60, Subpart OOO: ( )

i. Fixed sand and gravel plants and crushed stone plants with capacities, as defined in 40 CFR 60.671, of twenty-three (23) megagrams per hour (twenty-five (25) tons per hour) or less; ( )

ii. Portable sand and gravel plants and crushed stone plants with capacities, as defined in 40 CFR 60.671, of one hundred thirty-six (136) megagrams per hour (one hundred fifty (150) tons per hour) or less; and ( )

iii. Common clay plants and pumice plants with capacities, as defined in 40 CFR 60.671, of nine (9) megagrams per hour (ten (10) tons per hour) or less. ( )

03. Standards of Performance for Nonmetallic Mineral Processing Plants. Affected facilities subject to 40 CFR 60, Subpart OOO, shall comply with all applicable emissions standards, monitoring requirements, test methods and procedures, and reporting and recordkeeping requirements. ( )

793. EMISSIONS STANDARDS FOR NONMETALLIC MINERAL PROCESSING PLANTS NOT SUBJECT TO 40 CFR 60, SUBPART OOO.

Owners and operators of nonmetallic mineral processing plants that are not subject to a NSPS requirement shall comply with the emissions standards set forth in Section 793. ( )

01. Processing Plants Not Regulated by NSPS. Fixed or portable plants that commenced construction, reconstruction, or modification before August 31, 1983 are not subject to 40 CFR 60, Subpart OOO. ( )

02. Emissions Standards for Fugitive Emissions. No owner or operator shall cause to be discharged into the atmosphere emissions which exhibit greater than twenty percent (20%) opacity from any crusher, grinding mill, screening operation, bucket elevator, belt conveyor, conveying system, transfer point, vent, capture system, storage bin, stockpile, truck dumping operation, vehicle traffic on an affected paved public roadway, vehicle traffic on or wind erosion of an unpaved haul road, or other source of fugitive emissions. Opacity shall be determined using the test methods and procedures in Section 625. The plant is not required to have a certified opacity reader. ( )

794. PERMIT REQUIREMENTS.

No owner or operator may commence construction, reconstruction, modification or operation of any nonmetallic mineral processing plant regardless of whether or not the source is an affected facility pursuant to 40 CFR 60.670(e) without first obtaining a permit or complying with Sections 795 through 799. The owner or operator shall comply with the permitting requirements of Subsection 794.02 or Subsection 794.03 and the applicable portions of Subsection 794.04 and/or Subsection 794.05. ( )

01. Permit by Rule Eligibility. New major facilities or major modifications subject to Sections 204 and 205 are not eligible for a Permit by Rule. ( )

02. Permit by Rule. Owners and operators of nonmetallic mineral processing plants that meet all of the applicable requirements set forth in Sections 795 through 799 shall be deemed to have a permit by rule (PBR) and shall not be required to obtain a permit to construct under Sections 200 through 228. ( )

03. Permit to Construct. Owners and operators of nonmetallic mineral processing plants that do not

meet all of the requirements set forth in Sections 795 through 799, or that operate or intend to operate a nonmetallaic mineral processing plant at a single site of operations for more than twelve (12) consecutive months, or that choose to construct and operate under specific permit requirements rather than the provisions of the permit by rule shall obtain a permit to construct pursuant to Sections 200 through 228. An existing permit to construct shall be considered valid until the permit is modified, incorporated into a Tier II operating permit, or terminated by the Department. Existing permits to construct may be terminated by the Department by registering the source under the permit by rule provisions in accordance with Section 797 after June 15, 2001. ( )

04. Tier I Operating Permits. Owners and operators of nonmetallic mineral processing plants that are affected facilities subject to a requirement of the New Source Performance Standards (NSPS) in 40 CFR 60 are Tier I sources as defined in Section 006. Tier I sources must comply with the applicable permitting requirements of Sections 300 through 399. ( )

05. Tier II Operating Permits. Owners and operators of nonmetallic mineral processing plants that are required by the Department or choose to obtain a Tier II operating permit pursuant to Sections 400 through 410 shall operate in accordance with the specific provisions of the Tier II operating permit until such time as the operating permit is terminated in writing by the Department. The Department may require owners and operators of nonmetallic mineral processing plants to obtain a Tier II operating permit whenever the Department determines that: ( )

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or ( )

b. Specific emissions standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. ( )

795. PERMIT BY RULE REQUIREMENTS.

The purpose of Sections 795 through 799 is to establish the requirements for a permit by rule for nonmetallic mineral processing plants. ( )

796. APPLICABILITY.

01. Permit by Rule. Owners and operators of nonmetallic mineral processing plants shall be deemed to have a permit by rule if they comply with all of the applicable provisions of Sections 795 through 799. Nothing in Sections 795 through 799 shall preclude any owner or operator from obtaining a permit. Portable sources that operate or may be operated at a single location or site of operations for more than twelve (12) consecutive months must obtain a permit to construct or a Tier II operating permit. ( )

02. Permit Option. Owners and operators of nonmetallic mineral processing plants that hold a valid permit to construct or a Tier II operating permit must comply with the terms and conditions of the permit and are not subject to the requirements of the permit by rule in Sections 795 through 799. ( )

797. REGISTRATION FOR PERMIT BY RULE.

01. Registration Process. Any owner or operator of a nonmetallic mineral processing plant that opts to operate under the permit by rule shall register in the following manner: ( )

a. Any new or modified processing plant shall register fifteen (15) days prior to commencing operation or modification. The Department shall acknowledge registration in writing within fifteen (15) days. ( )

b. Any permitted processing plant shall register with the Department and request termination of the current permit to construct or Tier II operating permit. The Department shall normally act on the request within fifteen (15) days and notify the registrant in writing. ( )

Registration for permit by rule does not relieve the owner or operator of portable equipment from the registration and relocation requirements of Section 500. ( )

02. Registration Information. The following information shall be provided by the registrant to the Department: ( )

a. For all crushers and grinding mills, the registrant shall supply information on the manufacturer, crusher type (such as jaw, cone), serial number, date of manufacture, and maximum throughput capacity; ( )

b. For all screen decks, the registrant shall supply manufacturer name, physical size of screen, number of decks, serial number, and date of manufacture; and ( )

c. For all electrical generators, the registrant shall supply manufacturer name, rated output, and fuel. ( )

798. ELECTRICAL GENERATORS.
The following requirements apply to all electrical generators used to provide electrical power to any nonmetallic mineral processing plant. The requirements apply to each site of operations. ( )

01. Fuel Type. Only ASTM (American Society of Testing and Materials) Grade 1 or 2 fuel oil shall be used. The sulfur content of the fuel used shall not exceed the percentages of sulfur given in Section 725. ( )

02. Generator Operating Requirements. For the purposes of Sections 790 through 799, the following apply to all electrical generators.

Rated Output Capacities (kW)	Allowable Operating Hours (hr/day)		Allowable Operating Hours (hr/yr)	
	Attainment Unclassifiable Areas	PM-10 Nonattainment Areas	Attainment Unclassifiable Areas	PM-10 Nonattainment Areas
0 - 454	24	8	8760	2880
455 - 1000	24	24	8760	8760
1001 - 2000	24	24	5200	5200

kW = kilowatts
hr/day = hours per day
hr/yr = hours per year ( )

03. Generator Opacity Limit. Visible emissions from any generator stack, vent, or other functionally equivalent opening shall not exceed twenty percent (20%) opacity for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period. Opacity shall be determined using the test methods and procedures contained in Section 625. ( )

04. Monitoring and Recordkeeping Requirements. ( )

a. The owner or operator shall monitor and record the following information. ( )

i. The rated output capacity, in kilowatts (kW), of the electrical generator(s) used; ( )

ii. Operating hours on a monthly and annual basis so compliance can be continuously determined for the previous twelve (12) month period; and ( )

iii. Vendor receipts of the fuel oil purchased clearly identifying the ASTM Grade. ( )

b. Records of monitoring and recordkeeping requirements for current operations shall be maintained at the site of operations for the duration of operations at that location and shall be available to Department

representatives upon request. Records for previous sites of operation shall be kept for the most recent two (2) year period at a location where they can be reasonably accessed and shall be made available to the Department upon request. ( )

799. NONMETALLIC MINERAL PROCESSING PLANT FUGITIVE DUST BEST MANAGEMENT PRACTICE.

The owner or operator of a nonmetallic mineral processing plant shall use the Best Management Practices (BMP) contained in Section 799 to control the emissions of fugitive dust. Fugitive dust emissions shall be reasonably controlled as required by Sections 650 and 651. It shall be the responsibility of the owner or operator to reasonably control fugitive emissions at each site of operations but only for the duration of operations at each site under the control of the owner or operator. ( )

01. Generally Applicable Requirements. All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. The following requirements apply generally to this Fugitive Dust BMP. ( )

a. Control strategy triggers. The owner or operator of a nonmetallic mineral processing plant shall at all times be observant of all sources of fugitive dust emissions and monitor control strategies at least once per day when operating. When fugitive dust emissions are observed at any time to be exceeding any control strategy trigger specified in Subsections 799.02 through 799.06, that event shall trigger initiation of the prescribed control strategy or control strategies to control the fugitive dust emissions. ( )

b. Control strategies. A progressive control strategy shall be used to reasonably control the emissions of fugitive dust. Progressive control strategy means that if the initial control strategy or strategies chosen do not adequately control fugitive dust emissions, the owner or operator shall employ successive control strategies as listed until fugitive dust control is achieved. Fugitive dust control shall be applied on a frequency such that visible emissions do not exceed any emission standard specified in Sections 790 through 799. ( )

c. Monitoring and recordkeeping. The owner or operator shall maintain a record of each event where a control strategy is triggered. The trigger shall be recorded with a summary of the control strategy employed. If the trigger is a citizen complaint, the owner or operator shall record the complaint, an evaluation of whether the complaint has merit, and a summary of the corrective action taken. The record shall be maintained on forms provided by the Department or other forms that contain similar information. Records for current operations shall be maintained at the site of operations for the duration of operations at that location and shall be available to Department representatives upon request. Records for previous sites of operation shall be kept for the most recent two (2) year period at a location where they can be reasonably accessed and shall be made available to the Department upon request. ( )

02. Requirements for Paved Public Roadways. ( )

a. Definitions. ( )

i. Paved public roadway. A paved public roadway means a roadway accessible to the general public having a surface of asphalt or concrete. ( )

ii. Track-out. Track-out means the deposition of mud, dirt, or similar debris onto the surface of a paved public roadway from the tires and/or undercarriage of any vehicle associated with the operation of a nonmetallic mineral processing plant. ( )

b. Control strategy triggers. Triggers that require initiation of a strategy or strategies to control fugitive dust emissions from track-out include, but are not limited to: ( )

i. Visible deposition of mud, dirt, or similar debris on the surface of a paved public roadway. ( )

ii. Visible fugitive emissions from vehicle traffic on an affected paved public roadway that approach twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. ( )

iii. Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. ( )

c. Control strategies. The following are control strategies for track-out. ( )

i. Prompt removal of mud, dirt, or similar debris from the affected surface of a paved public roadway. ( )

ii. Water flush, and/or water flush and vacuum sweep, the affected surface of the paved public roadway. Runoff shall be controlled so it does not saturate the surface of the adjacent unpaved haul road such that track-out is enhanced. If runoff is not, or cannot be controlled, gravel shall be applied to the surface of the adjacent unpaved haul road over an area sufficient to control track-out. ( )

iii. Apply gravel to the surface of the adjacent unpaved haul road. The area of application shall be sufficient to control track-out. ( )

iv. Apply an environmentally safe chemical soil stabilizer or chemical dust suppressant to the surface of the adjacent unpaved haul road. The area of application shall be sufficient to control track-out. ( )

v. Other control strategy or strategies as approved by the Department. ( )

03. Requirements for Unpaved Haul Roads. ( )

a. Definition of "unpaved haul roads." Any unsurfaced roadway within the physical boundary of a nonmetallic mineral processing facility that is used as a haul road, access road, or similar. ( )

b. Control strategy triggers. Triggers that require initiation of a strategy or strategies to control fugitive dust emissions from unpaved haul roads include, but are not limited to: ( )

i. Visible fugitive emissions from vehicle traffic on an affected paved public roadway that approach twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. ( )

ii. Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. ( )

c. Control strategies. The following are control strategies for fugitive dust emissions from unpaved haul roads. ( )

i. Limit vehicle traffic on unpaved haul roads. ( )

ii. Limit vehicle speeds on unpaved haul roads. If a speed limit is imposed, signs shall be posted along the haul road route and clearly indicate the speed limit. Signs shall be placed so they are visible to vehicles entering and leaving the site of operations. ( )

iii. Apply water to the surface of the unpaved haul road. Runoff shall be controlled so it does not saturate the surface of the unpaved haul road such that it causes track-out. If runoff is not, or cannot be controlled, gravel shall be applied to the surface of the unpaved haul road over an area sufficient to control track-out. ( )

iv. Apply gravel to the surface of the unpaved haul road. ( )

v. Apply an environmentally safe chemical soil stabilizer or chemical dust suppressant to the surface of the unpaved haul road. ( )

vi. Other control strategy or strategies as approved by the Department. ( )

04. Requirements for Transfer Points, Screening Operations, and Stacks and Vents. ( )

a. Definitions. ( )

i. Transfer point. Transfer point means a point in a conveying operation where the nonmetallic mineral is transferred to or from a belt conveyor except where the nonmetallic mineral is being transferred to a stockpile. ( )

ii. Belt conveyor. Belt conveyor means a conveying device that transports material from one (1) location to another by means of an endless belt that is carried on a series of idlers and routed around a pulley at each end. ( )

iii. Conveying system. Conveying system means a device for transporting materials from one (1) piece of equipment or location to another location within a plant. Conveying systems include but are not limited to the following: feeders, belt conveyors, bucket elevators and pneumatic systems. ( )

iv. Bucket elevator. Bucket elevator means a conveying device of nonmetallic minerals consisting of a head and foot assembly which supports and drives an endless single or double strand chain or belt to which buckets are attached. ( )

v. Screening operation. Screening operation means a device for separating material according to size by passing undersize material through one (1) or more mesh surfaces (screens) in series, and retaining oversize material on the mesh surfaces (screens). ( )

vi. Capture system. Capture system means the equipment (including enclosures, hoods, ducts, fans, dampers, etc.) used to capture and transport particulate matter generated by one (1) or more process operations to a control device. ( )

vii. Control device. Control device means the air pollution control equipment used to reduce particulate matter emissions released to the atmosphere from one (1) or more process operations at a nonmetallic mineral processing plant. ( )

viii. Vent. Vent means an opening through which there is mechanically induced air flow for the purpose of exhausting from a building air carrying particulate matter emissions from one (1) or more affected facilities. ( )

b. Control strategy triggers. Triggers that require initiation of a strategy or strategies to control fugitive dust emissions from transfer points, belt conveyors, bucket elevators, screening operations, conveying systems, capture systems, and building vents include, but are not limited to, the following: ( )

i. NSPS regulated processing plants. ( )

(1) Opacity greater than ten percent (10%) from any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation. ( )

(2) For any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation located within a building, opacity greater than seven percent (7%) from any building vent. ( )

(3) Opacity greater than seven percent (7%) from any capture system stack. ( )

(4) Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy

shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. ( )

ii. Processing plants not regulated by NSPS. ( )

(1) Opacity greater than twenty percent (20%) from any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation. ( )

(2) For any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation located within a building, opacity greater than twenty percent (20%) from any building vent. ( )

(3) Opacity greater than twenty percent (20%) from any capture system stack. ( )

(4) Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. ( )

c. Control Strategies. The following are control strategies for transfer points, belt conveyors, bucket elevators, screening operations, conveying systems, capture systems, and building vents. Controls shall be applied on a frequency such that visible fugitive emissions do not exceed any applicable opacity limit. ( )

i. Limit drop heights of materials such that there is a homogeneous flow of material. ( )

ii. Install, operate, and maintain water spray bars to control fugitive dust emissions at transfer points on belt conveyors, conveying systems, bucket elevators, and screening operations as necessary. ( )

iii. Other control strategy or strategies as approved by the Department. ( )

05. Requirements for Crushers and Grinding Mills. ( )

a. Definitions. ( )

i. Crusher. Crusher means a machine used to crush any nonmetallic mineral, and includes, but is not limited to, the following types: jaw, gyratory, cone, roll, rod mill, hammermill, and impactor. ( )

ii. Grinding mill. Grinding mill means a machine used for the wet or dry fine crushing of any nonmetallic mineral. Grinding mills include, but are not limited to, the following types: hammer, roller, rod, pebble and ball, and fluid energy. The grinding mill includes the air conveying system, air separator, or air classifier, where such systems are used. ( )

iii. Initial crusher. Initial crusher means any crusher into which nonmetallic minerals can be fed without prior crushing in the plant. ( )

b. Control strategy triggers. Triggers that require initiation of a strategy or strategies to control fugitive dust emissions from any crusher, grinding mill, building vent, or capture system stack include, but are not limited to, the following. ( )

i. NSPS regulated processing plants. ( )

(1) Opacity greater than fifteen percent (15%) from any crusher or grinding mill at which capture system is not used. ( )

(2) For any crusher or grinding mill located within a building, opacity greater than seven percent (7%) from any building vent. ( )

(3) Opacity greater than seven percent (7%) from any capture system stack. ( )

(4) Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. ( )

ii. Processing plants not regulated by NSPS. ( )

(1) Opacity greater than twenty percent (20%) from any crusher or grinding mill at which capture system is not used. ( )

(2) For any crusher or grinding mill located within a building, opacity greater than twenty percent (20%) from any building vent. ( )

(3) Opacity greater than twenty percent (20%) from any capture system stack. ( )

(4) Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. ( )

c. Control strategies. The following are control strategies for any crusher, grinding mill, building vent, or capture system stack. Controls shall be applied on a frequency such that visible fugitive emissions do not exceed any applicable opacity limit. ( )

i. Limit drop heights of materials such that there is a homogeneous flow of material. ( )

ii. Install, operate, and maintain water spray bars to control fugitive dust emissions at crusher drop points as necessary. ( )

iii. Other control strategy or strategies as approved by the Department. ( )

06. Requirements for Stockpiles. ( )

a. Definitions. ( )

i. Stockpile. Stockpile means any nonmetallic mineral storage pile, reserve supply, or similar. Nonmetallic minerals shall have the meaning given in 40 CFR Part 60, Subpart OOO. Nonmetallic minerals may be stockpiled by belt conveyor, truck dumping, or similar. ( )

ii. Truck dumping. Truck dumping means the unloading of nonmetallic minerals from movable vehicles designed to transport nonmetallic minerals from one (1) location to another. Movable vehicles include but are not limited to: trucks, front-end loaders, skip hoists, and railcars. ( )

b. Control strategy triggers. Triggers that require immediate initiation of a strategy or strategies to control fugitive dust emissions from stockpiles include, but are not limited to: ( )

i. Visible fugitive emissions from wind erosion of any stockpile that approaches twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. ( )

ii. Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint

records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. ( )

c. Control strategies. The following are control strategies for stockpiles. ( )

i. Limit the height of the stockpiles. ( )

ii. Limit the disturbance of the stockpiles. ( )

iii. Apply water onto the surface of the stockpile. ( )

iv. Other control strategy or strategies as approved by the Department. ( )

800. REGISTRATION FEE FOR PERMIT BY RULE.
A registration fee of two hundred fifty dollars ($250) shall be submitted to the Department with each permit by rule registration. ( )

801. PAYMENT OF FEES FOR PERMITS BY RULE REGISTRATION.
The permit by rule registration fee shall be paid in its entirety at the time the required registration form is submitted to the Department. The permit by rule registration form and fee should be sent to:

Permit by Rule Registration Fees
Fiscal Office
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255 ( )

802. RECEIPT AND USAGE OF FEES.
Permit by rule registration fee receipts shall be deposited by the Department into a stationary source permit account. Monies from this account shall be used solely toward technical, legal and administrative support of the Department's Permit to Construct and Tier II permit programs and shall not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. Fees payable under Section 800 shall be retained by the Department regardless of whether a permit by rule registration is accepted by the Department in response to a registration request. ( )

803. -- 804. (RESERVED)

805. RULES FOR CONTROL OF HOT-MIX ASPHALT PLANTS.
The purpose of Sections 805 through 808 is to establish for hot-mix asphalt plants restrictions on the emission of particulate matter. ( )

806. EMISSION LIMITS.
No person shall cause, allow or permit a hot-mix asphalt plant to have particulate emissions which exceed the limits specified in Sections 700 through 703. ( )

807. MULTIPLE STACKS.
In the case of more than one (1) stack to a hot-mix asphalt plant, the emission limitation will be based on the total emission from all stacks. ( )

808. FUGITIVE DUST CONTROL.

01. Fugitive Emission Controls. No person shall cause, allow or permit a plant to operate that is not equipped with an efficient fugitive dust control system. The system shall be operated and maintained in such a manner as to satisfactorily control the emission of particulate material from any point other than the stack outlet. ( )

02. Plant Property Dust Controls. The owner or operator of the plant shall maintain fugitive dust control of the plant premises and plant owned, leased or controlled access roads by paving, oil treatment or other

suitable measures. Good operating practices, including water spraying or other suitable measures, shall be employed to prevent dust generation and atmospheric entrainment during operations such as stockpiling, screen changing and general maintenance. ( )

809. -- 814. (RESERVED)

815. RULES FOR CONTROL OF KRAFT PULP MILLS.
The purpose of Sections 815 through 818 is to establish emission standards for recovery furnaces and notification and reporting requirements for low volume high concentration (LVHC) and high volume low concentration (HVLC) gas venting at kraft pulp mills. ( )

816. RECOVERY FURNACE TRS STANDARD.
The average daily emissions of total reduced sulfur (TRS) from each recovery furnace shall not exceed fifteen (15) ppm expressed as hydrogen sulfide on a dry basis. Recovery furnaces at kraft pulp mills subject to 40 CFR Part 60 TRS standards are exempt from the requirements of Section 816. ( )

817. RECOVERY FURNACE TRS MONITORING AND RECORDKEEPING.
Owners and operators of each recovery furnace subject to the TRS emission standard in Section 816 shall maintain and operate equipment to continuously monitor and record the daily average TRS concentrations. ( )

818. KRAFT PULP MILL LVHC AND HVLC GAS VENTING NOTIFICATION AND REPORTING.
Section 818 is applicable to kraft pulp mill LVHC and HVLC gas venting from sources required to be controlled pursuant to 40 CFR 63, Subpart S. For purposes of Sections 130 through 136, an excess emission is defined as a continuous uncontrolled gas venting in excess of five (5) minutes. Excess emissions notification and reporting shall be conducted pursuant to the requirements contained in Sections 130 through 136 and the permit issued to the kraft pulp mill. ( )

819. -- 834. (RESERVED)

835. RULES FOR CONTROL OF RENDERING PLANTS.
The purpose of Sections 835 through 839 is to establish for rendering plants limitations on the emission of odors. ( )

836. CONTROL OF COOKERS.
No person shall allow, suffer, cause, or permit the operation or use of any device, machine, equipment, or other contrivance to cook inedible animal or marine matter unless all gases, vapors, and gas entrained effluents from these processes are passed through condensers to remove all steam and other condensable materials. All noncondensibles passing through the condensers must then be incinerated at one thousand two hundred degrees Fahrenheit (1,200) for a minimum of three-tenths (0.3) seconds, or treated in an equally effective manner. ( )

837. CONTROL OF EXPELLERS.
No person shall allow, suffer, cause, or permit the installation or operation of an expeller unless it is properly hooded and all exhaust gases are ducted to odor control equipment. ( )

838. CONTROL OF PLANT AIR.
No person shall allow, suffer, cause, or permit the installation or operation of a rendering plant unless plant ventilation air is collected and ducted to odor control equipment. ( )

839. EXCEPTIONS.
Section 838 shall not apply when it can be demonstrated that without ducting plant ventilation air to the odor control equipment no noticeable odors from the plant can be detected at the property line. ( )

840. -- 859. (RESERVED)

860. EMISSION GUIDELINES FOR MUNICIPAL SOLID WASTE LANDFILLS THAT COMMENCED CONSTRUCTION, RECONSTRUCTION OR MODIFICATION BEFORE MAY 30, 1991.

01. Applicability. All owners or operators of any small or large municipal solid waste landfills in the following categories are subject to Section 860: ( )

a. Landfills that have accepted waste since November 8, 1987; ( )

b. Landfills with no modifications after May 30, 1991; or ( )

c. Landfills that closed after November 8, 1987 with no modifications after May 30, 1991. ( )

02. Definitions. Unless specifically provided otherwise immediately below, the definitions for all terms set forth in Section 860 shall be the definitions set forth in 40 CFR Part 60. The following definitions apply to Section 860: ( )

a. "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 CFR 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. A landfill is considered closed after meeting the criteria of 40 CFR 258.60. ( )

b. "Effective date" means July 2, 1999. ( )

c. "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before May 30, 1991 and has accepted waste at any time since November 8, 1987 or has additional design capacity available for future waste deposition. ( )

d. "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to two point five (2.5) million megagrams or two point five (2.5) million cubic meters. ( )

e. "Modification" means an action that results in an increase in the permitted volume design capacity of the landfill by either horizontal or vertical expansion based on its permitted design capacity as of May 30, 1991. Modification does not occur until the owner or operator commences construction on the horizontal or vertical expansion. ( )

f. "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification). ( )

g. "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after May 30, 1991. ( )

h. "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than two point five (2.5) million megagrams or two point five (2.5) million cubic meters. ( )

03. General Requirements. All owners or operators of landfills subject to Section 860 must comply with, 40 CFR Section 60.30c through 60.36c and 40 CFR Section 60.751 through 60.759 as amended by 63 Fed. Reg. 32,743-53 (June 16, 1998) and 64 Fed. Reg. 9,257-62 (February 24, 1999) and incorporated by reference into these rules at Section 107. Where "Administrator" or "EPA" appears in 40 CFR Part 60, "Department" shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state. ( )

04. Permitting Requirements. All owners or operators of landfills subject to Section 860 must

comply with Federal Operating Permit Requirements (Title V) as specified in Sections 300 through 399 of these rules: ( )

a. All owners or operators of existing large landfills must submit a complete Federal Operating Permit application one (1) year after EPA approves the Clean Air Act Section 111(d) State Plan associated with Section 860. ( )

b. All owners or operators of existing small landfills that are major sources must submit a complete Federal Operating Permit application within one (1) year of becoming a major source. ( )

05. Reporting Requirements. All owners or operators of landfills subject to Section 860 shall comply with the following: ( )

a. All owners or operators of large landfills must: ( )

i. Submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within ninety (90) days of the effective date of Section 860 and; ( )

ii. Submit an annual Nonmethane Organic Compound Report until nonmethane emissions are less than fifty (50) Mg/yr. ( )

b. All owners or operators of small landfills must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within ninety (90) days of the effective date of Section 860. ( )

06. Compliance Schedules and Increments of Progress. All owners or operators of landfills subject to Section 860 that have a nonmethane organic compound emission rate fifty (50) Mg/yr or greater as specified in 40 CFR Section 60.752(b)(2) shall comply with the following schedule: ( )

a. The owner or operator of an existing large landfill must submit their first Annual Emission Rate Report with the design capacity report no later than July 31, 2000. ( )

b. The owner or operator of an existing landfill shall submit a collection and control system design plan within one (1) year of the date of the first Annual Emission Rate Report showing that the nonmethane organic compound emission rate is fifty (50) Mg/yr or greater as specified in 40 CFR Section 60.752(b)(2). ( )

c. The owner or operator of an existing landfill shall award contracts for construction of collection and control systems or orders for purchase of components no later than January 31, 2002. ( )

d. The owner or operator of an existing landfill shall initiate on-site construction or installation of the collection and control systems no later than April 30, 2002. ( )

e. The owner or operator of an existing landfill shall complete, no later than September 30, 2002, on-site construction or installation of collection and control systems capable of meeting the requirements of Section 860. ( )

f. The owner or operator of an existing landfill shall comply with Section 860 no later than September 30, 2002. ( )

07. Compliance Schedules and Increments of Progress for Municipal Solid Waste Landfills That Have Nonmethane Organic Compound Emission Rates Less Than 50 Mg/yr. All owners or operators of landfills subject to Section 860 that have nonmethane organic compound emission rates less than fifty (50) Mg/yr on or after November 19, 1999 shall install collection and control systems within thirty (30) months after the date the first annual nonmethane organic compound emission rate equals or exceeds fifty (50) Mg/yr as specified in 40 CFR Section 60.36c(b). ( )

861. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are adopted pursuant to the authority vested in the Board of Environmental Quality by the Hazardous Waste Management Act of 1983, as amended (HWMA), Sections 39-4401 et seq., Idaho Code, and the authority vested in the Director of the Department of Environmental Quality by the Hazardous Waste Facility Siting Act of 1985, as amended, Sections 39-5801 et seq., Idaho Code. ( )

001. TITLE.
These rules are titled IDAPA 58.01.05, "Rules and Standards for Hazardous Waste." ( )

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.
Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260 - 268, 270, 273, 278, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2020, including any notes and appendices therein, unless expressly provided otherwise in these rules. ( )

01. Exceptions. Nothing in 40 CFR Parts 260 - 268, 270, 273, 278, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. ( )

02. Availability of Referenced Material. The federal regulations adopted by reference throughout these rules are maintained at the following locations: ( )

a. U.S. Government Printing Office, http://www.ecfr.gov/cgi-bin/ECFR; and ( )

b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208) 334-3316; and ( )

c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. ( )

003. DEFINITIONS.
For the purpose of these rules and any materials incorporated herein by reference, the following definitions apply unless their application would be inconsistent with the Hazardous Waste Management Act, or unless these rules expressly provide for different definitions. ( )

01. Board. The Idaho Board of Environmental Quality. ( )

02. CFR. The United States Code of Federal Regulations. ( )

03. Department. The Idaho Department of Environmental Quality. ( )

04. Director. When used in the context of 40 CFR, the definition shall be the Director of the Idaho Department of Environmental Quality, or his designee, as the context requires. When used in the context of these rules, the definition shall be the U. S. Environmental Protection Agency Region 10 Regional Administrator. ( )

05. Environmental Appeals Board. When used in the context of 40 CFR, the definition shall be the Idaho Board of Environmental Quality except as set forth in Section 39-4413(2), Idaho Code, or except where noted in these rules. When used in the context of these rules, the definition shall be the U.S. Environmental Appeals Board. ( )

06. U.S. Environmental Protection Agency or EPA, EPA Headquarters, or EPA. When used in the context of 40 CFR, the definition shall be the Idaho Department of Environmental Quality, except when used to refer to an EPA Identification number, EPA hazardous waste number, EPA forms, publications or guidance, and EPA Acknowledgment of Consent, and where noted in these rules. Under the latter circumstances, the definition shall be the U.S. Environmental Protection Agency and the Headquarters of the U.S. Environmental Protection Agency as appropriate. When used in the context of these rules, the definition shall be the U.S. Environmental Protection Agency. ( )

07. HWFSA. The Hazardous Waste Facility Siting Act of 1985, Sections 39-5801 et seq., Idaho Code.

( )

08. **HWMA**. The Hazardous Waste Management Act of 1983, Sections 39-4401 et seq., Idaho Code. ( )

09. **IDAPA**. The Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. ( )

10. **RCRA**. When used in the context of 40 CFR, the definition shall be the comparable sections of the Hazardous Waste Management Act of 1983, Sections 39-4401 et seq., Idaho Code. When used in the context of these rules, the definition shall be The Resource Conservation and Recovery Act, 42 U.S. Code, Sections 6901 et seq. ( )

11. **Regional Administrator or Administrator**. When used in the context of 40 CFR, the definition shall be the Director of the Idaho Department of Environmental Quality, or his designee, except where noted in these rules. When used in the context of these rules, the definition shall be the U.S. Environmental Protection Agency Administrator or Region 10 Regional Administrator as appropriate. ( )

12. **TSD**. Treatment, storage or disposal. ( )

13. **United States or U.S**. When used in the context of 40 CFR, the definition shall be the state of Idaho, except where noted in these rules. When used in the context of these rules, the definition shall be the United States. ( )

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.

40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020. For the purposes of 40 CFR 260.4(a)(4) and 260.5(b)(2), "EPA" is defined as the U.S. Environmental Protection Agency. For the purposes of 40 CFR 260.10 in the definition of electronic manifest and electronic manifest system, "EPA" is defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 260.10, in the definition of hazardous waste constituent, "Administrator" is defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 260.20, "Federal Register" is defined as the Idaho Administrative Bulletin. ( )

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

40 CFR Part 261 and all Subparts (excluding 261.4(b)(17)), except the language "in the Region where the sample is collected" in 40 CFR 261.4(e)(3)(iii), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020. For purposes of 40 CFR 261.10 and 40 CFR 261.11, "Administrator" is defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 261.4(b)(11)(ii), 40 CFR 261.39(a)(5), 40 CFR 261.41, and 40 CFR 261 Appendix IX, "EPA" is defined as the U.S. Environmental Protection Agency. Copies of annual reports and advance notifications under these sections shall also be sent to the Director. ( )

01. **Hazardous Secondary Materials Managers Emergency Notification**. In addition to the emergency notification required by 40 CFR 261.411(d)(3) and 261.420(f)(4)(ii), the emergency coordinator must also immediately notify the Idaho Office of Emergency Management by telephone, 1-800-632-8000, to file an identical report. ( )

02. **Excluded Wastes**. Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by Envirosafe Services of Idaho, Inc. (ESII) at ESII's facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: ( )

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.02.b. and 005.02.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. ( )

b. Initial Verification Testing. ( )

i. For purposes of Subsections 005.02.b., "new source" means any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.02.d. ( )

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification includes: ( )

(1) The waste profile information; and ( )

(2) The name and address of the generator. ( )

iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.02.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.02.d. ( )

iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.02.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.02.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. ( )

v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: ( )

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.02.d.; and ( )

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.02.b.iv. ( )

vi. For purposes of Subsections 005.02.b. and 005.02.c., "batch" means the CSEAFD that results from a single treatment episode in a full scale mixing vessel. ( )

c. Subsequent Verification Testing. ( )

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.02.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. ( )

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.02.d. ( )

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. ( )

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.02.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.02.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. ( )

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.02.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: ( )

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.02.d.; or ( )

(2) Managed and disposed of in accordance with Subtitle C of RCRA. ( )

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.02.d. ( )

d. Delisting Levels. ( )

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):

antimony	0.06		mercury	0.009
arsenic	0.50		nickel	1
barium	7.60		selenium	0.16
beryllium	0.010		silver	0.30
cadmium	0.050		thallium	0.020
chromium	0.33		vanadium	2
lead	0.15		zinc	70

( )

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. ( )

e. Modification of Treatment Process. ( )

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. ( )

ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. ( )

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. ( )

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Waste Management and Remediation Division, 1410 N. Hilton, Boise, Idaho 83706. ( )

f. Records and Data Retention and Submittal. ( )

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. ( )

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. ( )

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written

request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. ( )

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." ( )

g. Facility Merger and Name Change. On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from Envirosafe Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to Envirosafe Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. ( )

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation by Reference. 40 CFR Part 262 and all Subparts, except for the language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020. For purposes of 40 CFR 262.82, 262.83, and 262.84, "EPA" is defined as the U.S. Environmental Protection Agency. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.20, 262.21, 262.24, 262.25, and 262.32, EPA or Environmental Protection Agency is defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262, Subpart H, "United States or U.S." is defined as the United States. ( )

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR 262.16(b)(9)(iv)(C) and 262.265(d)(2), (see 40 CFR 262.17(a)(6), 263.30(c)(1), 264.56(d)(2), and 265.56(d)(2)) the emergency coordinator must also immediately notify the Idaho Office of Emergency Management by telephone, 1-800-632-8000, to file an identical report. ( )

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.
40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020. For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), "United States" is defined as the United States. For the purposes of 40 CFR 263.20(a), "EPA" is defined as U.S. Environmental Protection Agency. ( )

008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.
40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020. For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator" is defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.71 and 264.1082(c)(4)(ii), "EPA" is defined as the U.S. Environmental Protection Agency. ( )

009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.
40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), 265.1(c)(15), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)), except the language contained in 40 CFR 265.340(b)(2) as replaced with: "The following requirements continue to apply even when the owner or operator has

demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part," are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020. For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator" is defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.71 and 265.1083(c)(4)(ii), "EPA" is defined as the U.S. Environmental Protection Agency. ( )

010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.
40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020. ( )

011. LAND DISPOSAL RESTRICTIONS.
40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020, except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.2(j) "EPA" is defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), "Administrator" is defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), "D009" is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.) ( )

012. HAZARDOUS WASTE PERMIT PROGRAM.
40 CFR Part 270 and all Subparts, except 40 CFR 270.1(c)(2)(ix), 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" is defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. ( )

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).
40 CFR Part 124, Subparts A, B and G are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020, except that the last sentence of 40 CFR 124.10(b)(1), 40 CFR 124.15(b)(2), 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" is defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. ( )

014. (RESERVED)

015. STANDARDS FOR THE MANAGEMENT OF USED OIL.

01. Incorporation by Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020. For purposes of 40 CFR 279.43(c)(3)(ii) "Director" is defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. ( )

02. Used Oil as a Dust Suppressant. 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this application to EPA. This petition to the State must: ( )

a. Be submitted to the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255; and ( )

b. Demonstrate how the requirements of 40 CFR 279.82(b) will be met. ( )

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.
40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020. For purposes of 40 CFR 273.32(a)(3), "EPA" is defined as the U.S. Environmental Protection Agency. ( )

017. CRITERIA FOR THE MANAGEMENT OF GRANULAR MINE TAILINGS (CHAT) IN ASPHALT CONCRETE AND PORTLAND CEMENT CONCRETE IN TRANSPORTATION CONSTRUCTION PROJECTS FUNDED IN WHOLE OR IN PART BY FEDERAL FUNDS.
40 CFR Part 278 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020. ( )

018. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT.
40 CFR Part 267 and all Subparts, except 40 CFR 267.150, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2020. ( )

019. -- 354. (RESERVED)

355. HAZARDOUS WASTE FACILITY SITING LICENSE FEE.
An application for a siting license required by HWFSA shall be accompanied by a siting license fee in an amount established by these rules. The license fee shall not exceed seven thousand five hundred dollars ($7,500) and shall be submitted with the siting license application. ( )

01. License Fee Criteria. The siting license fee required by HWFSA and these rules shall be based on the costs to the Department of reviewing the siting license application and the characteristics of the proposed hazardous waste facility, including the projected site size, projected waste volume, and the hydrogeological characteristics surrounding the site. ( )

a. "Projected Waste Volume" means the total actual or potential hazardous waste volume, in gallons or an equivalent measurement, proposed for the hazardous waste facility. ( )

b. "Site Size" means the sum in acres of all proposed "Hazardous Waste Management Unit(s)" as defined in Section 004 (40 CFR 260.10). ( )

02. License Fee Scale. Except as provided in Subsection 355.03, the siting license fee required by HWFSA and these rules shall be determined using the table below.

LICENSE FEE SCALE - PROJECTED HAZARDOUS WASTE VOLUME (gallons)			
Site Size	**Up to 10,000**	**10,000 - 20,000**	**More Than 20,000**
1 acre or greater	$3,000	$4,000	$7,500
Equal to or greater than 1/2 acre, but less than 1 acre	$4,000	$5,000	$7,500
Less than 1/2 acre	$5,000	$6,000	$7,500

( )

03. License Fee for Facilities Required to Submit Engineering or Hydrogeological Information. For any proposed commercial hazardous waste disposal, treatment or storage facility or any on-site land disposal facility for wastes listed pursuant to Section 201(d)(2) and (e), as modified by Section 209 of the Federal Hazardous and Solid Waste Amendments of 1984, which must submit engineering or hydrogeological information to indicate compliance with technical criteria as adopted in the Hazardous Waste Management Plan, the siting license fee shall be seven thousand five hundred dollars ($7,500). ( )

04. Expansion, Enlargement or Alteration of a Commercial Hazardous Waste Disposal, Treatment or Storage Facility or Any On-Site Land Disposal Facility for Wastes Listed Pursuant to Section 201(D)(2) and (E), as Modified by Section 209 of the Hazardous and Solid Waste Amendments of 1984. The significant expansion, enlargement or alteration of a hazardous waste treatment, storage or disposal facility in existence on July 1, 1985, constitutes a new proposal for which a siting license is required and for which a siting license fee must be paid. ( )

05. Siting License Fee Nonrefundable. The siting license fee required by these rules shall be nonrefundable and may not be applied toward any subsequent application should the siting license application be cancelled or withdrawn, or denied. ( )

356. VARIANCE APPLICATIONS FOR TSD FACILITIES OR SITES.

01. Application Contents and Standard of Review. Applications for variances shall be submitted in triplicate and shall contain such detailed plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the Director may require. A variance shall not exceed one (1) year in duration. The Director may grant a variance only if the applicant demonstrates to the Director's satisfaction that construction and operation of the TSD facility or site in the manner allowed by the variance and any term or condition imposed as part of the variance: ( )

a. Is required to avert unnecessary and significant hardship; ( )

b. Is not inconsistent with EPA requirements; and ( )

c. Will not create a nuisance or a hazard to the public health, safety or the environment. ( )

02. Public Hearings. The Director may hold a public hearing on an initial application for a variance and shall hold a public hearing on any application to renew or extend a variance. The public hearing shall be held at a location in the county where the operations that are the subject of the application for the variance are conducted unless the Director determines that a different location would be more appropriate and convenient for interested members of the public. The Director shall give at least twenty (20) days' notice of the hearing to the applicant by certified mail and shall cause at least one (1) publication of notice in a newspaper with general circulation in either the county where the operation is conducted or the county where the hearing is to be held. The Director shall cause to be made a complete record of the testimony and the evidence submitted at the hearing. ( )

03. Public Information. All information submitted as part of a variance application shall be treated as public information and shall not be subject to any claim of confidentiality. The Director shall make the application available for public inspection at the Department's state office and appropriate regional office. The Director shall make available for public inspection at the Department's state office and all regional offices a current list of pending applications for variances and a current schedule of pending variance hearings. ( )

04. Director's Decision. No variance shall be issued or denied until the Director has considered the relative interests of the applicant, other persons and property affected by the variance and the public. Any variance granted pursuant to this section shall be for a period specified by the Director but not more than one (1) year. No variance shall be issued or denied without a written order stating the findings upon which the decision is based. ( )

05. Applicant to Bear Costs. The cost of public notice, recording and transcribing of testimony and hearing facilities shall be borne by the applicant, regardless of whether or not a variance is issued. ( )

357. -- 499. (RESERVED)

500. ROUTING OF HAZARDOUS WASTE SHIPMENTS.

01. Transporting. Any person transporting a quantity of hazardous waste which requires a manifest shall, to the extent possible: ( )

a. Use state, United States and interstate highways; and ( )

b. Avoid municipalities and population centers, even when doing so may add miles to the distance traveled. ( )

02. Director's Conditions. The Director may, upon a finding that a shipment or shipments of hazardous waste constitutes a greater than normal risk to the public health, safety or environment, prescribe by order particular conditions for that shipment or shipments including but not limited to special placarding, pilot vehicles, routing restrictions, parking restrictions and timing restrictions. ( )

501. -- 799. (RESERVED)

800. INSPECTION PLAN -- FREQUENCY LEVELS.
The Department may, as time and resources permit, conduct regular inspections of persons or entities subject to these rules, their records, and property at approximately the following frequency levels based upon potential risk to the public health or environment. ( )

01. Commercial TSD Facilities. Commercial TSD facilities or sites or offsite generator TSD facilities or sites, up to every day. ( )

02. Generator On-Site TSD Facilities. Generator on-site TSD facilities or sites -- up to twenty (20) times per year. ( )

03. Transport Vehicles. Transport vehicles as necessary. ( )

04. Transport Facilities. Transport facilities or sites -- up to twelve (12) times per year. ( )

05. Generators. Generators -- up to twelve (12) times per year. ( )

06. Conduct Inspections. Nothing in the preceding schedule of frequency levels may be construed as limiting the Department's authority to conduct inspections when there is reasonable cause to suspect a violation of HWMA or these rules. The Director may by policy guidance memorandum modify the inspection frequency levels as necessary for the effective or efficient enforcement of HWMA and these rules. ( )

801. -- 849. (RESERVED)

850. ILLEGAL ACTIONS.

01. False Statements or Representations. Any person who makes a false statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for the purpose of complying with these rules or HWMA thereby commits a violation. Each false statement or representation constitutes a separate and distinct violation for which civil penalties may be imposed. Any person who knowingly makes a false statement or representation of the type described above is, in addition to civil penalties, subject to criminal prosecution for the commission of a misdemeanor for each statement or representation. ( )

02. Failure to Comply with These Rules, the HWMA, or Other Requirements. Any person who violates these rules, HWMA, or any permit, standard, condition, requirement, compliance agreement or order issued pursuant to these rules or HWMA thereby commits a violation. Civil penalties may be imposed for each separate violation and for each day of continuing violation. Any person who knowingly commits a violation of the type described above is, in addition to civil penalties, subject to criminal prosecution for the commission of a misdemeanor for each separate violation and for each day of a continuing violation. ( )

851. -- 899. (RESERVED)

900. EXPENDITURES FROM HAZARDOUS WASTE EMERGENCY ACCOUNT.
The Director may declare a hazardous waste emergency if the public health, safety or the environment are threatened by a release or threat of release of a hazardous waste or a substance which has become a hazardous waste. Following

a hazardous waste emergency declaration, the Department may spend or obligate to be spent up to two hundred thousand dollars ($200,000) from the Hazardous Waste Emergency Account to obtain equipment and materials, conduct investigations, test samples, and employ personnel as necessary or eliminate or mitigate the immediate threat and stabilize the situation. The Director may authorize the expenditure or obligation of more than two hundred thousand dollars ($200,000) from this account in any given situation upon a finding by the Board that a greater expenditure or obligation is prudent and necessary to protect the public health, safety or environment. ( )

901. -- 995. (RESERVED)

996. ADMINISTRATIVE PROVISIONS.
Administrative appeals of agency actions shall be governed by IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

997. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules shall be disclosed to the public in accordance with Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, 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." ( )

998. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 39-105 and 39-107, Idaho Code, authorize the Board of Environmental Quality to adopt rules and administer programs to protect surface water quality, ground water quality and air quality, and to regulate solid waste treatment or disposal and the licensure and certification requirements pertinent thereto. Section 39-7408C, Idaho Code, authorizes the Board of Environmental Quality to establish by rule municipal solid waste commercial siting license fees. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.06, "Solid Waste Management Rules." ( )

02. Scope. These rules establish requirements applicable to all solid waste and solid waste management facilities in Idaho, except as specifically provided in Subsections 001.03 and 001.04. ( )

03. Wastes Not Regulated Under These Rules. ( )

a. These rules do not apply to the following solid wastes: ( )

i. Liquid wastes when the discharge or potential discharge of the liquid waste is regulated under a federal, state or local water pollution discharge or wastewater land application permit, including management of any solids if management of the solids are addressed in a permit term or condition; ( )

ii. Hazardous wastes regulated by the Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code, and the rules adopted thereunder; ( )

iii. Polychlorinated biphenyl (PCB) waste regulated under the Toxic Substance Control Act, 15 U.S.C. 2601, et seq., and these rules apply to PCB waste authorized by federal law to be disposed of at a nonhazardous waste landfill that is permitted, licensed or registered under Idaho Law; ( )

iv. Slash or slashing areas resulting from the harvesting of timber and the disposal of which is managed pursuant to Chapter 1, Title 38, Idaho Code or log landings or sorting sites; ( )

v. Wastes used, managed, stored and disposed in accordance with The Wood and Mill Yard Debris Technical Guidance Manual, as amended, published by the Department and developed pursuant to Sections 39-171 through 39-174, Idaho Code; ( )

vi. Clean soils and clean dredge spoils as regulated under Section 404 of the federal Clean Water Act provided that they are not hazardous wastes regulated by the Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code and the rules adopted thereunder; ( )

vii. Septage taken to a sewage treatment plant permitted by either the U.S. Environmental Protection Agency or the Department pursuant to IDAPA 58.01.15, "Rules Governing the Cleaning of Septic Tanks"; ( )

viii. All radioactive waste and radioactive materials regulated pursuant to Section 39-4405(9), Idaho Code and rules adopted thereunder and radioactive waste and materials regulated under the authority of the Atomic Energy Act of 1954, as amended; ( )

ix. Petroleum Contaminated Soils (PCS) from a leaking petroleum storage tank system managed as a one (1) time remediation pursuant to IDAPA 58.01.02, "Water Quality Standards"; ( )

x. Asbestos as regulated by the Toxic Substances Control Act, as amended, 15 U.S.C. Sections 2601, et seq., or asbestos as regulated by the Clean Air Act, as amended, 42 U.S.C. Section 7412; ( )

xi. Nonhazardous wastes disposed in a permitted hazardous waste treatment, storage and disposal unit regulated by the Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code, and rules adopted thereunder; or ( )

xii. Waste otherwise regulated under Department authorities. ( )

b. These rules do not apply to the following solid waste unless these wastes are mixed with more than incidental quantities of regulated waste; ( )

i. Inert wastes; ( )

ii. Manures and crop (plant) residues ultimately returned to the soils at agronomic rates; ( )

iii. Any agricultural solid waste which is managed and regulated pursuant to rules adopted by the Idaho Department of Agriculture. The Department reserves the right to use existing authorities to regulate agricultural waste that impacts human health or the environment; ( )

iv. Overburden, waste dumps, low-grade stockpiles, tailings and other materials uniquely associated with mineral extraction, beneficiation or processing operations; ( )

v. Slag from the production of elemental phosphorus; ( )

vi. Phospho-gypsum from the production of phosphate fertilizers, which includes the production of phosphoric acid; and ( )

vii. Wood waste used for ornamental, animal bedding, mulch and plant bedding, or road building purposes. ( )

04. Solid Waste Management Facilities Not Regulated Under These Rules. These Rules do not apply to the following solid waste management facilities: ( )

a. Solid waste management facilities accepting only solid waste excluded by Subsection 001.03; ( )

b. Recycling centers; or ( )

c. Backyard composting sites. ( )

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

004. APPLICABILITY.
These rules apply to all solid waste unless excluded by Subsection 001.03 and to all solid waste management sites in Idaho unless excluded by Subsection 001.04. Compliance with these rules does not relieve owners and operators from the obligation to comply with other applicable state or federal laws, including but not limited to the IDAPA 58.01.02, "Water Quality Standards," IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." ( )

01. Solid Waste Facility Other Than Municipal Solid Waste Landfills (MSWLF) Applicability. Sections 000 through 060 and Section 999 apply to all solid waste facilities other than MSWLF, as specified therein. ( )

02. Municipal Solid Waste Landfill Applicability. Sections 000 through 007, and Sections 994 through 999 apply to all MSWLFs, as specified therein. ( )

005. DEFINITIONS.

01. Active Portion. That part of a unit where waste had been, or may be, disposed of, treated, or otherwise managed, and that has not been closed in accordance with applicable rules. ( )

02. Backyard Composting. Composting operations used only by the owner or person in control of a residential dwelling unit to process garbage and yard waste generated at that dwelling unit. ( )

03. **Beneficial Use**. Various uses of ground water in Idaho including, but not limited to, domestic water supplies, industrial water supplies and agricultural water supplies. A beneficial use is defined as actual current and projected future uses of ground water. ( )

04. **Commercial Solid Waste Facility**. A MSWLF owned and operated as an enterprise conducted with the intent of making a profit by any individual, association, firm, or partnership for the disposal of solid waste, but excluding a MSWLF owned or operated by a political subdivision, state or federal agency or, municipality or a MSWLF owned or operated by any individual, association, firm, or partnership exclusively for the disposal of solid waste generated by such individual, association, firm, or partnership. ( )

05. **Composting Facility**. See definition of Processing Facility. ( )

06. **Very Small Quantity Generator (VSQG) Hazardous Waste**. As defined in 40 CFR Part 260.10. ( )

07. **Very Small Quantity Generator (VSQG) Management Facility**. A facility or portion thereof where household hazardous waste or VSQG wastes are transferred from a vehicle or container and subsequently transported to another facility. A VSQG management facility does not include temporary drop off locations or other facilities where individuals or businesses are authorized to store waste for ultimate collection and disposal. ( )

08. **Contamination**. The introduction of a substance into the surface or ground water causing: ( )

a. At or beyond the point of compliance, the concentration of that substance in ground water to result in significant degradation, as determined pursuant to Subsection 400.02.b of IDAPA 58.01.11, "Ground Water Quality Rule," or in an exceedance of the maximum contamination level (MCL) specified in the Ground Water Quality Rule; ( )

b. The concentration of that substance in surface water exceeds a numerical criteria or fails to protect designated beneficial uses specified in the "Water Quality Standards," IDAPA 58.01.02; ( )

c. A statistically significant increase in the concentration of that substance in the ground water at or beyond the point of compliance, or in surface water, where the existing concentration of that substance exceeds the contamination level specified in Subsections 005.08.a. or 005.08.b. of this rule; or ( )

d. A statistically significant increase in the concentration of that substance in ground water at the point of compliance, or in surface water, above background of a substance which; ( )

i. Is not specified in Subsections 005.08.a. or 005.08.b. of this rule; and ( )

ii. Is a result of the disposal of solid waste; and ( )

iii. Has been determined by the department to present a substantial risk to human health or the environment in the concentrations found in the ground water at the point of compliance, or in surface water. ( )

09. **Degradation**. The lowering of ground water quality as measured in a statistically significant and reproducible manner. ( )

10. **Department**. The Idaho Department of Environmental Quality. ( )

11. **Director**. The Director of the Idaho Department of Environmental Quality. ( )

12. **Disposal**. Discharge, deposit, injection, dumping, spilling, leaking, leaching, migration or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water. ( )

13. **Facility**. Any area used for any solid waste management activity, including, but not limited to,

storage, transfer, processing, separation, incineration, treatment, salvaging, or disposal of solid waste. ( )

14. **Garbage**. Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food, including wastes materials from households, markets, storage facilities, handling and sale of produce and other food products. ( )

15. **Ground Water**. Any water of the state that occurs beneath the surface of the earth in a saturated geological formation of rock or soil. ( )

16. **Household Waste**. Any solid waste, including kitchen wastes, trash and sanitary waste in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas. ( )

17. **Incinerator**. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of solid waste by burning. "Open Burning" is not considered incineration. ( )

18. **Inert Waste**. Noncombustible, nonhazardous, and non-putrescible solid wastes that are likely to retain their physical and chemical structure and have a de minimis potential to generate leachate under expected conditions of disposal, which includes resistance to biological attack. "Inert waste" includes, but is not limited to, rock, concrete, cured asphaltic concrete, masonry block, brick, gravel, dirt, inert coal combustion by-products, inert precipitated calcium carbonate and inert component mixture of wood or mill yard debris. ( )

19. **Landfill**. An area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well or waste pile, as those terms are defined under 40 CFR 257.2. ( )

20. **Leachate**. A liquid that has passed through or emerged from waste and contains soluble, suspended, or miscible materials removed from such waste. ( )

21. **Lift**. A vertical rise of compacted solid waste that is complete when it is no longer practical to add additional height without the addition of a cover layer to provide structural stability. ( )

22. **Modification**. Any change in the physical characteristics, waste types managed, method of operation, or lateral expansion beyond the boundaries of a site. The following is not considered a modification: ( )

a. Repair and replacement of existing equipment; ( )

b. Increase in production rate that does not exceed the Tier level criteria or approved facility capacity; ( )

c. An increase in hours of operation if more restrictive hours of operation are not specified in an approved operating plan; and ( )

d. Acquisition of property that is not to be used for the processing or disposal of solid waste. ( )

23. **Municipal Solid Waste Landfill Unit (MSWLF)**. As regulated under Chapter 74, Title 39, Idaho Code, a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR 257.2. A MSWLF unit also may receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, VSQG waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. ( )

24. **Non-Municipal Solid Waste (NMSW)**. A solid waste that is: ( )

a. Not mixed with household waste; or ( )

b. Not excluded from these rules by Subsection 001.03. ( )

25. **Non-Municipal Solid Waste Landfill (NMSWLF)**. A landfill that accepts only non-municipal solid waste. ( )

26. **Open Burning**. The combustion of solid waste without: ( )

a. Control of combustion air to maintain adequate temperature for efficient combustion; ( )

b. Containment of the combustion reaction in an enclosed device so as to provide sufficient residence time and mixing for complete combustion; and ( )

c. Control of the emission of the combustion products. ( )

27. **Operator**. The person(s) responsible for the overall operation of all or part of a site or facility. ( )

28. **Owner**. The person(s) who owns land or a portion of the land on which a site or facility is located. ( )

29. **Person**. Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal government department, agency, or instrumentality, municipality, industry, or any other legal entity which is recognized by law as the subject of rights and duties. ( )

30. **Point of Compliance**. A vertical surface located no more than one hundred fifty (150) yards hydraulically down gradient from the active portion of a facility or site, located at the facility boundary down gradient of the land area, or located at the point of diversion of an identified beneficial use within the site, whichever is the smallest distance from the active portion. ( )

31. **Processing Facility**. A facility that uses biological or chemical decomposition to prepare solid waste for reuse, excluding waste handling at transfer stations or recycling centers. ( )

32. **Projected Waste Volume**. The total actual or potential solid waste volume measured in tons per day, cubic yards per day, or an equivalent measurement, proposed to be received or processed at a solid waste facility. ( )

33. **Pumpable Waste**. Wastes, including non-domestic septage, sludge, wastewater and non-municipal solid wastes, which are pumped from a holding area or container into a watertight tank truck or equivalent and transported for processing or disposal. ( )

34. **Qualified Professional**. Qualified professional means a licensed professional geologist or licensed professional engineer, as appropriate, holding current professional registration in good standing and in compliance with applicable provisions of Chapter 12, Title 54, Idaho Code. ( )

35. **Recyclables**. Used, end, or waste products with useful properties that can be reused. ( )

36. **Recycling**. The reclamation of solid waste and its subsequent introduction into an industrial process by which the materials are transformed into a new product in such a manner that the original identity as a product is lost. ( )

37. **Recycling Center**. A materials recovery facility that receives recyclables, then sorts, bales, loads, or physically alters the material and transports the commodities to markets. ( )

38. **Salvage**. The reclamation of solid waste at a disposal site. ( )

39. **Scavenge**. The unauthorized removal of materials from a facility. ( )

40. **Septage**. A semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system. ( )

41. **Site**. Any contiguous geographic area with one (1) or more facilities owned or operated by the same person used for any solid waste management activity, including, but not limited to, storage, transfer, processing, separation, incineration, treatment, salvaging, or disposal of solid waste. ( )

42. **Site Size**. The sum in acres of all proposed or existing facilities. ( )

43. **Solid Waste**. Any garbage or refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923). ( )

44. **Speculative Accumulation**. Stock piles of materials or recyclables to be processed for reuse or disposal when fifty percent (50%) of the material is not reused or disposed by the end of the following calendar year after the date of first receipt by the facility, and which may create a nuisance or public health impact. ( )

45. **Storm Water**. Accumulation of water from natural precipitation, including snow melt. ( )

46. **Surface Water**. All surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state, unless such waters are an integral part of the facility's operation for storm water control and or leachate management. ( )

47. **Tipping Floor**. An area at a transfer station, processing facility, VSQG management facility or incinerator that receives and contains all waste materials. ( )

48. **Toxic Leachate or Gas**. Concentrations of leachate or gas that will cause contamination, as defined by these rules, or that will exceed standards in the IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." ( )

49. **Transfer Station**. A facility or portion thereof where solid wastes are transferred from a vehicle or container and subsequently transported off-site to another facility. A transfer station does not include an authorized rural drop-box or other facilities where persons are authorized to store individual waste for ultimate collection and disposal, or any other facility that stores solid waste generated at the facility for collection and disposal off-site. ( )

50. **Wood or Mill Yard Debris Facility**. A facility that manages exclusively, solid wood, bark, or wood fiber generated from the process of manufacturing wood products that may include ash from the burning of wood waste in amounts and in conformity with the requirements of the Wood & Mill Yard Technical Guidance Manual, components of soil, rock, or moisture. ( )

51. **Yard Waste**. Weeds, straw, leaves, grass clippings, brush, wood, and other natural, organic, materials typically derived from general landscape maintenance activities. ( )

006. ABBREVIATIONS.

01. **BRC**. Below Regulatory Concern. ( )

02. **CFR**. Code of Federal Regulations. ( )

03. **EPA**. Environmental Protection Agency. ( )

04. **ISWFA**. Idaho Solid Waste Facilities Act, Chapter 74, Title 39, Idaho Code. ( )

05. **MSWLF**. Municipal Solid Waste Land Fill. ( )

06. **NMSW**. Non-Municipal Solid Waste. ( )

07. **NMSWLF**. Non-Municipal Solid Waste Land Fill. ( )

08. **PCS**. Petroleum Contaminated Soils. ( )

09. **RCRA**. Resource Conservation and Recovery Act. ( )

10. **U.S.C**. United States Code. ( )

007. INCORPORATION BY REFERENCE.

01. **General**. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 007.02 shall constitute the full adoption by reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. ( )

02. **Documents Incorporated by Reference**. The following documents are incorporated by reference into these rules: ( )

a. 40 CFR 257.24(a), revised as of July 1, 2001. ( )

b. 40 CFR 257.9, revised as of July 1, 2001. ( )

03. **Availability of Referenced Material**. Copies of the documents incorporated by reference into these rules are available at the following locations: ( )

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

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

c. U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194 Federal Bldg., 915 Second Ave., Seattle, WA 98174, www.ecfr.gov. ( )

008. (RESERVED)

009. SOLID WASTE MANAGEMENT FACILITY CLASSIFICATION.

01. **BRC Facilities**. A facility is below regulatory concern (BRC) provided it is a processing facility that does not manage PCS or pumpable waste, and the cumulative volume of solid waste at the facility at any one (1) time is less than or equal to three hundred (300) cubic yards. ( )

02. **Tier I Facilities**. Tier I facilities shall comply with the requirements identified in Section 011. A facility shall be classified as a Tier I facility if the Department determines the facility is: ( )

a. A landfill that only accepts for disposal materials that are not likely to produce leachate including, but not limited to, glass, plastic, cardboard, wood, composition roofing material, roofing paper, or ceramics, and which has a total disposal capacity of less than or equal to two thousand (2000) cubic yards. ( )

b. A processing facility that only processes wastes including, but not limited to, untreated or unpainted wood, yard waste, sheet rock, clean paper products, animal manures, plant or crop residues, or garbage without meats or animal fats, and the cumulative volume of wastes at the facility at any one time is less than or equal to six hundred (600) cubic yards. ( )

c. A processing facility that only manages PCS not excluded under Subsection 001.03.a.ix. or pumpable wastes and the cumulative volume of material at the facility at any one (1) time is less than or equal to two hundred (200) cubic yards; or ( )

d. An emergency solid waste management facility that only accepts debris resulting from a natural disaster. ( )

03. Tier II Facility. Tier II facilities shall comply with the Tier II general siting, operational and closure requirements and any applicable Tier II facility specific requirements. Tier II facilities are not required to install ground water monitoring wells, leachate collection systems or liners. Facilities shall be classified as a Tier II facility if the Department determines the facility is not: (1) landfilling or disposing of VSQG hazardous waste; (2) landfilling or disposing of materials with a high human pathogenic potential; (3) managing solid waste in a manner or volume that will form toxic leachate or gas; or (4) managing solid waste in a manner or volume that is likely to pose a substantial risk to human health or the environment. A Tier II facility is one that meets the four (4) above criteria and is identified below: ( )

a. A NMSW landfill which has a total disposal capacity greater than two thousand (2000) cubic yards; or ( )

b. A processing facility or incinerator that has a cumulative volume of wastes at the facility at any one time that is greater than six hundred (600) cubic yards; or ( )

c. A processing facility that only manages PCS not excluded under Subsection 001.03.a.ix or pumpable wastes and the cumulative volume of material at the facility at any one (1) time is greater than two hundred (200) cubic yards; or ( )

d. A transfer station or VSQG waste management facility. ( )

04. Tier III Facility. Tier III facilities shall comply with the Tier III general siting, operating and closure requirements, ground water monitoring requirements, install leachate collection systems, liners, air contaminant control systems and any applicable Tier III facility specific requirements. Facilities shall be classified as a Tier III facility if the Department determines the facility is: (1) a facility landfilling or disposing of VSQG hazardous waste; (2) a facility landfilling or disposing of materials with a high human pathogenic potential; (3) a facility managing solid waste in a manner or volume that will form toxic leachate or gas; or (4) a facility managing solid waste in a manner or volume that is likely to pose a substantial risk to human health or the environment. ( )

05. Wood or Mill Yard Debris Facilities. All Wood and Mill Yard Debris Facilities that are not exempt from these Rules as provided in Section 001.03 shall be regulated as Tier I Facilities unless, based on site-specific criteria including but not limited to site geology, site soils, groundwater characteristics, distance to surface waters, and site climatic data, the Department determines the facility is more appropriately regulated under a different tier classification. Facilities not regulated as a Tier I Facility shall be regulated as a Tier II Facility unless the Department determines the facility manages waste in a manner that will form toxic leachate or gas. ( )

06. Site Specific Classification. An owner or operator of a facility classified as a Tier I, Tier II or Tier III facility may request to be regulated pursuant to the requirements of a lower classification. An owner or operator requesting site specific classification must submit information demonstrating to the Department that, when in compliance with the requirements of a lower classification, the facility would not cause contamination, toxic leachate or gas, or concentrations of a substance that exceed standards in the IDAPA 58.01.01 "Rules for the Control of Air Pollution in Idaho." The information included in any request under this subsection shall include: ( )

a. Characterization of waste and expected quantities of waste; ( )

b. Site characterization including; ( )

i. Site geology report; ( )

ii. Site soils report; ( )

iii. Ground water report; ( )

iv. Site climatic data; ( )

c. Facility Design Plan; ( )

d. Operating Plan; and ( )

e. Closure Plan. ( )

07. General and Site Specific Classification Process. The Department's review of a request for a site specific classification shall be conducted pursuant to the process set forth in Section 032. ( )

010. BELOW REGULATORY CONCERN FACILITIES.

01. Applicable Requirements. The owner and operator of a BRC facility shall comply with the following requirements prior to accepting waste. ( )

a. Prohibited Activities. The following activities are prohibited: ( )

i. Disposal in a landfill of regulated waste from any business that provides health care, support to health care businesses, or medical diagnostic services that has not been decontaminated. “Regulated waste” and “decontaminated” for the purpose of Section 010 will have the same meaning as defined at 29 CFR 1910.1030; ( )

ii. Speculative accumulation, unless otherwise approved by the Department in writing; and ( )

iii. Disposal of radioactive waste except in a facility regulated pursuant to Section 39-4405(9), Idaho Code, and rules adopted thereunder or a facility regulated under the authority of The Atomic Energy Act of 1954, as amended. ( )

b. Nuisance Control. The owner and operator shall control nuisances, including but not limited to: ( )

i. Disease or discomfort. Operations at any facility shall not provide sustenance to rodents or insects that cause human disease or discomfort; ( )

ii. Vector. Vector control procedures shall prevent or control vectors that may cause health hazards or nuisances; ( )

iii. Odor. The facility shall be operated to control malodorous gases; and ( )

iv. Litter. Effective measures shall be taken to minimize the loss of debris from the facility. Debris blown from or within the facility shall be collected and properly disposed to prevent objectionable accumulations. ( )

c. Bird Hazards to Aircraft. No facility may handle putrescible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft shall operate the facility in such a manner that birds are not a hazard to aircraft; and ( )

d. Open Burning and Fires. Open burning is prohibited at facilities except as authorized by Section 061. ( )

02. Application Content, Review and Approval Requirements. The owner and operator of a BRC

facility are not required to submit an application. ( )

03. Documentation Requirements. The owner and operator shall maintain on site documentation, such as a daily log of the quantity and type of waste received or managed, that verifies the facility's BRC status. ( )

011. APPLICABLE REQUIREMENTS FOR TIER I FACILITIES.

01. Applicable Requirements. The owner and operator of a Tier I facility shall comply with the following requirements prior to accepting waste. ( )

a. Prohibited Activities. The following activities are prohibited: ( )

i. Disposal in a landfill of regulated waste from any business that provides health care, support to health care businesses, or medical diagnostic services that has not been decontaminated. "Regulated waste" and "decontaminated" for the purpose of Section 011 will have the same meaning as defined at 29 CFR 1910.1030; ( )

ii. Speculative accumulation, unless otherwise approved by the Department in writing; and ( )

iii. Disposal of radioactive waste except in a facility regulated pursuant to Section 39-4405(9), Idaho Code, and rules adopted thereunder or a facility regulated under the authority of The Atomic Energy Act of 1954, as amended. ( )

b. Signs. Facilities open to the general public shall clearly post visible and legible signs at each entrance to the facility. The signs shall specify at a minimum the name of the facility, the hours of operation, the waste accepted at the facility and an emergency phone number. ( )

c. Nuisance Control. The owner and operator shall control nuisances, including but not limited to: ( )

i. Disease or Discomfort. Operations at any facility shall not provide sustenance to rodents or insects that cause human disease or discomfort; ( )

ii. Vector. Vector control procedures shall prevent or control vectors that may cause health hazards or nuisances; ( )

iii. Odor. The facility shall be operated to control malodorous gases; and ( )

iv. Litter. Effective measures shall be taken to minimize the loss of debris from the facility. Debris blown from or within the facility shall be collected and properly disposed to prevent objectionable accumulations. ( )

d. Facility Access. Unauthorized vehicles and persons shall be prohibited access to the facility. A facility open to the public shall accept waste only when an attendant is on duty. The facility shall be fenced or otherwise blocked to access when an attendant is not on duty. The owner and operator shall maintain the fencing or other access controls for a period of ten (10) years after closure, or another timeframe approved in writing by the Department. ( )

e. Bird Hazards to Aircraft. No facility may handle putrescible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft shall operate the facility in such a manner that birds are not a hazard to aircraft. ( )

f. Open Burning and Fires. Open burning is prohibited at facilities except as authorized by Section 061. ( )

g. Storm Water Run-On/Run-Off Controls. Implement sufficient storm water management provisions, which may incorporate a NPDES storm water pollution prevention plan, to prevent contamination of surface or ground water and prevent the spread and impact of contamination beyond the boundary of the facility. ( )

h. Variance Request. An owner and operator may submit a written variance request for a variance from the requirements listed in Section 011. The owner and operator must demonstrate to the Department that the variance is at least as protective of human health and the environment as the requirements listed in Section 011. ( )

02. Application Content, Review and Approval Requirements. The owner and operator of a Tier I facility shall submit notification to the Department prior to operating. The notice shall include; the owners name, operators name, physical location of site, mailing address, facility phone number and type of solid waste management facility. ( )

03. Documentation Requirements. The owner and operator shall maintain on site documentation, such as a daily log of the quantity and type of waste received, that verifies the facility's Tier I status. ( )

012. APPLICABLE REQUIREMENTS FOR TIER II FACILITIES.
The owner and operator of a Tier II facility shall establish compliance with the requirements of Section 012 by obtaining Department approval of the applications required in Subsection 012.02 before beginning construction and Subsection 012.04 prior to accepting waste. The owner and operator of a Tier II facility shall meet the requirements of Subsection 012.05 prior to facility closure. ( )

01. General Siting Requirements. The owner and operator of a Tier II facility shall comply with the following siting requirements: ( )

a. Flood Plain Restriction. A facility shall not be located within a one hundred (100) year flood plain if the facility will restrict the flow of the one hundred (100) year flood, reduce the temporary water storage capacity of the flood plain, or result in a washout of solid waste so as to pose a hazard to human health and the environment. ( )

b. Endangered or Threatened Species Restriction. The facility shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife or result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17. ( )

c. Surface Water Restriction. The active portion of a facility shall be located such that the facility shall not cause contamination of surface waters, unless such surface waters are an integral part of the non-municipal solid waste management facility's operation for storm water and/or leachate management. ( )

d. Park, Scenic or Natural Use Restriction. The active portion of a facility shall not be located closer than one thousand (1,000) feet from the boundary of any state or national park, or land reserved or withdrawn for scenic or natural use including, but not limited to, wild and scenic areas, national monuments, wilderness areas, historic sites, recreation areas, preserves and scenic trails. ( )

e. Variance from Siting Requirement. An owner or operator of a facility that cannot meet the siting requirements of Section 012 may apply for a variance from the Department. The Department shall approve a written request for a variance provided the owner and operator demonstrate to the Department that the variance is at least as protective of public health and the environment as the siting requirements in Section 012. ( )

02. Siting Application. Documentation shall be submitted to the Department demonstrating compliance with the siting requirements and restrictions specified in Subsection 012.01 within the time frames specified in Section 012. If the documentation has been certified by a qualified professional, the Director shall approve the siting application unless the Director finds the evidence supports a contrary opinion. A map indicating the following shall also be submitted to the Department as part of a Siting Application: ( )

a. Highways, roads, and adjacent communities; ( )

b. Property boundaries; ( )

c. Total acreage of the site; ( )

d. Off-site and on-site access roads and service roads; ( )

e. Type(s) of land use adjacent to the facility and a description of all facilities on the site; ( )

f. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the proposed facility property lines; ( )

g. High tension power line rights-of-way, fuel transmission pipeline rights-of-way, and proposed and existing utilities; ( )

h. Proposed or existing fencing; ( )

i. Proposed and existing structures at the facility and within five hundred (500) feet of the facility boundary. This shall include location of employee buildings, and scales (if provided); and ( )

j. Direction of prevailing winds. ( )

03. General Operating Requirements. The owner and operator of a Tier II facility shall comply with the following operating requirements: ( )

a. Prohibited Activities. The following activities are prohibited: ( )

i. Disposal in a landfill of regulated waste from any business that provides health care, support to health care businesses, or medical diagnostic services that has not been decontaminated. "Regulated waste" and "decontaminated" for the purpose of Section 012 have the same meaning as defined at 29 CFR 1910.1030; ( )

ii. Speculative accumulation, unless otherwise approved in an operating plan; and ( )

iii. Disposal of radioactive waste except in a facility regulated pursuant to Section 39-4405(9), Idaho Code, and rules adopted thereunder or a facility regulated under the authority of The Atomic Energy Act of 1954, as amended. ( )

b. Signs. Facilities open to the general public shall clearly post visible and legible signs at each entrance to the facility specifying, at a minimum, the name of the facility, the hours of operation, the waste accepted at the facility and an emergency phone number. ( )

c. Waste Types. Only the solid waste types listed in the approved operating plan may be accepted for disposal or processing. ( )

d. Waste Monitoring and Measurement. Provisions shall be made for monitoring or measuring all solid waste delivered to a facility. The waste monitoring program shall include: ( )

i. A daily written log listing the types and quantities of wastes received; ( )

ii. A plan for monitoring and handling receipt of unauthorized wastes; ( )

iii. Routine characterization of the wastes received; and ( )

iv. Other measures included in an approved Operating Plan. ( )

e. Communication. Communication devices shall be available or reasonably accessible at the site. ( )

f. Fire Prevention and Control. Adequate provisions shall be made for controlling or managing fires at the site. ( )

g. Facility Access. Unauthorized vehicles and persons shall be prohibited access to the facility. A facility open to the public shall accept waste only when an attendant is on duty. The facility shall be fenced or otherwise blocked to access when an attendant is not on duty. ( )

h. Scavenging and Salvaging. Scavenging by the public at a facility is prohibited; however, salvaging may be conducted in accordance with a written operations plan and only by the owner, operator or an authorized agent. ( )

i. Nuisance Control. The owner and operator shall control nuisances, including but not limited to: ( )

i. Disease or Discomfort. Operations at any facility shall not provide sustenance to rodents or insects that cause human disease or discomfort; ( )

ii. Vector. Vector control procedures shall prevent or control vectors that may cause health hazards or nuisances; ( )

iii. Odor. The facility shall be operated to control malodorous gases; and ( )

iv. Litter. Effective measures shall be taken to minimize the loss of debris from the facility. Debris blown from or within the facility shall be collected and properly disposed to prevent objectionable accumulations. ( )

j. Bird Hazards to Aircraft. No facility may handle putrescible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft shall operate the facility in such a manner that birds are not a hazard to aircraft. ( )

k. Open Burning and Fires. Open burning is prohibited at facilities except as authorized by Section 061. ( )

l. Storm Water Run-On/Run-Off Controls. The operating plan shall include sufficient storm water management provisions, which may incorporate a NPDES storm water pollution prevention plan, to prevent contamination of surface and ground water and prevent the spread and impact of contamination beyond the boundary of the facility. ( )

m. Variance Request. An owner and operator of a facility may submit to the Department a written variance request for a variance from the operating requirements listed in Section 012. The Department shall approve a written request for a variance provided the owner and operator demonstrate to the Department that the variance is at least as protective of human health and the environment as the requirements listed in Section 012. ( )

04. Operating Plan. The owner and operator of a Tier II facility shall submit to the Department an Operating Plan containing that information required by Subsection 012.03, within the time frames stated in Section 012. An Operating Plan shall include a description of the wastes to be accepted, the methods for maintaining compliance with each of the applicable general operating requirements of Subsection 012.03, and complies with any applicable facility specific requirements found in Subsections 012.09 through 012.11. ( )

05. Closure Requirement. The owner and operator of a Tier II facility shall comply with the following closure and post-closure care requirements: ( )

a. Public Notice. For a facility open to the public the owner and operator shall provide public notice of the facility's closure by publishing a notice in the local newspaper and posting signs at the facility's entrance. This notice shall be published and the signs posted; ( )

i. At least thirty (30) days and no more than ninety (90) days prior to the date of last receipt of waste for a facility that has reached disposal capacity; or ( )

ii. If the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional waste, a notice shall be published and signs posted at least thirty (30) days and no more than ninety (90) days prior to closure. ( )

b. Facility Closure. Unless the Department establishes an alternate closure time period, the owner and operator shall close the facility within six (6) months of the Department's approval of the Closure Plan. The facility shall be closed in accordance with the approved Closure Plan. ( )

c. Clean Site/Access Control. The owner and operator shall close the facility by managing or removing all solid waste to prevent impact to human health or the environment and installing a gate or other device to prevent public access after the last receipt of waste; and ( )

d. Drainage and Erosion Control. The owner and operator shall install appropriate measures to control erosion and install appropriate measures to control the run-on and runoff from a twenty-five (25) year, twenty-four (24) hour storm event and to provide for the diversion of other surface waters from the closed facility. ( )

e. Closure Plan Certification. Within thirty (30) days of closure, the owner and operator shall notify the Department in writing that the facility was closed in accordance with the approved Closure Plan. If closure of the facility is different from the approved Closure Plan, the owner and operator shall submit for Department review and approval documents, such as "as-built" plans, showing the final conditions of the facility. ( )

06. Closure Plan Application. Except as specified in Subsection 012.10, the owner and operator of a Tier II facility shall submit to the Department a Closure Plan Application containing the following information no later than ninety (90) days before the date on which the facility receives the known final receipt of wastes or, if the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional wastes, no later than one (1) year after the most recent receipt of wastes: ( )

a. A complete and accurate legal description of the facility; ( )

b. A map of the facility, showing pertinent facility features, including: ( )

i. Facility boundaries, drainage patterns, location of fill areas, and location of access control measures; ( )

ii. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the facility boundary; ( )

iii. Location of disposal trenches and description of waste disposed; and ( )

iv. Proposed final contours of the closed facility, drawn to a reasonable scale with five (5) foot intervals for the operational area, and ten (10) foot intervals for the remainder of the facility; ( )

c. Estimated date of last receipt of waste; ( )

d. A description of how public access to the closed facility will be controlled; ( )

e. Estimated total cubic yards, or tons, of waste in place; ( )

f. Total acreage of the facility and acres containing waste; ( )

g. Closure equipment and procedures to be used; ( )

h. Texture, depth and permeability of final cover material; ( )

i. Design and construction plan for any necessary final cover; ( )

j. Placement, design, and management of run-on and run-off storm water controls; ( )

k. Types of vegetation and planting procedures to be used for establishing vegetative cover; ( )

l. Other closure information the Department determines is necessary to protect human health and the environment. ( )

07. Documentation Requirements. The owner and operator of a Tier II facility shall maintain on site a copy of each Department-approved Application and Plan required by Section 012. ( )

08. Modification Application. The owner and operator shall submit to the Department for review and approval a Modification Application describing any proposed modification. The owner and operator of a Tier II facility shall not implement the modification prior to Department approval. If a proposed modification alters the classification of a facility, the owner and operator shall comply with the application content, review and approval requirements for the new classification. ( )

09. Tier II Processing Facilities. In addition to the requirements in Subsections 012.01 through 012.08, the owner and operator of a Tier II processing facility shall also comply with the following requirements: ( )

a. Siting Requirements: ( )

i. Ground Water. The active portion of a facility shall be located, designed and constructed such that the facility shall not cause contamination to a drinking water source or cause contamination of the ground water. ( )

ii. Geologic Restrictions. No facility may be located on land that would threaten the integrity of the design. ( )

iii. Property Line Restriction. The active portion of a facility shall not be located closer than one hundred (100) feet to the property line. ( )

b. Siting Application. The owner and operator shall provide in the Siting Application documentation that demonstrates compliance with the siting requirements specified in Subsection 012.01 and 012.09.a. ( )

c. Operating Requirements: ( )

i. Odor Management Plan. The owner and operator of a Tier II processing facility shall implement a Department approved Odor Management Plan designed to minimize malodorous gases. An Odor Management Plan shall include specific operating criteria for oxygen, moisture and temperature levels appropriate for the wastes to be processed and processing technologies to be employed, methods used to maintain the specific operating criteria and a monitoring strategy that includes the frequency and parameters for monitoring the specific operating criteria. ( )

ii. Documentation requirement. The owner and operator of a processing facility shall maintain documentation of compliance with Section 012, including an operational log of the methods used to maintain the operating criteria and sampling results. ( )

d. Operating Plan. The operating plan required in Subsection 012.04 shall identify methods used for maintaining compliance with each applicable operating requirement of Subsection 012.03 and Subsection 012.09.c. ( )

10. Tier II Incinerators, VSQG Management Facility and Transfer Stations. In addition to the requirements in Subsections 012.01 through 012.04 and Subsections 012.07 and 012.08, the owner and operator of a Tier II incinerator, VSQG management facility or transfer station shall comply with the following requirements: ( )

a. Design Requirements. The owner and operator shall comply with the following design requirements: ( )

i. A tipping floor design constructed of impermeable and durable material and designed to contain, collect, and convey any liquids to a storage or leachate management system; and ( )

ii. A leachate storage or management system. ( )

b. Design Application. The following information shall be submitted to the Department in a Design Application: ( )

i. A description of the tipping floor design; ( )

ii. A description of the storage or leachate management system design; ( )

iii. Building and construction design blueprints; ( )

iv. A map illustrating a storm water run-on/run-off system designed to prevent contamination of surface and ground water, and prevent the spread and impact of contamination beyond the boundary of the facility; and ( )

v. Operational design and capacity information including a description of the waste types and projected daily and annual waste volumes. ( )

c. Operating Requirements. The owner and operator of a Tier II facility shall comply with the following operating requirements: ( )

i. Implement cleaning procedures and waste residency times to maintain sanitary conditions on the surface of the tipping floor; and ( )

ii. Implement and operate a leachate storage or management system. ( )

d. Closure Requirement. The owner and operator of a Tier II facility shall comply with the following closure and post-closure care requirements: ( )

i. Public Notice. For a facility open to the public the owner and operator shall provide public notice of the facility's closure by publishing a notice in the local newspaper and posting signs at the facility's entrance. This notice shall be published and the signs posted at least thirty (30) days prior to closure; ( )

ii. Facility Closure. The owner and operator shall close the facility by removing all solid waste to prevent impact to human health or the environment and installing a gate or other device to prevent public access after the last receipt of waste; ( )

iii. Closure Time Period. Unless the Department establishes an alternate closure time period, the owner and operator shall close the facility within two (2) months of the Department's approval of the Closure Plan. The facility shall be closed in accordance with the approved Closure Plan; and ( )

iv. Closure Plan Certification. Within thirty (30) days of closure, the owner and operator shall notify the Department in writing that the facility was closed in accordance with the approved Closure Plan. If closure of the facility is different from the approved Closure Plan, the owner and operator shall submit for Department review and approval documents, such as "as-built" plans, showing the final conditions of the facility. ( )

e. Closure Plan Application. The owner and operator shall submit to the Department a Closure Plan Application containing the following information no later than ninety (90) days before the date on which the facility receives the known final receipt of wastes: ( )

i. A complete and accurate legal description of the facility; ( )

ii. A map of the facility, showing pertinent facility features, including facility boundaries, drainage patterns, and location of access control measures; ( )

iii. Estimated date of last receipt of waste; ( )

iv. A description of how public access to the closed facility will be controlled; ( )

v. Closure equipment and procedures to be used; ( )

vi. Anticipated future uses for the facility; and ( )

vii. Other closure information the Department determines is necessary to protect human health and the environment. ( )

11. Tier II NMSWLF. In addition to the requirements in Subsections 012.01 through 012.08, the owner and operator of a Tier II NMSWLF shall also comply with the following requirements: ( )

a. Siting Requirements: ( )

i. Wetlands. A facility shall not be located in wetlands, except as provided in 40 CFR 257.9. ( )

ii. Ground Water. The active portion of a facility shall be located, designed and constructed such that the facility shall not cause contamination to a drinking water source or cause contamination of the ground water. ( )

iii. Geologic Restrictions. No facility may be located on land that would threaten the integrity of the design. ( )

iv. Property Line Restriction. The active portion of a facility shall not be located closer than one hundred (100) feet to the property line. ( )

b. Siting Application. The owner and operator shall provide in the Siting Application documentation that demonstrates compliance with the siting requirements specified in Subsections 012.01 and 012.11.a.; ( )

c. Design Application. The owner and operator shall provide the following information for design approval: ( )

i. A facility map illustrating: ( )

(1) Surface water and erosion control systems; ( )

(2) Proposed fill area, including the location of waste disposal trenches or cells, noting the locations of trenches used for separated wastes such as animal carcasses, tree trunks, stumps, bulky wastes, car bodies, asbestos, and petroleum contaminated soils; ( )

(3) Location of borrow areas; ( )

(4) Design elevation grade of final cover; ( )

(5) Soil and water table test boring holes, wells, or excavations; ( )

(6) Proposed receiving, storage, and processing areas; ( )

(7) Proposed trench layout and development; and ( )

(8) Contour lines at five (5) foot intervals within the operating area and ten (10) foot intervals to the

facility boundary. ( )

d. Operating Requirements: The owner and operator of a NMSWLF shall comply with the following operating requirements: ( )

i. Compaction and placement of waste in locations consistent with the approved operating plan; ( )

ii. Provision for storage of waste during periods when the NMSWLF is inaccessible; ( )

iii. Application of a six (6) inch compacted soil cover layer on exposed waste as necessary to prevent nuisance and vector conditions at periods consistent with the approved operating plan. An owner and operator may request that the Department approve an alternate cover that addresses vectors, litter, fire, odor, and scavenging concerns; ( )

iv. Placement of an interim cover layer of twelve (12) inches of compacted soil between lifts to provide erosion control and structural stability. An owner and operator may request that the Department approve an alternate interim cover that addresses erosion, and stability for subsequent lifts; ( )

v. Preservation of existing vegetation where attainable. ( )

e. Operating Plan. The operating plan required in Subsection 012.04 shall identify the methods used for maintaining compliance with each applicable operating requirement of Subsection 012.03 and Subsection 012.11.d.; ( )

f. Closure Requirements. The owner and operator of a Tier II NMSWLF shall comply with the following closure requirements: ( )

i. Final Cover. Within seven (7) days of the date of last receipt of waste, a cover layer shall be applied to prevent nuisances and vector conditions. Within one hundred and twenty (120) days of the date of last receipt of waste, a final cover layer of eighteen (18) inches of compacted soil with an approved in-place permeability designed to minimize infiltration, or its functional equivalent, and, a six (6) inch soil layer that minimizes erosion and sustains plant growth shall be constructed; ( )

ii. Facility Stabilization. All disturbed portions of the facility shall be stabilized. Stabilization practices may include but are not limited to: establishment of vegetation, mulching, geotextiles, and sod stabilization; ( )

iii. Slope Stability. Finished grade shall be at a minimum of two percent (2%) and a maximum of thirty- three percent (33%) slope on the final surface of the completed fill area, after settlement; and ( )

iv. Drainage Control. The completed landfill shall be graded to prevent surface water ponding and erosion, and to conform to the local topography. ( )

g. Closure Plan. The owner and operator shall provide in the Closure Plan documentation that demonstrates compliance with closure requirements specified in Subsections 012.05 and 012.11.f. ( )

h. Environmental Covenants: ( )

i. After completion and certification of closure of a NMSWLF, the owner and operator shall record an environmental covenant, pursuant to the Uniformed Environmental Covenants Act (UECA) Chapter 30, Title 55, Idaho Code, on the property where the landfill facility is located and its future use may be restricted in accordance with a post-closure care plan. A copy of the environmental covenant shall be sent to the Department after recording with the county clerk; ( )

ii. The owner may request permission from the Department to remove the environmental covenant if all wastes are removed from the facility; ( )

iii. Federal agencies with responsibility for management of landfills on federal property shall make an environmental covenant or notation in the federal property records for the affected property. If the subject property is ever sold or transferred by the federal government, a notation on the deed or patent shall be made. ( )

i. Post-Closure Care Plan. Owners and operators of a NMSWLF shall submit, in accordance with the time frames specified in Subsection 012.06, to the Department for review and approval a Post-Closure Care Plan, shall obtain Department approval of the Plan, and shall conduct post-closure care in accordance with the Plan. The Post-Closure Care Plan shall typically contain: ( )

i. The name and address of an agent authorized to accept communications or service during the post-closure period. The name may be changed during the post-closure period by providing the Department with twenty (20) days advance written notice of the change; ( )

ii. Provisions to maintain the integrity and effectiveness of the final cover; ( )

iii. Provisions to continue to maintain and operate the systems required in the operating plan including run-on/run-off control systems; ( )

iv. Provisions to maintain appropriate security of the closed facility; ( )

v. Provisions for routine facility inspections by the owner and operator to insure compliance with the Post-Closure Care Plan; and ( )

vi. A description of the planned use(s) of the property during the post-closure care period: ( )

j. Post-closure care for the NMSWLF shall be conducted for a period of five (5) years, unless the Department establishes in writing an alternate facility-specific post-closure care period. ( )

k. Post-Closure Standards and Inspection. Post-closure use or operation of the site shall not disturb any final cover or storm water control systems in a manner that will increase the potential to threaten human health or the environment. ( )

l. The approved Post-Closure Care Plan shall be maintained and available for review on request by the Department. ( )

013. APPLICABLE REQUIREMENTS FOR TIER III FACILITIES.
The owner and operator of a Tier III facility shall establish compliance with the requirements of Section 013 by obtaining Department approval of the applications required in Subsection 013.02 before beginning construction and Subsection 013.04 prior to accepting waste. The owner and operator of a Tier III facility shall meet the requirements of Subsection 012.07 prior to facility closure. ( )

01. General Siting Requirements. The owner and operator of a Tier III facility shall comply with the following siting requirements: ( )

a. Flood Plain Restriction. A facility shall not be located within a one hundred (100) year flood plain if the facility will restrict the flow of the one hundred (100) year flood, reduce the temporary water storage capacity of the flood plain, or result in a washout of solid waste so as to pose a hazard to human health and the environment. ( )

b. Endangered or Threatened Species Restriction. The facility shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife or result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17. ( )

c. Surface Water Restriction. The active portion of a facility shall be located such that the facility shall not cause contamination of surface waters, unless such surface waters are an integral part of the non-municipal solid waste management facility's operation for storm water and/or leachate management. ( )

d. Ground Water. The active portion of the facility shall be located, designed and constructed such that the facility shall not cause contamination to a drinking water source or cause contamination of ground water. ( )

e. Geologic Restrictions. No facility may be located on land that would threaten the integrity of the design. ( )

f. Property Line Restriction. The active portion of a facility shall not be located closer than one hundred (100) feet to the property line. ( )

g. Park, Scenic or Natural Use Restriction. The active portion of a facility shall not be located closer than one thousand (1,000) feet from the boundary of any state or national park, or land reserved or withdrawn for scenic or natural use including, but not limited to, wild and scenic areas, national monuments, wilderness areas, historic sites, recreation areas, preserves and scenic trails. ( )

h. Variance from Siting Requirement. Any facility that does not meet the siting requirements of Section 013 may apply for a variance from the Department. The Department may approve a written request for a variance provided the owner and operator demonstrate to the Department that the variance is at least as protective of public health and the environment as the siting requirements in Section 013. ( )

02. Siting Application. Documentation shall be submitted to the Department demonstrating compliance with the siting requirements and restrictions specified in Subsection 013.01 within the time frames specified in Section 013. If the documentation has been certified by a qualified professional, the Director shall approve the siting application unless the Director finds the evidence supports a contrary opinion. A map indicating the following shall also be submitted to the Department as part of a Siting Application: ( )

a. Highways, roads, and adjacent communities; ( )

b. Property boundaries; ( )

c. Total acreage of the site; ( )

d. Off-site and on-site access roads and service roads; ( )

e. Type(s) of land use adjacent to the facility and a description of all facilities on the site; ( )

f. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the proposed facility property lines; ( )

g. High tension power line rights-of-way, fuel transmission pipeline rights-of-way, and proposed and existing utilities; ( )

h. Proposed or existing fencing; ( )

i. Proposed and existing structures at the facility and within five hundred (500) feet of the facility boundary. This shall include location of employee buildings, and scales (if provided); and ( )

j. Direction of prevailing winds. ( )

03. General Operating Requirements. The owner and operator of a Tier III facility shall comply with the following operating requirements: ( )

a. Prohibited Activities. The following activities are prohibited: ( )

i. Disposal in a landfill of regulated waste from any business that provides health care, support to health care businesses, or medical diagnostic services that has not been decontaminated. “Regulated waste” and “decontaminated” for the purpose of Section 013 have the same meaning as defined at 29 CFR 1910.1030; ( )

ii. Speculative accumulation, unless otherwise approved in an operating plan; and ( )

iii. Disposal of radioactive waste except in a facility regulated pursuant to Section 39-4405(9), Idaho Code and rules adopted thereunder or a facility regulated under the authority of The Atomic Energy Act of 1954, as amended. ( )

b. Signs. Facilities open to the general public shall clearly post visible and legible signs at each entrance to the facility specifying, at a minimum, the name of the facility, the hours of operation, the waste accepted at the facility and an emergency phone number. ( )

c. Waste Types. Only the solid waste types listed in the approved operating plan may be accepted for disposal or processing. ( )

d. Waste Monitoring and Measurement. Provisions shall be made for monitoring or measuring all solid waste delivered to a facility. The waste monitoring program shall include: ( )

i. A daily written log listing the types and quantities of wastes received; ( )

ii. A plan for monitoring and handling receipt of unauthorized wastes; ( )

iii. Routine characterization of the wastes received; and ( )

iv. Other measures included in an approved Operating Plan. ( )

e. Communication. Communication devices shall be available or reasonably accessible at the site. ( )

f. Fire Prevention and Control. Adequate provisions shall be made for controlling or managing fires at the site. ( )

g. Facility Access. Unauthorized vehicles and persons shall be prohibited access to the facility. A facility open to the public shall accept waste only when an attendant is on duty. The facility shall be fenced or otherwise blocked to access when an attendant is not on duty. ( )

h. Scavenging and Salvaging. Scavenging by the public at a facility is prohibited; however, salvaging may be conducted in accordance with a written operating plan and only by the owner, operator or an authorized agent. ( )

i. Nuisance Control. The owner and operator shall control nuisances, including but not limited to: ( )

i. Disease or Discomfort. Operations at any facility shall not provide sustenance to rodents or insects that cause human disease or discomfort; ( )

ii. Vector. Vector control procedures shall prevent or control vectors that may cause health hazards or nuisances; ( )

iii. Odor. The facility shall be operated to control malodorous gases; and ( )

iv. Litter. Effective measures shall be taken to minimize the loss of debris from the facility. Debris blown from or within the facility shall be collected and properly disposed to prevent objectionable accumulations. ( )

j. Bird Hazards to Aircraft. No facility may handle putresible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used

by only piston-type aircraft shall operate the facility in such a manner that birds are not a hazard to aircraft. ( )

k. Open Burning and Fires. Open burning is prohibited at facilities except as authorized by Section 061. ( )

l. Storm Water Run-On/Run-Off Controls. The operating plan shall include sufficient storm water management provisions, which may incorporate a NPDES storm water pollution prevention plan, to prevent contamination of ground or surface water and prevent the spread and impact of contamination beyond the boundary of the facility. ( )

m. Variance Request. An owner and operator may submit to the Department a written variance request for a variance from the operating requirements listed in Section 013. The Department shall approve a written request for a variance provided the owner and operator demonstrate to the Department that the variance is at least as protective of human health and the environment as the requirements listed in Section 013. ( )

04. Operating Plan. The owner and operator of a Tier III facility shall submit to the Department an Operating Plan containing that information required by Subsection 013.03, within the time frames stated in Section 013. An Operating Plan shall include a description of the wastes to be accepted, the methods for maintaining compliance with each of the applicable general operating requirements of Subsection 013.03, and complies with any applicable facility specific requirements found in Subsections 013.11 through 013.13. ( )

05. Ground Water Monitoring Requirements. The owner and operator of a Tier III facility shall comply with the following ground water monitoring requirements: ( )

a. Install and maintain ground water monitoring wells at the point of compliance as approved by the Department; ( )

b. Within thirty (30) days of completion of each well, submit a copy of the geologic log and record of well construction to the Department; ( )

c. Monitor the ground water quarterly, unless otherwise directed by the Department. Constituents to be monitored shall be those listed in 40 CFR Part 257.24 unless otherwise authorized by the Department; and ( )

d. The owner and operator of any facility required to monitor ground water pursuant to Section 013 shall continue the approved monitoring schedule for five (5) years following facility closure, unless otherwise approved by the Department upon request of the owner and operator for a modified monitoring schedule. ( )

06. Ground Water Monitoring Application. The following information shall be submitted to the Department in a Ground Water Monitoring Application: ( )

a. A map showing soil types, depth to ground water, ground water flow direction and locations of proposed ground water monitoring wells; and ( )

b. A monitoring schedule indicating sample frequency and constituents to be analyzed. ( )

07. Closure Requirement. The owner and operator of a Tier III facility shall comply with the following closure requirements: ( )

a. Public Notice. For a facility open to the public the owner and operator shall provide public notice of the facility's closure by publishing a notice in the local newspaper and posting signs at the facility's entrance. This notice shall be published and the signs posted; ( )

i. At least thirty (30) days and no more than ninety (90) days prior to the date of last receipt of waste for a facility that has reached disposal capacity; or ( )

ii. If the facility has remaining capacity and there is a reasonable likelihood that the facility will

receive additional waste, a notice shall be published and signs posted at least thirty (30) days and no more than ninety (90) days prior to closure. ( )

b. Facility Closure. Unless the Department establishes an alternate closure time period, the owner and operator shall close the facility within six (6) months of the Department's approval of the Closure Plan. The facility shall be closed in accordance with the approved Closure Plan. ( )

c. Clean Site/Access Control. The owner and operator shall close the facility by managing or removing all solid waste to prevent impact to human health or the environment and shall install a gate or other device to prevent public access after the last receipt of waste; ( )

d. Drainage and Erosion Control. The owner and operator shall install appropriate measures to control erosion and install appropriate measures to control the run-on and runoff from a twenty-five (25) year, twenty-four (24) hour storm event and to provide for the diversion of other surface waters from the closed facility; and ( )

e. Closure Plan Certification. Within thirty (30) days of closure, the owner and operator shall notify the department in writing that the facility was closed in accordance with the approved Closure Plan. If closure of the facility is different from the approved Closure Plan, the owner and operator shall submit for Department review and approval documents, such as "as-built" plans, showing the final conditions of the facility. ( )

08. Closure Plan Application. The owner and operator of a Tier III facility shall submit to the Department a Closure Plan Application containing the information no later than ninety (90) days before the date on which the facility receives the known final receipt of wastes or, if the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional wastes, no later than one (1) year after the most recent receipt of wastes. The following information shall be submitted to the Department in a Closure Application: ( )

a. A complete and accurate legal description of the facility; ( )

b. A map of the facility, showing pertinent facility features, including: ( )

i. Facility boundaries, drainage patterns, location of fill areas, and location of access control measures; ( )

ii. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the facility boundary; ( )

iii. Location of disposal trenches and description of waste disposed; and ( )

iv. Proposed final contours of the closed facility, drawn to a reasonable scale with five (5) foot intervals for the operational area, and ten (10) foot intervals for the remainder of the facility; ( )

c. Estimated date of last receipt of waste; ( )

d. A description of how public access to the closed facility will be controlled; ( )

e. Estimated total cubic yards, or tons, of waste in place; ( )

f. Total acreage of the facility and acres containing waste; ( )

g. Closure equipment and procedures to be used; ( )

h. Texture, depth and permeability of final cover material; ( )

i. Design and construction plan for any necessary final cover; ( )

j. Placement, design, and management of run-on and run-off storm water controls; ( )

k. Types of vegetation and planting procedures to be used for establishing vegetative cover; ( )

l. Details of any proposed changes to any existing groundwater monitoring system; ( )

m. Details of any proposed changes to any existing landfill gas control system; ( )

n. Details of any proposed changes to any existing leachate collection system; and ( )

o. Other closure information the Department determines is necessary to protect human health and the environment. ( )

09. Documentation Requirements. The owner and operator of a Tier III facility shall maintain on site each Department-approved application required by Section 013. ( )

10. Modification Application. The owner and operator shall submit to the Department a Modification Application describing the proposed modification no less than sixty (60) days prior to the proposed modification of the facility. The owner and operator of a Tier III facility shall not implement the modification prior to Department approval. If a proposed modification alters the classification of a facility, the owner and operator shall comply with the application content, review and approval requirements for the new classification. ( )

11. Tier III Processing Facilities. In addition to the requirements in Subsections 013.01 through 013.10, the owner and operator of a Tier III processing facility shall comply with the following requirements: ( )

a. Odor Management Plan. The owner and operator of a Tier III processing facility shall implement a Department approved Odor Management Plan designed to minimize malodorous gases. An Odor Management Plan shall include specific operating criteria for oxygen, moisture and temperature levels appropriate for the wastes to be processed and processing technologies to be employed; methods used to maintain the specific operating criteria and a monitoring strategy that includes the frequency and parameters for monitoring the specific operating criteria; ( )

b. Additional Requirements for PCS. Owners and operators of Tier III PCS processing facilities shall comply with the following applicable requirements: ( )

i. Leachate collection and control system to prevent contamination of ground and surface waters; ( )

ii. Liner designed to prevent ground and surface water contamination. The liner design shall account for the types of wastes handled and the potential for migration of liquids and gaseous contaminants to ground water; and ( )

iii. Air emission control system to prevent discharges of air pollutants. ( )

iv. An owner and operator of a PCS processing facility may submit a written request for a variance from the leachate control and liner requirements. The owner and operator must demonstrate that the variance is at least as protective of surface and ground water as the leachate collection system and liner. ( )

c. Design Application. The following information shall be submitted to the Department in a Design Application: ( )

i. Building and construction design blueprints; ( )

ii. A map illustrating a storm water run-on/run-off system designed to prevent contamination of ground or surface water or and prevent contamination beyond the boundary of the facility; ( )

iii. Operational design and capacity information including a description of the waste types and projected daily and annual waste volumes; and ( )

iv. Design and Construction Requirements. The owner and operator of a Tier III PCS processing

facility shall submit for Department review and approval the following information as part of the Design Application: ( )

(1) A hydrogeologic evaluation, including the potential for migration of contamination to ground or surface water; ( )

(2) A detailed description of treatment methods to be used; ( )

(3) Design plans for a leachate collection and control system to prevent ground and surface water contamination from the leachate control system; ( )

(4) Design plans for an air emissions control system to prevent discharges of air pollutants; and ( )

(5) Design plans for a liner designed to prevent ground or surface water contamination. The liner design shall account for the types of wastes handled and the potential for migration of liquid and gaseous contaminants to ground water. ( )

d. Operating Plan. The owner and operator of a PCS processing facility shall submit for Department review and approval the following information as part of the Subsection 013.04, Operating Plan: ( )

i. A sampling plan that describes the methods and frequency that the owner and operator will use to sample and analyze the wastes when received, during processing, and on final testing of processed material; and ( )

ii. A description of how the owner and operator will maintain and operate the liner, leachate collection and control system, and air emission control system consistent with the approved design application. ( )

e. Documentation Requirement. The owner and operator of a processing facility shall maintain documentation of compliance with Section 013, including an operational log of the methods used to maintain the operating criteria and sampling results. ( )

12. Tier III Incinerators. In addition to the requirements in Subsections 013.01 through 013.04 and Subsections 013.09 and 013.10, the owner and operator of a Tier III incinerator shall comply with the following requirements: ( )

a. Design Requirements. The owner and operator of an incinerator comply with the following design requirements: ( )

i. A tipping floor constructed of impermeable and durable material and designed to contain, collect, and convey any liquids to a storage or leachate management system. ( )

ii. A storage or leachate management system. ( )

b. Design Application. The following information shall be submitted to the Department in a Design Application: ( )

i. A description of the tipping floor design; ( )

ii. A description of the storage or leachate management system design; ( )

iii. Building and construction design blueprints; ( )

iv. A map illustrating a storm water run-on/run-off system designed to prevent ground or surface water contamination, or contamination from the facility beyond the boundary of the facility; ( )

v. Operational design and capacity information including a description of the waste types and

projected daily and annual waste volumes; and ( )

vi. Any facility specific design elements required by these rules. ( )

c. Operating Requirements. The owner and operator of an incinerator shall comply with the following operating requirements: ( )

i. Maintain and operate the tipping floor to control odors, insects, and rodents; ( )

ii. Implement cleaning procedures and waste residency times used to maintain sanitary conditions on the surface of the tipping floor; and ( )

iii. Implement a storage or leachate management system operation. ( )

d. If it is determined that the tipping floor or leachate management system integrity has been breached, or waste has been handled or stored outside of the containment of the tipping floor, unless allowed in the facility Operating Plan, the owner and operator of the Tier III incinerator shall comply with Subsections 013.05 through 013.08. ( )

13. Tier III NMSWLFs. In addition to the requirements in Subsection 013.01 through 013.10, the owner and operator of a Tier III NMSWLF shall comply with the following requirements: ( )

a. Siting Requirements: A facility shall not be located in wetlands, except as provided in 40 CFR 257.9; ( )

b. Siting Application. The owner and operator shall include in the Siting Application documentation demonstrating compliance with the requirement specified in Subsection 013.13.a.; ( )

c. Design and Construction Requirements: The owner and operator of a NMSWLF shall comply with the following design and construction requirements: ( )

i. Leachate Collection and Control System. A leachate collection and control system shall be constructed to prevent ground and surface water contamination; ( )

ii. Liner. A liner designed to prevent ground or surface water contamination shall be installed. The liner design shall account for the types of wastes handled and the potential for migration of liquid and gaseous contamination to ground or surface water; ( )

iii. Landfill Emission Control System. Appropriate toxic and flammable gas monitoring devices shall be installed where the location, geophysical condition, and waste characteristics indicate that there is a reasonable probability that the facility will generate toxic and flammable gas: exceeding twenty-five (25) percent of the lower explosive limit for gases in facility structures (excluding gas control or gas recovery system components); exceeding the lower explosive limit at the property boundary; or otherwise presenting a potential threat to public health or the environment; and ( )

iv. An owner or operator may submit a written request for a variance from the leachate collection and control system, liner, or emission control system requirements. The Department may approve the variance upon demonstration by the owner or operator that the variance is at least as protective of human health and the environment as the leachate collection and control system, liner, or emission control system. ( )

d. Design Application. The following information shall be submitted to the Department in a Design Application: ( )

i. Design plans shall address the need for and include as required a leachate collection and control system, liner, and emission control systems in Subsection 013.13.c.; ( )

ii. A facility map illustrating: ( )

(1) Surface water and erosion control systems; ( )

(2) Proposed fill area, including the location of waste disposal trenches or cells, noting the locations of trenches used for separated wastes such as animal carcasses, tree trunks, stumps, bulky wastes, car bodies, asbestos, and petroleum contaminated soils; ( )

(3) Location of borrow areas; ( )

(4) Design elevation grade of final cover; ( )

(5) Soil and water table test boring holes, wells, or excavations; ( )

(6) Proposed receiving, storage, and processing areas; ( )

(7) Proposed trench layout and development; and ( )

(8) Contour lines at five (5) foot intervals within the operating area and ten (10) foot intervals to the facility boundary. ( )

(9) Building and construction design blueprints; ( )

(10) Operational design and capacity information including a description of the waste types and projected daily and annual waste volumes; and ( )

e. Operating Requirements: The owner and operator of a NMSWLF shall comply with the following operating requirements: ( )

i. Compaction and placement of waste in locations consistent with the approved operations plan; ( )

ii. Provision for storage of waste during periods when the NMSWLF is inaccessible; ( )

iii. Application of a six (6) inch compacted soil cover layer on exposed waste as necessary to prevent nuisance and vector conditions at periods consistent with the approved operations plan. An owner and operator may request that the Department approve an alternate cover that addresses vectors, litter, fire, odor, and scavenging concerns; ( )

iv. Placement of an interim cover layer of twelve (12) inches of compacted soil between lifts to provide erosion control and structural stability. An owner and operator may request that the Department approve an alternate interim cover that addresses erosion, and stability for subsequent lifts; ( )

v. Maintenance and operation of a leachate collection and control system and air emission control system consistent with the approved design application; and ( )

vi. Preservation of existing vegetation where attainable. ( )

f. Operating Plan. The operating plan required in Section 013 shall identify the methods used for maintaining compliance with each applicable operating requirement of Subsection 013.03. and Subsection 013.13.e. including but not limited to the type, the method of compaction and the frequency of application of respective cover materials; ( )

g. Closure Requirements. The owner and operator of a NMSWLF shall comply with the following closure requirements: ( )

i. Final Cover. Within seven (7) days of the date of last receipt of waste, a cover layer shall be applied to prevent nuisances and vector conditions. Within one hundred and twenty (120) days of the date of last receipt of

waste, a final cover layer of eighteen (18) inches of compacted soil with an approved in-place permeability designed to minimize infiltration, or its functional equivalent, and, a six (6) inch soil layer that minimizes erosion and sustains plant growth shall be constructed; ( )

ii. Facility Stabilization. All disturbed portions of the facility shall be stabilized. Stabilization practices may include but are not limited to: establishment of vegetation, mulching, geotextiles, and sod stabilization; ( )

iii. Slope Stability. Finished grade shall be at a minimum of two percent (2%) and a maximum of thirty- three percent (33%) slope on the final surface of the completed fill area, after settlement; and ( )

iv. Drainage Control. The completed landfill shall be graded to prevent surface water ponding and erosion, and to conform to the local topography. ( )

h. Environmental Covenants: ( )

i. After completion and certification of closure of a NMSWLF, the owner and operator shall record an environmental covenant, pursuant to the Uniformed Environmental Covenants Act (UECA) Chapter 30, Title 55, Idaho Code, on the property where the landfill facility is located and its future use may be restricted in accordance with a post-closure care plan. A copy of the environmental covenant will be sent to the Department after recording with the county clerk. ( )

ii. The owner may request permission from the Department to remove the environmental covenant if all wastes are removed from the facility. ( )

iii. Federal agencies with responsibility for management of landfills on federal property shall make an environmental covenant or notation in the federal property records for the affected property. If the subject property is ever sold or transferred by the federal government, a notation on the deed or patent shall be made. ( )

i. Closure Plan. The owner and operator shall provide in the Closure Plan documentation that demonstrates compliance with closure requirements specified in Subsections 013.07 and 013.13.g. ( )

j. Post-Closure Care Plan. Owners and operators of a NMSWLF shall submit, in accordance with the time frames specified in Subsection 013.08, to the Department for review and approval a Post-Closure Care Plan, shall obtain Department approval of the Plan, and shall conduct post-closure care in accordance with the Plan: ( )

i. Unless the Department determines otherwise, the Post-Closure Care Plan shall contain: ( )

(1) The name and address of an agent authorized to accept communications or service during the post-closure period. The name may be changed during the post-closure period by providing the Department with twenty (20) days advance written notice of the change; ( )

(2) Provisions to maintain the integrity and effectiveness of the final cover; ( )

(3) Provisions to continue to maintain and operate the systems required in the operating plan, including: run-on/run-off control systems, leachate collection and control systems, groundwater monitoring systems, and gas monitoring systems; ( )

(4) Provisions to maintain appropriate security of the closed facility; ( )

(5) Provisions for routine facility inspections by the owner and operator to insure compliance with the Post-Closure Care Plan; and ( )

(6) A description of the planned use(s) of the property during the post-closure care period. ( )

ii. Post-closure care for the NMSWLF shall be conducted for a minimum of five (5) years, but not

more than thirty (30) years, as necessary to protect human health and the environment. ( )

iii. Post-Closure Standards and Inspection. Post-closure use or operation of the site shall not disturb any final cover, liner or other component of the containment system in a manner that will increase the potential to threaten human health or the environment. ( )

iv. The approved Post-Closure Care Plan shall be maintained and available for review on request by the Department. ( )

v. The requirements in Subsection 013.07 shall apply to owners and operators and their successors and assigns. ( )

014. -- 031. (RESERVED)

032. TIER II AND TIER III APPLICATION AND PLAN REVIEW AND APPROVAL.

01. Application Submittal. The owner and operator shall submit three (3) copies of each required application to the Department. The owner and operator may submit applications for siting, design, operation, or ground water monitoring approval sequentially or concurrently. ( )

02. Preapplication Conference. The owner or operator may request that the Department convene a preapplication conference with any interested federal, state and local entities to discuss the approval procedures, application content, time tables for application processing, siting and design requirements. ( )

03. Application Review. ( )

a. On receipt of an application the Department shall, within thirty (30) days, notify the owner and operator in writing whether the submission is complete and whether the application identifies an appropriate Tier level. The notice shall identify any deficiencies in the application, and the information relied upon in making the determination, and shall state that an applicant may submit additional information in the form of an amended application, withdraw the application or request a conference to discuss the Department's determination. ( )

b. Upon receipt of the Department's determination that a siting application is complete, the owner and operator shall publish a notice in a newspaper of general circulation as determined in Section 31-819, Idaho Code, in the county and the immediate vicinity of the proposed facility and shall also provide notice to local government. The notice shall include the name and location of the proposed facility, a general description of the proposed operations, the location where the application may be reviewed, and instructions directing the public to submit comments to the Department within thirty (30) days of the date of publication. The owner and operator shall provide a copy of the published notice and notice to local government to the Department within five (5) business days of publication. ( )

c. The Department shall approve, deny, or approve with conditions each application. Failure to issue a decision within the stated time shall be deemed approval. Approval conditions shall relate to protection of human health and the environment as required in these rules. ( )

i. For a siting application, the Department shall notify the owner and operator in writing of the Department's decision within thirty (30) days of the date of the close of the public comment period. The Department and the owner and operator may agree, in writing to a longer period of time for the Department's determination. Design, Operating and Ground Water Monitoring Applications shall not be reviewed until the Siting Application is approved. ( )

ii. For the Design, Operating and Ground Water Monitoring applications, the Department shall notify the owner and operator in writing of the Department's decision within sixty (60) days from the date the application is determined to be complete. ( )

d. If the Department denies an application, the written decision shall state the basis for the denial, and the information relied upon in making the determination. ( )

04. Application Valid for Two Years. Unless otherwise stated in the Department's approval of the facility's application, the Department's approval shall become invalid if the owner and operator fail to begin construction within two (2) years from the date of approval, or if after construction has begun, work is suspended for more than two (2) years. Owners and operators may apply for an extension provided that the written request is received by the Department no less than one (1) month prior to expiration of the approval. Within fifteen (15) days from Department receipt of extension request, the Department shall approve the extension request or deny the extension request and state the basis for denial. ( )

033. -- 059. (RESERVED)

060. VIOLATIONS.

01. Failure to Comply. Failure by any person to comply with the provisions of these rules shall be deemed a violation of these rules. ( )

02. Falsification of Statements and Records. It shall be a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of an approval. ( )

03. Penalties. Any person violating any provision of these rules or any approved conditions or order issued thereunder shall be liable for civil penalty in accordance with Title 39, Chapter 1, Idaho Code. ( )

061. OPEN BURNING AND FIRES.
Open burning is prohibited at facilities except as authorized by IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho," and the following: ( )

01. No Open Burning During an Air Pollution Episode. No open burning may be conducted during an air pollution episode, declared in accordance with IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; ( )

02. Conditions Under Which Open Burning Authorized. Open burning is authorized only if it is infrequent and the materials are agricultural wastes, silviculture wastes, land clearing debris, diseased trees, or debris from emergency cleanup operations. Materials burned may not include garbage, dead animals, asphalt, petroleum products, paints, tires or other rubber products, plastics, paper (other than that necessary to start the fire), cardboard, treated wood, construction debris, metal, pathogenic wastes, hazardous wastes, or any other substance (other than natural vegetation) that when burned releases toxic emissions, dense smoke or strong odors; and ( )

03. Contact Department and Local Fire Authority Prior to Conducting Open Burning. Open burning may be conducted pursuant to conditions set forth by the Department or local fire authority. The owner and operator of the facility must contact the Department and the local fire authority prior to conducting open burning to report its nature and location. ( )

062. -- 993. (RESERVED)

994. COMMERCIAL SOLID WASTE SITING LICENSE FEE.
An application for a commercial solid waste siting license required by the Idaho Solid Waste Facilities Act shall be accompanied by a siting license fee in an amount established by these rules. The license fee shall not exceed seven thousand five hundred dollars ($7,500) and shall be submitted with the siting license application. ( )

01. Commercial Solid Waste Siting License Fee Criteria. The commercial solid waste siting license fee required by the Idaho Solid Waste Facilities Act and these rules shall apply to commercial MSWLFs only and shall be based on the cost of the Department's review and the characteristics of the proposed commercial solid waste facility, including the projected site size, projected waste volume, and the hydrogeological and atmospheric characteristics surrounding the site. ( )

02. Commercial Solid Waste Siting License Fee Scale. The commercial solid waste siting license fee

required by the Idaho Solid Waste Facilities Act and these rules shall be determined using the table below. The fee determined using the table below may then be adjusted by the Department if necessary to reflect the cost of the Department's review, taking into account the hydrogeological and atmospheric characteristics surrounding the site.

COMMERCIAL SOLID WASTE SITING LICENSE FEE SCALE PROJECTED SOLID WASTE VOLUME Tons per day (TPD)			
Site Size	**Up to 20 TPD**	**20 to 100 TPD**	**More than 100 TPD**
5 acres or less	$3,500	$4,500	$5,500
5 to 50 acres	$4,500	$5,500	$6,500
more than 50 acres	$5,500	$6,500	$7,500

( )

03. Notification of Adjustment of Fee. Within thirty (30) days of receipt of the application and fee, the Department shall notify the applicant if the fee has been adjusted and the date by which any additional fee must be paid by the applicant. ( )

04. Expansion or Enlargement of a Commercial Solid Waste Facility. The expansion or enlargement of a commercial solid waste facility constitutes a new proposal for which a commercial solid waste siting license is required and for which a siting license fee must be paid. All commercial solid waste facilities not in operation on March 20, 1996 must submit a commercial solid waste license application and fee. ( )

05. Commercial Solid Waste Siting License Fee Not Refundable. The commercial solid waste siting license fee required by the Idaho Solid Waste Facilities Act and by these rules shall not be refundable and may not be applied toward any subsequent application should the commercial solid waste siting license application be canceled, withdrawn or denied. ( )

995. COMMERCIAL SOLID WASTE SITING LICENSE APPLICATION.
In addition to the contents of a Siting License Application as required in the Idaho Solid Waste Facilities Act, these rules require the applicant to include in the application the following items: ( )

01. Location. A map indicating the location of the proposed commercial solid waste facility; ( )

02. Copies of Application. Ten (10) copies of the completed application; and ( )

03. Application Format. A copy of the application in a format prepared for photocopying. ( )

996. -- 998. (RESERVED)

999. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality." ( )

000. LEGAL AUTHORITY.
Chapters 1 and 88, Title 39, Idaho Code, grant authority to the Board of Environmental Quality to promulgate rules for the regulation of underground storage tank systems within the state of Idaho. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.07, "Rules Regulating Underground Storage Tank Systems." ( )

02. Scope. These rules establish standards and procedures necessary for the regulation of underground storage tank systems. Compliance with these rules shall not relieve persons from the obligation to comply with other applicable state or federal laws. ( )

002. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. ( )

003. ADMINISTRATIVE PROVISIONS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

004. INCORPORATION BY REFERENCE.
Any reference to any document identified in Subsection 004.01 shall constitute the full adoption by reference into IDAPA 58.01.07. ( )

01. Documents Incorporated by Reference. Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, 40 CFR Part 280, revised as of July 1, 2017 with the following exceptions: ( )

a. 40 CFR 280.12, the definition of "Re7placed" is excluded; ( )

b. 40 CFR 280.12, the definition of "Under-dispenser containment or UDC" is excluded; ( )

c. 40 CFR 280.20, the introductory paragraph sentence, "In addition, except for suction piping that meets the requirements of Section 280.41(b)(1)(ii)(A) through (E), tanks and piping installed or replaced after April 11, 2016 must be secondarily contained and use interstitial monitoring in accordance with Section 280.43(g)," is excluded; ( )

d. 40 CFR 280.20(f), is excluded; ( )

e. 40 CFR 280.34(b)(9), the citation to Section 280.245 is excluded; ( )

f. 40 CFR 280.41(a)(1), "installed on or before April 11, 2016…" is excluded; ( )

g. 40 CFR 280.41(a)(2), is excluded; ( )

h. 40 CFR 280.41(b)(1), "installed on or before April 11, 2016…" is excluded; ( )

i. 40 CFR 280.41(b)(2), is excluded; ( )

j. 40 CFR 280.42, Note to paragraph (a), "for tank installed on or before October 13, 2015." is excluded; ( )

k. 40 CFR 280.42(e), "installed on or before October 13, 2015…" is excluded; and ( )

l. 40 CFR Part 280 Subpart J is excluded. ( )

02. Hazardous Substance Underground Storage Tank Systems. ( )

a. The following items only apply to hazardous substance underground storage tank systems and do

not apply to petroleum underground storage tank systems: ( )

i. The definition of "Hazardous substance UST system" in 40 CFR 280.12 and use of this term or regulations regarding hazardous substance in 40 CFR Part 280; and ( )

ii. 40 CFR 280.42 and any reference to 40 CFR 280.42 in 40 CFR Part 280. ( )

b. All other provisions of 40 CFR Part 280 and all provisions of IDAPA 58.01.07 shall apply to hazardous substance underground storage tank systems. ( )

03. Consistency. In the event of conflict or inconsistency between the language in IDAPA 58.01.07 and that found in 40 CFR Part 280, IDAPA 58.01.07 shall prevail. ( )

04. Stringency. IDAPA 58.01.07 shall be no more stringent than federal law or regulations governing underground storage tank systems. ( )

05. Availability of Referenced Material. The federal regulations adopted by reference can be obtained at the following locations: ( )

a. U.S. Government Printing Office, www.ecfr.gov; and ( )

b. Department of Environmental Quality, Hearing Coordinator, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. ( )

005. OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, (208) 373-0502, www.deq.idaho.gov. The office hours are 8 a.m. to 5 p.m. Monday through Friday. ( )

006. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 74, Chapter 1, 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." ( )

007. -- 009. (RESERVED)

010. DEFINITIONS.
For the purpose of the rules contained in IDAPA 58.01.07, "Rules Regulating Underground Storage Tank Systems," the following definitions apply: ( )

01. Board. The Idaho Board of Environmental Quality. ( )

02. Community Water System. A public water system that serves at least fifteen (15) service connections used by year-round residents of the area served by the system or regularly serves at least twenty-five (25) year-round residents. ( )

03. Department. The Idaho Department of Environmental Quality. ( )

04. Director.The Director of the Idaho Department of Environmental Quality or his authorized agent. ( )

05. Existing. Solely for purposes of determining when secondary containment is required, existing is when a petroleum underground storage tank, piping, motor fuel dispensing system, facility, public water system or potable drinking water well is in place when a new installation or replacement of a tank, piping, or motor fuel dispensing system begins. ( )

06. EPA. The United States Environmental Protection Agency. ( )

07. Installation of a New Motor Fuel Dispenser System. The installation of a new motor fuel dispenser and the equipment necessary to connect the dispenser to the petroleum underground storage tank system. This equipment may include flexible connectors, risers, or other transitional components that are beneath the dispenser, below the shear valve, and connect the dispenser to the piping. It does not mean the installation of a motor fuel dispenser installed separately from the equipment needed to connect the dispenser to the petroleum underground storage tank system. ( )

08. Installer. Any person who installs a new or replacement petroleum underground storage tank system. ( )

09. New Underground Storage Tank. Has the same meaning as "underground storage tank or UST" in 40 CFR 280.12, except that such term includes tanks that have been previously used and meet the requirements of 40 CFR 280.20(a). ( )

10. Non-Community Water System. A public water system that is not a community water system. A non-community water system is either a transient non-community water system or a non-transient non-community water system. ( )

11. Piping. A hollow cylinder or a tubular conduit constructed of non-earthen materials that routinely contains and conveys regulated petroleum substances from the petroleum underground storage tank(s) to the dispenser(s) or other end-use equipment. It does not mean vent, vapor recovery, or fill lines that do not routinely contain regulated petroleum substances. ( )

12. Potable Drinking Water Well. Any hole (dug, driven, drilled, or bored) that extends into the earth until it meets ground water which supplies water for a non-community public water system or otherwise supplies water for household use (consisting of drinking, bathing, and cooking, or other similar uses). Such wells may provide water to entities such as a single-family residence, group of residences, businesses, schools, parks, campgrounds, and other permanent or seasonal communities. ( )

13. Product Deliverer. Any person who delivers or deposits product into a petroleum underground storage tank. This term may include major oil companies, jobbers, petroleum transportation companies, or other product delivery entities. ( )

14. Public Water System. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and, any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "non-community water system." ( )

15. Red Tag. A tamper-resistant tag, device, or mechanism attached to the tank's fill pipes that clearly identifies a petroleum underground storage tank as ineligible for product delivery. The tag or device shall be visible to the product deliverer and clearly state that it is unlawful to deliver to, deposit into, or accept product into the ineligible petroleum underground storage tank. ( )

16. Replace. As it applies to petroleum underground storage tanks and piping, replace is defined as follows: ( )

a. Petroleum Underground Storage Tank. Replace means to remove an existing tank and install a new tank. ( )

b. Piping. Replace means to remove and put back in one hundred (100) percent of the piping, excluding connectors, connected to a single petroleum underground storage tank system. This definition does not alter the requirement in 40 CFR 280.33(c) to replace metal pipe sections and fittings that have released product as a

result of corrosion or other damage. A replacement of metal pipe section and fittings pursuant to 40 CFR 280.33(c) shall be considered a replacement under this definition only if one hundred (100) percent of the metal piping, excluding connectors, is replaced. ( )

17. Under-Dispenser Spill Containment. Containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or ground water. Such containment must: ( )

a. At installation or modification, be liquid-tight on its sides, bottom, and at any penetrations; and ( )

b. Be compatible with the substance conveyed by the piping; and either ( )

c. Allow for visual inspection and access to the components in the containment system; or ( )

d. Be monitored for releases using a release detection method that meets the requirements of 40 CFR 280.43(g). ( )

011. – 099. (RESERVED)

100. ADDITIONAL MEASURES TO PROTECT GROUND WATER FROM CONTAMINATION.

01. Notification. An owner, operator or designee must: ( )

a. Provide written notice to the Department thirty (30) days prior to the installation of a new piping system or a new or replacement petroleum underground storage tank. ( )

b. Provide notice to the Department twenty-four (24) hours prior to the installation of a replacement piping system. ( )

02. Notification Forms. The written notice required in Subsection 100.01.a. shall be made upon forms provided by the Department. ( )

03. Requirements for Petroleum UST Systems. Owners, operators, and installers of a new or replacement petroleum underground storage tank or piping system shall comply with the following requirements. ( )

a. Each new petroleum underground storage tank, or piping connected to any such new tank, installed after February 23, 2007, or any existing petroleum underground storage tank, or existing piping connected to such existing tank, that is replaced after February 23, 2007, shall have secondary containment and be monitored for leaks if the new or replaced petroleum underground storage tank or piping is within one thousand (1,000) feet of any existing public water system or any existing potable drinking water well. At a minimum, secondary containment systems must be designed, constructed, and installed to contain regulated substances released from the tank system until they are detected and removed, prevent the release of regulated substances to the environment at any time during the operational life of the petroleum underground storage tank system, and be checked for evidence of a release at least every thirty (30) days. The following conditions are excluded: ( )

i. Suction piping that meets the requirements of 40 CFR 280.41(b)(1)(ii)(A) through (E); ( )

ii. Piping that manifolds two (2) or more petroleum underground storage tanks together; ( )

iii. Existing piping to which new piping is connected to install a dispenser; and ( )

iv. Tanks identified in 40 CFR 280.10(b). ( )

b. If the owner installs, within one (1) year, a potable drinking water well at the new facility that is within one thousand (1,000) feet of the petroleum underground tanks, piping, or motor fuel dispenser system as part of the new underground storage tank facility installation, secondary containment and under-dispenser containment

are required, regardless of whether the well is installed before or after the petroleum underground tanks, piping, and motor fuel dispenser system are installed. ( )

c. The notice required in Subsection 100.01 shall indicate whether the new or replacement installation is within one thousand (1,000) feet of an existing public water system or any existing potable drinking water well. If the owner and installer certify that the installation is not within one thousand (1,000) feet of an existing public water system or any existing potable drinking water well, the owner, operator or designee shall provide and maintain documentation showing that a reasonable investigation of water systems and drinking water wells was undertaken. A reasonable investigation includes, but is not limited to, a search of the records of: ( )

i. The public or private water service provider in the area which the new or replacement installation is located (if any); ( )

ii. The city or county in which the new or replacement installation is located; ( )

iii. The Idaho Department of Water Resources; and ( )

iv. The Idaho Department of Environmental Quality. ( )

d. In the case of a replacement of an existing petroleum underground storage tank or existing piping connected to the petroleum underground storage tank, Section 100 shall apply only to the specific petroleum underground storage tank or piping being replaced, not to other petroleum underground storage tanks and connected pipes comprising such system. ( )

e. Each installation of a new motor fuel dispenser system shall include under-dispenser spill containment if the new dispenser is within one thousand (1,000) feet of any existing public water system or any existing potable drinking water well. ( )

04. Requirements for Hazardous Substance UST Systems. Owners, operators, and installers of a new or replacement hazardous substance underground storage tank or piping system shall have secondary containment as required in 40 CFR 280.42. ( )

05. Certification. Owners and operators shall also comply with the certification requirements of 40 CFR 280.22(f) as incorporated by reference into these rules. ( )

101. ALTERNATIVE PERIODIC TESTING OF CONTAINMENT SUMPS USED FOR INTERSTITIAL MONITORING OF PIPING.

01. Applicability. ( )

a. The alternative test method in Subsection 101.02 shall only be used for containment sumps that are performing continuous interstitial monitoring as a piping release detection method where an electronic sump sensor is installed and connected to an electronic monitoring device, such as an automatic tank gauge, or where the piping within a containment sump is continuous to a containment sump which has an electronic sump sensor installed and connected to an electronic monitoring device, such as an automatic tank gauge. ( )

i. The sump sensor in Subsection 101.01.a. must be positioned in the containment sump according to manufacturer instructions and at the lowest possible point in the containment sump. ( )

ii. The sump sensor in Subsection 101.01.a. must be wired and programmed appropriately to shut down power to the submersible turbine pump (positive shutdown) when the sensor is in contact with liquid in any containment sump. ( )

iii. If new dispensers are added and Subsection 101.01.a.ii. cannot be achieved (no electrical conduit, not enough sensor ports, etc.), an electronic stand-alone dispenser containment sump sensor may be used if it is wired appropriately to shut down power to the dispenser when the sensor is in contact with liquid in the dispenser containment sump. ( )

b. The Department may not allow the alternative test method in Subsection 101.02 if it determines the containment sump, penetration fittings, or containment sump sensors are not constructed or positioned in a manner that will accommodate the alternative testing or prevent releases to the environment (i.e., penetration fittings are too close to the containment sump bottom). ( )

02. Alternative Test Method Allowed. ( )

a. As an alternative to the allowable test method in 40 CFR 280.35(a)(1)(ii)(A)-(C), containment sumps used for interstitial monitoring of piping may be tested as follows: ( )

i. Temporarily remove any interstitial monitoring containment sump sensors before conducting the test; ( )

ii. Add water to the containment sump up to a point directly beneath the first containment sump penetration fitting from the bottom of the containment sump. The water must be allowed to settle for at least fifteen (15) minutes; ( )

iii. Place a measuring stick that has one sixteenth (1/16th) inch increments into the lowest point in the containment sump and extending above the water level in the sump; and ( )

iv. Document the initial water level measurement as measured from the bottom of the containment sump. After one (1) hour, document the ending water level measurement. If the water level changes less than one eighth (1/8th) inch, the containment sump passes the integrity test. If the water level changes one eighth (1/8th) inch or greater, the containment sump fails the integrity test. ( )

b. Upon completion of the test, remove all water and properly dispose of it. Reinstall any interstitial monitoring sensors. Reinstall all containment sump lids, gaskets, and covers. ( )

102. -- 199. (RESERVED)

200. RELEASE REPORTING REQUIREMENTS.

01. Information to be Reported. ( )

a. In addition to the requirements in IDAPA 58.01.02, "Water Quality Standards," Subsection 851.01, owners or operators shall report the following information regarding confirmed petroleum underground storage tank releases to the Department on forms provided by the Department: ( )

i. The release source; and ( )

ii. The release cause. ( )

b. Releases less than twenty-five (25) gallons that are cleaned up within twenty-four (24) hours, and which do not cause a sheen on nearby surface water, do not need to be reported. ( )

02. Release Sources. Release sources may include, but are not limited to the following: ( )

a. Petroleum Underground Storage Tanks; ( )

b. Piping; ( )

c. Dispensers, which include the dispenser and equipment used to connect the dispenser to the piping. A release from a suction pump or components located above the shear valve would be an example of a release from the dispenser; ( )

d. Submersible turbine pump area, which includes the submersible turbine pump head (typically

located in the tank sump), the line leak detector, and the piping that connects the submersible turbine pump to the petroleum underground storage tank; and ( )

e. Delivery problem, which identifies releases that occurred during product delivery to the petroleum underground storage tank. Typical causes associated with this source are spills and overfills. ( )

03. Release Causes. Release causes may include, but are not limited to the following: ( )

a. Spills which may occur when the delivery hose is disconnected from the fill pipe of the petroleum underground storage tank or when the nozzle is removed from the vehicle at the dispenser; ( )

b. Overfills which may occur from the fill pipe at the petroleum underground storage tank or when the nozzle fails to shut off at the dispenser; ( )

c. Physical or mechanical damage of all types except corrosion. Examples include a puncture of the petroleum underground storage tank or piping, loose fittings, broken components, and components that have changed dimension like elongation or swelling; ( )

d. Corrosion of a metal tank, piping, flex connector, or other component; and ( )

e. Installation problem that occurs specifically because the underground storage tank system was not installed properly. ( )

04. Requirements. The reporting required in Section 200 shall be reported to the Department within ninety (90) days of a confirmed release. The reporting requirement in Section 200 shall not relieve owners or operators from the obligation to comply with 40 CFR Part 280 Subpart E "Release Reporting, Investigation, and Confirmation," IDAPA 58.01.02, "Water Quality Standards," Section 851, "Petroleum Release Reporting, Investigation, and Confirmation," and IDAPA 58.01.02, "Water Quality Standards," Section 852, "Petroleum Release Response and Corrective Action." ( )

201. -- 299. (RESERVED)

300. TRAINING REQUIREMENTS.

01. Requirements. The Department shall adopt a training program to help owners and operators comply with the requirements of these rules. The training program requirements shall: ( )

a. Be consistent with 42 U.S.C. 6991i(a), as amended by the Underground Storage Tank Compliance Act, (Pub.L. 109-58, title XV, sec. 1524(a), Aug. 8, 2005); ( )

b. Be developed in cooperation with petroleum underground storage tank owners and tank operators; ( )

c. Take into consideration training programs implemented by petroleum underground storage tank owners and operators as of August 8, 2005; ( )

d. Provide for training to be conducted on site or at another mutually convenient location; and ( )

e. Be appropriately communicated to petroleum underground storage tank owners and operators. ( )

02. Operator Designation. For each petroleum underground storage tank system regulated under these rules, the owner or operator shall: ( )

a. Designate: ( )

i. The class A operator, who is the individual(s) having primary responsibility for on-site operation and maintenance of the petroleum underground storage tank system. This does not require that the class A operator be on site; ( )

ii. The class B operator, who is the individual(s) having daily on-site responsibility for the operation and maintenance of the petroleum underground storage tank system. This does not require that the class B operator be on site at all times; and ( )

iii. The class C operator, who is the daily, on-site individual(s) having primary responsibility for addressing emergencies presented by a spill or release from the petroleum underground storage tank system. The class C operator can be designated by the class A or B operator. ( )

b. Maintain a record at the facility where the petroleum underground storage tank is located listing each person designated in Subsections 300.02.a.i., 300.02.a.ii., and 300.02.a.iii. ( )

c. Notify the Department in writing of the individual(s) designated in Subsections 300.02.a.i. and 300.02.a.ii. within thirty (30) days of the designation. ( )

03. Training. The owner or operator of each petroleum underground storage tank system regulated under these rules shall ensure that the individual(s) identified in Subsections 300.02.a.i. and 300.02.a.ii. participate in the training conducted by the Department or a state of Idaho approved third party. ( )

a. The individual(s) identified in Subsections 300.02.a.i. or 300.02.a.ii. shall provide training to the persons identified in Subsection 300.02.a.iii. ( )

b. The individual(s) identified in Subsection 300.02.a.iii. must be trained before assuming responsibility for responding to emergencies. ( )

c. The individual(s) identified in Subsections 300.02.a.i. and 300.02.a.ii. shall repeat the training within thirty (30) days if the petroleum underground storage tank system for which they have responsibility is determined to be out of compliance with these rules. ( )

d. The individual(s) identified in Subsections 300.02.a.i. and 300.02.a.ii. shall be trained within thirty (30) days of assuming operation and maintenance duties. ( )

04. Unattended Sites. In the case of unattended sites, a sign must be posted in a location visible from the dispensers indicating emergency shut-off procedures and emergency contact phone numbers. ( )

301. -- 399. (RESERVED)

400. INSPECTIONS.

01. Department Authority. In order to fulfill the statutory requirements of Chapter 88, Title 39, Idaho Code, officers, employees or representatives of the Department, or third-party inspectors as described in Subsection 400.02, are authorized to inspect petroleum underground storage tanks, contents of the tanks, and associated equipment and records relating to such tanks, contents, and associated equipment. ( )

02. Third-Party Inspections. ( )

a. Third-party inspectors must be certified, licensed, or registered by an approved state program to perform on-site inspections. At a minimum, third-party inspectors must meet the requirements listed in Subsections 400.02.a.i. through 400.02.a.v.: ( )

i. Be trained in the state-specific inspection protocols and procedures, and perform inspections pursuant to such protocols and procedures; ( )

ii. Successfully complete the state's required training program. The training program for third-party

inspectors must be comparable to the training program for Department inspectors; ( )

iii. Not be the owner or operator of the petroleum underground storage tank, an employee of the owner or operator of the petroleum underground storage tank, or a person having daily on-site responsibility for the operation and maintenance of the petroleum underground storage tank; ( )

iv. Use an inspection report form developed by the Department. Review of applicable records and other activities that can be accomplished off-site may be combined with activities conducted at the site to fulfill the on-site inspection requirement; and ( )

v. Complete and submit the inspection report to the Department in the manner and time frame established by the Department. All third-party inspection reports must be submitted electronically to the Department for review and for the Department to make a compliance determination for each site. If requested by the Department, third-party inspectors shall provide all supporting documentation for its inspection reports. ( )

b. Third-party inspection procedures must contain an audit program, developed by the Department, to monitor third-party inspectors on a routine basis. The audit program must include a sufficient number of on-site inspections to effectively assess inspector performance. ( )

c. If a third-party inspector fails to demonstrate to the approved state program adequate competence and proficiency to perform petroleum underground storage tank inspections, or the approved state program otherwise determines it is not appropriate for the third-party inspector to conduct on-site inspections as part of a third-party inspection program, the approved state program must take appropriate action against the third-party inspector as provided by law. ( )

03. Inspections. All inspections shall be done in accordance with the provisions of Section 39-108, Idaho Code. At a minimum, an on-site inspection must assess compliance with the provisions of these rules and 40 CFR Part 280. ( )

401. -- 499. (RESERVED)

500. DELIVERY PROHIBITION.

01. Prohibition. Effective August 8, 2007, it shall be unlawful for any person to deliver to, deposit into, or accept a regulated petroleum substance into a petroleum underground storage tank at a facility which has been identified by the Department to be ineligible for such delivery, deposit, or acceptance. ( )

02. Classification as Ineligible. The Department shall classify a petroleum underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance as soon as practicable after the Department determines one or more of the following conditions exists: ( )

a. Required spill prevention equipment is not installed; ( )

b. Required overfill protection equipment is not installed; ( )

c. Required leak detection equipment is not installed; or ( )

d. Required corrosion protection equipment is not installed. ( )

03. Warning of Violations. The Department may classify a petroleum underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance if the owner or operator of the tank has been issued a written warning for any of the following violations, and the owner or operator fails to initiate corrective action within thirty (30) days of the issuance of the written warning, unless the deadline is extended by the Department: ( )

a. Failure to properly operate or maintain leak detection equipment; ( )

b. Failure to properly operate or maintain spill, overfill, or corrosion protection equipment; or ( )

c. Failure to maintain financial responsibility. ( )

04. **Service of Notice**. If the Department classifies a petroleum underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance pursuant to Subsections 500.02 or 500.03, the Department shall provide a written notice of the determination to the owner or operator prior to prohibiting the delivery, deposit, or acceptance of a regulated petroleum substance. Notice is considered properly served by the Department in any of the following ways: ( )

a. The notice is personally delivered to the owner or operator; or ( )

b. The notice is clearly posted at a public entrance to the facility where the petroleum underground storage tank is located and a copy of the notice is also sent by certified mail to the last known address of the owner or operator. ( )

05. **Red-Tagging**. Once service of the written notice of the ineligible determination is complete, the Department shall then attach a red tag to each fill pipe of the ineligible petroleum underground storage tank clearly identifying the tank as ineligible. The Department shall also maintain a list of all petroleum underground storage tanks that are classified as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance. The Department shall make the list available to the public by posting the list on the Department's website at www.deq.idaho.gov. ( )

06. **Written Notice**. The written notice required by Subsection 500.04 must include: ( )

a. The specific reasons or violations that led to the ineligible classification; ( )

b. A statement notifying the owner and operator that the petroleum underground storage tank is ineligible for delivery and it is unlawful for any person to deliver to, deposit into, or accept a regulated petroleum substance into the petroleum underground storage tank; ( )

c. The effective date the petroleum underground storage tank is deemed ineligible for delivery; ( )

d. The name and address of the department representative to whom a written request for re-inspection can be made, if a re-inspection is necessary; ( )

e. A statement regarding the right to appeal the Department's action regarding ineligible classification pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality"; and ( )

f. The option to request a compliance conference pursuant to Subsection 500.07. ( )

07. **Compliance Conference**. The owner or operator may request a compliance conference with the Department within fifteen (15) days of receipt of the notice. A compliance conference shall be scheduled within twenty (20) days and conducted in an informal manner by the Department. At the compliance conference, the owner or operator may explain why he believes the petroleum underground storage tank should not be classified as ineligible. During the compliance conference, the owner or operator and the Department will identify and establish appropriate acts and a time schedule for compliance as necessary. ( )

08. **Duration of Ineligible Classification**. The classification of a petroleum underground storage tank as ineligible shall remain in effect until the conditions cited in the notice no longer exist. If the Department determines that an ineligible storage tank has returned to compliance and is now eligible for delivery, deposit, or acceptance of a regulated petroleum substance, the Department or an authorized designee shall, as soon as practicable, remove the red tag from the petroleum underground storage tank and also remove the petroleum underground storage tank from the ineligible list posted on its website. The Department will also send a written notice to the owner and operator that an ineligible storage tank has returned to compliance and is now eligible for delivery,

deposit, or acceptance of a regulated petroleum substance. ( )

09. Declining Classification. The Director may decline to classify a petroleum underground storage tank as ineligible if the Director decides that classifying the petroleum underground storage tank as ineligible for delivery, deposit, or acceptance is not in the best interest of the public. ( )

a. The Director may only defer application of delivery prohibition for up to one hundred eighty (180) days after determining a petroleum underground storage tank is ineligible for delivery, deposit, or acceptance of a regulated petroleum substance. ( )

b. The Director may authorize the delivery, deposit, or acceptance of product into an ineligible petroleum underground storage tank if such activity is necessary to test or calibrate the underground storage tank or dispenser system. ( )

10. Department Authority. Nothing in Section 500 shall affect or preempt the authority of the Department to prohibit the delivery, deposit, or acceptance of a regulated petroleum substance to a petroleum underground storage tank under other existing authorities. ( )

11. Proper Notice. A person shall not be in violation of Subsection 500.01 if the Department fails to provide the notice required by Subsections 500.04 and 500.05. ( )

12. Unlawful to Tamper with Red Tag. It shall be unlawful for any person to tamper with and/or remove the red tag without the Department's approval. ( )

501. -- 599. (RESERVED)

600. PETROLEUM UNDERGROUND STORAGE TANK DATABASE.

01. Maintenance. The Department shall maintain a database which provides details on the status of all petroleum underground storage tanks in the state of Idaho which are subject to regulation. The database shall be updated no less than the end of each calendar quarter. ( )

02. Identification. The database shall identify any tanks subject to delivery prohibition. ( )

03. Petition. Petroleum underground storage tank owners or operators may petition the Department to correct any inaccurate information for their tanks and the Department shall correct any such inaccurate information within thirty (30) days after verification. ( )

04. Availability. The database shall be available to the public on the Department's website at www.deq.idaho.gov. ( )

601. FEE SCHEDULE FOR UNDERGROUND STORAGE TANKS.
All regulated underground storage tanks shall pay an annual underground storage tank fee provided in Section 39-119, Idaho Code. The fee shall be assessed to regulated underground storage tanks as provided in Section 601.
. ( )

01. Fee Criteria. ( )

a. Compartment and siphon-manifolded underground storage tanks shall be treated as separate underground storage tanks. ( )

b. Temporarily out of use tanks are included in Section 601. ( )

02. Fee Amount and Schedule. ( )

a. Annual fees shall be paid for each fee year beginning January 2. 2018, and continuing for each succeeding year. ( )

b. The annual fee per underground storage tank is one hundred dollars ($100). The annual fee shall not exceed one hundred dollars ($100) and will be re-calculated each year if the fee balance exceeds thirty-five thousand dollars ($35,000). Any fee balance above thirty-five thousand dollars ($35,000) will be used to reduce the following year's fee. ( )

c. New underground storage tanks installed after January 2 will not pay a fee until the following January. ( )

03. Billing. ( )

a. An annual fee invoice will be generated and mailed in November for each owner listed in the Department's Underground Storage Tank Database. ( )

b. Owners will have one (1) month to notify the Department in writing if the number of underground storage tanks is incorrect. ( )

04. Payment. Payment of the annual fee shall be due on January 2, unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment shall be due on the successive business day. Fees paid by check or money order shall be made payable to the Idaho Department of Environmental Quality and sent to 1410 North Hilton Street, Boise, ID 83706-1255. ( )

05. Delinquent Unpaid Fees. An owner will be delinquent in payment if the annual fee has not been received by the Department by March 1. ( )

06. Enforcement. Failure to comply with Section 601 shall be subject to enforcement and penalties pursuant to the enforcement provisions of Section 39-108, Idaho Code, (Idaho Environmental Protection and Health Act), and Section 39-8811(2), Idaho Code, (Idaho Underground Storage Tank Act). ( )

07. Nonrefundable. The annual fee required by these rules shall be nonrefundable. ( )

08. Fee Report. Prior to February 1 of each year, the Director shall report to the Governor and the Idaho Legislature on the use of fees collected the previous year. At a minimum, the report shall include: ( )

a. A list of all tanks subject to inspection; ( )

b. The type of inspection and regulatory authority or guidance used; and ( )

c. A detailed accounting of how fee funds were spent. ( )

602. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature has given the Idaho Board of Environmental Quality the authority to promulgate rules governing quality and safety of drinking water, pursuant to Title 37, Chapter 21 and Title 39, Chapter 1, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ( )

02. Scope. The purpose of these rules is to control and regulate the design, construction, operation, maintenance, and quality control of public drinking water systems to provide a degree of assurance that such systems are protected from contamination and maintained free from contaminants which may injure the health of the consumer. ( )

002. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIALS.

01. Incorporation by Reference. The following documents are incorporated by reference into these rules. ( )

a. 40 CFR Part 141, revised as of July 1, 2015 (excluding annual monitoring provisions in 40 CFR 141.854(a)(4),(d),(e),(f) and (h), and the Aircraft Drinking Water Rule in Subsection X), and 40 CFR Part 143, revised as of July 1, 2011. Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of 40 CFR Parts 141 and 143 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. ( )

b. American Water Works Association (AWWA) Standards, effective December 2009, available for a fee from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337, http://apps.awwa.org/ebusmain/OnlineStore.aspx. ( )

02. Availability of Specific Referenced Material. Copies of specific documents referenced within these rules are available at the following locations: ( )

a. All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238; U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; or Online at http://www.gpoaccess.gov/ecfr/index.html. ( )

b. All documents incorporated by reference are available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. ( )

c. Recommended Standards for Water Works: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, published by Health Education Services, P.O. Box 7126, Albany, New York 12224, Telephone (518) 439-7286. ( )

d. Manual of Individual and Non-Public Water Supply Systems (EPA 570/9-91-004), published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238. ( )

e. U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure" as amended in 1963, NCRP Publications, P.O. Box 20175, Washington, D.C. 20014. ( )

f. Rules of the Idaho Water Resources Board are available at http://www.adminrules.idaho.gov/rules/37/37index.htm, or the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., P.O. Box 83720, Boise, Idaho 83720-0098, Telephone (208) 287-4800. ( )

g. ANSI/NSF Standard 44-2002e -- 2004, Residential Cation Exchange Water Softeners, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. ( )

h. ANSI/NSF Standard 53-2002e -- 2003, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. ( )

i. ANSI/NSF Standard 55-2002 -- 2002, Ultraviolet Microbiological Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. ( )

j. ANSI/NSF Standard 58-2003 -- 2004, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. ( )

k. ANSI/NSF Standard 60-2000a -- 2000, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. ( )

l. ANSI/NSF Standard 61-2000a -- 2000, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. ( )

m. American Water Works Association (AWWA) Standards, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, (800) 926-7337, www.awwa.org. ( )

n. Cross Connection Control Manual, available from Pacific Northwest Section of the American Water Works Association, P.O. Box 19581, Portland, OR, 97280-0581, Telephone (503) 246-5845. ( )

o. Manual of Cross-Connection Control, Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, KAP-200 University Park MC-2531, Los Angeles, CA 90089-2531, (866)545-6340, www.usc.edu/dept/fccchr/. ( )

p. Manual on Slow Sand Filtration (1991), published by AWWA Research Foundation 6666 West Quincy Avenue, Denver, CO 80235, (800)926-7337, www.awwa.org. ( )

q. Slow Sand Filtration (1991), published by the American Society of Civil Engineers American Society of Civil Engineers,1801Alexander Bell Drive, Reston, VA 20191, (800)548-2723, www.asce.org. ( )

r. Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, DOH Pub #331-204 (4/03), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, PO Box 47828, Olympia WA 98504-7828, (360)236-3100 or (800)521-0323, http://www.doh.wa.gov/ehp/dw/Programs/water_sys_design.htm. ( )

s. Water System Design Manual, DOH Pub #331-123 (Rev. 8/01), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, PO Box 47828, Olympia WA 98504-7828, (360)236-3100 or (800)521-0323, http://www.doh.wa.gov/ehp/dw/Programs/water_sys_design.htm. ( )

t. Submersible Motors: Application, Installation, Maintenance (Franklin Electric AIM manual), Franklin Electric, Bluffton, Indiana 46714, (800)348-2420, http://www.franklin-electric.com/aim-manual.aspx. ( )

u. Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources (March 1991 Edition), U.S. Environmental Protection Agency, http://water.epa.gov/lawsregs/rulesregs/sdwa/swtr/upload/guidsws.pdf. ( )

v. Standard Methods for the Examination of Water and Wastewater, a joint publication of the American Public Health Association, the Water Environment Federation, and the American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235, 800-926-7337, www.standardmethods.org ( )

w. F480-02 Standard Specification for Thermoplastic Well Casing Pipe and Couplings Made in Standard Dimension ratios (SDR), SCH 40 and SCH 80, American Society for Testing and Materials (ASTM Standard F480-02). ( )

x. "Idaho Standards for Public Works Construction," Local Highway Technical Assistance Council, 3330 Grace Street, Boise, ID 83605, (208)344-0565. ( )

y. Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. ( )

z. Idaho General Safety and Health Standards (IGSHS), available from the Idaho Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642, (208)334-3950, http://dbs.idaho.gov/. ( )

aa. Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. ( )

bb. Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. ( )

cc. Implementation Guidance for the Ground Water Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. ( )

dd. AWWA Recommended Practice for Backflow Prevention and Cross-Connection Control (M14), available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. ( )

ee. Membrane Filtration Guidance Manual (EPA 815-R-06-009) published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202) 782-3238, http://www.epa.gov/ogwdw/disinfection/lt2/pdfs/guide_lt2_membranefiltration_final.pdf. ( )

ff. Ultraviolet Disinfection Guidance Manual for the Final Long Term 2 Enhanced Surface water Treatment Rule (EPA 815-R-06-007) published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238, www.epa.gov/safewater/disinfection/lt2/pdfs/guide_lt2_uvguidance.pdf. ( )

gg. Improving Clearwell Design for CT Compliance, Report #90756, available from the Water Research Foundation, http://waterrf.org/ProjectsReports/PublicReportLibrary/RFR90756_2000_271.pdf. ( )

hh. Surface Water Treatment Rule Compliance Guidance, dated January 10, 1996, Idaho Department of Environmental Quality, www.deq.idaho.gov. ( )

ii. Uniform Plumbing Code, available at Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642; and at the Division of Building Safety, 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814, http://dbs.idaho.gov. ( )

03. Precedence. In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules shall prevail. ( )

003. DEFINITIONS.

The definitions set forth in 40 CFR 141.2 are herein incorporated by reference except for the definition of the terms "action level," "disinfection," "noncommunity water system," and "person." ( )

01. Action Level. The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake

a public education program. ( )

02. **Administrator**. The Administrator of the United States Environmental Protection Agency. ( )

03. **Annual Samples**. Samples that are required once per calendar year. ( )

04. **Annular Opening**. As used in well construction, this term refers to the nominal inside diameter of the borehole minus the outside diameter of the casing divided by two (2). ( )

05. **Aquifer**. A geological formation of permeable saturated material, such as rock, sand, gravel, etc., capable of yielding an economic quantity of water to wells and springs. ( )

06. **Average Day Demand**. The volume of water used by a system on an average day based on a one (1) year period. See also the definition of Water Demand in these rules. ( )

07. **Backflow**. The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. ( )

08. **Bag Filters**. Pressure-driven separation devices that remove particulate matter larger than one (1) micrometer using an engineered porous filtration media. They are typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to the outside. ( )

09. **Bank Filtration**. A water treatment process that uses a well to recover surface water that has naturally infiltrated into ground water through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s). ( )

10. **Board**. The Idaho Board of Environmental Quality. ( )

11. **Capacity**. The capabilities required of a public drinking water system in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act. It is divided into three (3) main elements: ( )

a. Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Training of operator(s) is required, as appropriate, for the system size and complexity. ( )

b. Financial capacity means the financial resources of the water system, including an appropriate budget; rate structure; cash reserves sufficient for current operation and maintenance, future needs and emergency situations; and adequate fiscal controls. ( )

c. Managerial capacity means that the management structure of the water system embodies the aspects of water system operations, including, but not limited to; ( )

i. Short and long range planning; ( )

ii. Personnel management; ( )

iii. Fiduciary responsibility; ( )

iv. Emergency response; ( )

v. Customer responsiveness; ( )

vi. Source water protection; ( )

vii. Administrative functions such as billing and consumer awareness; and ( )

viii. Ability to meet the intent of the federal Safe Drinking Water Act. ( )

12. Cartridge Filters. Pressure-driven separation devices that remove particulate matter larger than one (1) micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside. ( )

13. Clean Compliance History. For the purposes of the Revised Total Coliform Rule in Subsection 100.01, clean compliance history means a record of no maximum contaminant level violations under Subsection 050.05, no monitoring violations under Subsection 100.01, and no coliform treatment technique trigger exceedances or treatment technique violations under Subsection 100.01. ( )

14. Combined Distribution System. The interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water. ( )

15. Community Water System. A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. See also the definition of a Public Drinking Water System in these rules. ( )

16. Components of Finished Water Storage. Storage is available to serve the system if the storage structure or facility is elevated sufficiently or is equipped with sufficient booster pumping capability to pressurize the system. Components of finished water storage are further defined as: ( )

a. Dead Storage. Storage that is either not available for use in the system or can provide only substandard flows and pressures. ( )

b. Effective Storage. Effective storage is all storage other than dead storage and is made up of the additive components described in Paragraphs c. through f. of this Subsection. ( )

c. Operational Storage. Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of; ( )

i. The volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed; or ( )

ii. The volume needed to compensate for the sensitivity of the water level sensors. ( )

d. Equalization Storage. Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. ( )

e. Fire Suppression Storage. The water needed to support fire flow in those systems that provide it. ( )

f. Standby Storage. Standby storage provides a measure of reliability or safety factor should sources fail or when unusual conditions impose higher than anticipated demands. Normally used for emergency operation, if standby power is not provided, to provide water for eight (8) hours of operation at average day demand. ( )

17. Composite Correction Program (CCP). A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: ( )

a. Comprehensive Performance Evaluation (CPE). A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is

conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. ( )

b. Comprehensive Technical Assistance (CTA). The implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. ( )

18. **Compositing of Samples**. The mixing of up to five (5) samples by the laboratory. ( )

19. **Confining Layer**. A nearly impermeable subsurface stratum which is located adjacent to one (1) or more aquifers and does not yield a significant quantity of water to a well. ( )

20. **Confirmation Sample**. A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. ( )

21. **Connection**. Each structure, facility, or premises which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. A single family residence is considered to be a premises. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. ( )

22. **Consecutive System**. A public water system that receives some or all of its finished water from one (1) or more wholesale systems. Delivery may be through a direct connection or through the distribution system of one (1) or more consecutive systems. ( )

23. **Consumer**. Any person served by a public water system. ( )

24. **Consumer Confidence Report (CCR)**. An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. ( )

25. **Contaminant**. Any physical, chemical, biological, or radiological substance or matter in water. ( )

26. **Cross Connection**. Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices which, or because of which "backflow" can or may occur. ( )

27. **Dead End Main**. A distribution main of any diameter and length that does not loop back into the distribution system. ( )

28. **Dead Storage**. Storage that is either not available for use in the system or can provide only substandard flows and pressures. See also the definition of Components of Finished Water Storage in these rules. ( )

29. **Department**. The Idaho Department of Environmental Quality. ( )

30. **Director**. The Director of the Department of Environmental Quality or his designee. ( )

31. Direct Integrity Test (DIT). A physical test applied to a microfiltration or ultrafiltration membrane unit in order to identify integrity breaches. ( )

32. Disinfection. Introduction of chlorine, other agents, or processes that are approved by the Department (such as ultraviolet light) in sufficient concentration, dosage, or application, and for the time required to kill or inactivate pathogenic and indicator organisms. ( )

33. Disinfection Profile. A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172 and 40 CFR 141.530-141.536. ( )

34. Distribution System. Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s), treatment facility(ies), or a combination of source(s) and treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. ( )

35. Drinking Water. Means "water for human consumption." ( )

36. Drinking Water System. All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. ( )

37. Dual Sample Set. A set of two (2) samples collected at the same time and same location, with one (1) sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an Initial Distribution System Evaluation (40 CFR Part 141, Subpart U) and for determining compliance with the TTHM and HAA5 MCLs under the Stage 2 Disinfection Byproducts Requirements (40 CFR Part 141, Subpart V). ( )

38. Effective Contact Time. For the purpose of these rules, effective contact time means the time in minutes that it takes for water to move from the point of completely mixed chemical application to the point where residual concentration is measured. It is the "T" in contact time (CT) calculations and is either "demonstrated" or "calculated." It is the contact time sufficient to achieve the inactivation of target pathogens under the expected range of raw water pH and temperature variation and must be demonstrated through tracer studies or other evaluations or calculations acceptable to the Department. "Improving Clearwell Design for CT Compliance," referenced in Subsection 002.02, contains information that may be used as guidance for these calculations. ( )

39. Effective Storage. Effective storage is all storage other than dead storage and is made up of the additive components described in Paragraphs c. through f. of the definition of Components of Finished Water Storage in these rules. ( )

40. Enhanced Coagulation. The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. Conventional filtration treatment is defined in 40 CFR 141.2. ( )

41. Enhanced Softening. The improved removal of disinfection byproduct precursors by precipitative softening. ( )

42. Equalization Storage. Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. See also the definition of Components of Finished Water Storage in these rules. ( )

43. Equivalent Dwelling Unit (EDU). A unit of measure that standardizes all land use types (housing, retail, office, etc.) to the level of demand created by a single-family detached housing unit within a water system. The demand for one (1) equivalent dwelling unit is equivalent to the amount of water provided to the average single-family detached housing unit within a water system. For example, a business designed to use three (3) times as much water as an average single-family detached housing unit would have a demand of three (3) equivalent dwelling units.

( )

44. **Exemption**. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. ( )

45. **Facility Plan**. The facility plan for a public drinking water system describes the overall system, including sources of water, treatment processes and facilities, pumping stations and distribution piping, finished water storage, and waste disposal. It is a comprehensive planning document for infrastructure and includes a plan for the future of the system/facility, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A facility plan is sometimes referred to as a master plan or facilities planning study. In general, a facility plan is an overall system-wide plan as opposed to a project specific plan. ( )

46. **Facility Standards and Design Standards**. Facility standards and design standards are described in Sections 500 through 552 of these rules. Facility and design standards found in Sections 500 through 552 of these rules must be followed in the planning, design, construction, and review of public drinking water facilities. ( )

47. **Fee Assessment**. A charge assessed on public drinking water systems based on a rate structure calculated by system size. ( )

48. **Filter Profile**. A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. ( )

49. **Filtrate**. As the term relates to microfiltration and ultrafiltration, the product water or the portion of the feed stream that has passed through the membrane. ( )

50. **Finished Water**. Water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except as necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals). ( )

51. **Finished Water Storage Structures or Facilities**. Finished water storage structures or facilities are defined as: ( )

a. Above-ground storage structure or facility. A finished water storage structure or facility with a bottom elevation above normal ground surface. ( )

b. Ground-level storage structure or facility. A finished water storage structure or facility with a bottom elevation at normal ground surface. ( )

c. Partially buried storage structure or facility. A finished water storage structure or facility with a bottom elevation below normal ground surface and any portion of the structure or facility above normal ground surface. ( )

d. Below-ground storage structure or facility. A finished water storage structure or facility with a bottom elevation and top elevation below normal ground surface. ( )

52. **Fire Flow Capacity**. The water system capacity, in addition to maximum day demand, that is available for fire fighting purposes within the water system or distribution system pressure zone. Adequacy of the water system fire flow capacity is determined by the local fire authority or through a hydraulic analysis performed by a licensed professional engineer to establish required fire flows in accordance with the International Fire Code as adopted by the State Fire Marshal. ( )

53. **Fire Suppression Storage**. The water needed to support fire flow in those systems that provide it. See also the definition of Components of Finished Water Storage in these rules. ( )

54. **Fixture Protection**. The practice of installing backflow prevention assemblies or devices to isolate one (1) or more cross connections within a customer's facility. ( )

55. **Flowing Stream**. As used in the Long Term 2 Enhanced Surface Water Treatment Rule (40 CFR Part 141, Subpart W), this term means a course of running water flowing in a definite channel. ( )

56. **Flux**. The throughput of a pressure-driven membrane filtration process expressed as flow per unit of membrane area, usually in gallons per square foot per day or liters per hour per square meter. ( )

57. **Ground Water System**. A public water system which is supplied exclusively by a ground water source or sources. ( )

58. **Ground Water Under the Direct Influence of Surface Water (GWUDI)**. Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as Giardia lamblia or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence shall be determined by the Department for individual sources. The determination of direct influence may be based on site-specific measurements of water quality, documentation of well construction characteristics and geology with field evaluation, a combination of water quality and documentation, or other information required by the Department. ( )

59. **Haloacetic Acids (Five) (HAA5)**. The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. ( )

60. **Health Hazards**. Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. ( )

61. **Indirect Integrity Monitoring**. Monitoring some aspect of filtrate water quality that is indicative of the removal of particulate matter. ( )

62. **Inorganic**. Generally refers to compounds that do not contain carbon and hydrogen. ( )

63. **Internal or In-Plant Isolation**. The practice of installing backflow prevention assemblies to protect an area within a water customer's structure, facility, or premises from contaminating another part of the structure, facility, or premises. ( )

64. **Lake/Reservoir**. As used in the Long Term 2 Enhanced Surface Water Treatment Rule (40 CFR Part 141, Subpart W), this term means a natural or man-made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow. ( )

65. **Level 1 Assessment**. A Level 1 Assessment is an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. It is conducted by the system operator or owner. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any Department directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system. ( )

66. **Level 2 Assessment**. A Level 2 Assessment is an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason

that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. It is conducted by an individual approved by the Department in accordance with Subsection 305.03, which may include the system operator. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. ( )

67. License. A physical document issued by the Idaho Division of Occupational and Professional Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. ( )

68. Locational Running Annual Average (LRAA). The average of sample analytical results for samples taken at a particular monitoring location during the previous four (4) calendar quarters, as set forth in the Stage 2 Disinfection Byproducts Requirements (40 CFR Part 141, Subpart V). ( )

69. Log. Logarithm to the base ten (10). In the context of these rules, it is used in the determination of removal or inactivation efficiencies. It is expressed as the logarithm to the base ten (10) or "log" of the concentration of the feed or raw water minus the log of the concentration in the filtrate or product water. For example, if the incoming feed or raw water concentration is one hundred (100), and the outgoing filtrate or product water concentration is ten (10), a 10-fold reduction was attained; or 1-log removal. 1-log removal also equates to ninety percent (90%) removal, as ninety (90) of the original feed concentration counts had been removed, leaving ten (10) in the filtrate. Similarly, 2-log equates to ninety-nine percent (99%) removal. ( )

70. Log Removal Value (LRV). LRV is a measure of filtration removal efficiency for a target organism, particulate, or surrogate expressed as Logarithm to the base ten (10). ( )

71. Material Deviation. A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. ( )

72. Material Modification. Those modifications of an existing public water system that are intended to increase system capacity or alter the methods or processes employed. Any project that adds source water to a system, increases the pumping capacity of a system, increases the potential population served by the system or the number of service connections within the system, adds new or alters existing drinking water system components, or affects the water demand of the system is considered to be increasing system capacity or altering the methods or processes employed. Maintenance and repair performed on the system and the replacement of valves, pumps, or other similar items with new items of the same size and type are not considered a material modification. ( )

73. Maximum Contaminant Level (MCL). The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. ( )

74. Maximum Day Demand. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest for the design year. See also the definition of Water Demand in these rules. ( )

75. Maximum Pumping Capacity. The pumping capacity with the largest source or pump out of service. ( )

76. Maximum Residual Disinfectant Level (MRDL). A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL.

MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused by circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. ( )

77. Maximum Residual Disinfectant Level Goal (MRDLG). The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. ( )

78. Membrane Filtration. A pressure or vacuum driven separation process in which particulate matter larger than one (1) micrometer (µm) is rejected by an engineered barrier, primarily through a size-exclusion mechanism. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis. ( )

79. Membrane Unit. A group of treatment systems or membrane modules that usually share common control and valving so that the group can be isolated for testing or cleaning. ( )

80. Method Detection Limit (MDL). The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. ( )

81. Microfiltration (MF). A low pressure membrane filtration process with pore diameter normally in the range of 0.1 to 0.5 µm. ( )

82. Module. As the term relates to membrane filtration, it is the smallest component of a membrane unit in which a specific membrane surface area is housed. The component is typically equipped with a feedwater inlet, a filtrate outlet, and concentrate or backwash outlet structure. ( )

83. Nanofiltration (NF). A membrane filtration process that removes dissolved constituents from water. Nanofiltration is similar to reverse osmosis but allows a higher percentage of certain ions to pass through the membrane. These systems typically operate under higher pressure than microfiltration and ultrafiltration. ( )

84. New System. Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. ( )

85. Noncommunity Water System. A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. See also the definition of a Public Drinking Water System in these rules. ( )

86. Non-Potable Fluids. Any fluids that do not meet the definition of potable water. This definition also includes any gases that are heavier than air such as propane. ( )

87. Non-Potable Mains. Pipelines that collect, deliver, or otherwise convey non-potable fluids. ( )

88. Non-Potable Services or Lines. Pipelines that collect, deliver, or otherwise convey non-potable fluids to or from a non-potable main. These pipelines connect individual facilities to the non-potable main. This term also refers to pipelines that convey non-potable fluids from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. ( )

89. Nontransient Noncommunity Water System. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. See also the definition of a Public Drinking Water System in these rules. ( )

90. Operating Shift. That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. ( )

91. Operational Storage. Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of the volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed or the volume needed to compensate for the sensitivity of the water level sensors. See also the definition of Components of Finished Water Storage in these rules. ( )

92. Operation and Maintenance Manual. An operation and maintenance manual typically covers three main subjects: a water system specific operations plan (see definition of Operations Plan); maintenance information and checklists; and manufacturer's product information (including trouble shooting information, a parts list and parts order form, special tools, spare parts list, etc.). An operation and maintenance manual may cover every aspect of the water system or any part of the water system, including but not limited to the following: treatment, pump stations, storage reservoirs, distribution system, pressure reducing valve stations, etc. ( )

93. Operations Plan. The operations plan is part of an operation and maintenance manual. Depending on which facilities of the water system are being addressed, the operations plan may cover many types of information including but not limited to the following: daily, weekly, monthly, and yearly operating instructions; information specific to a particular type of treatment; location of valves and other key distribution system features; pertinent telephone and address contact information including the responsible charge water system operator and water system owner; operator safety procedures; alarm system; emergency procedures; trouble-shooting advice; water quality testing; depressurization events; customer service; and response to customer complaints. ( )

94. Owner/Purveyor of Water/Supplier of Water. The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers, and who is ultimately responsible for the public water system operation. ( )

95. Peak Hour Demand. The highest hourly flow, excluding fire flow, that a water system or distribution system pressure zone is likely to experience in the design year. See also the definition of Water Demand in these rules. ( )

96. Person. A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. ( )

97. Pesticides. Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algaecides. ( )

98. Plant Design Capacity. The maximum design flow through treatment units. The minimum plant design capacity could be equal to peak hour demand but could also be equal to the maximum day demand if equalization storage is provided. ( )

99. Plant. A physical facility where drinking water or wastewater is treated or processed. ( )

100. Point of Use (POU) Treatment Device. A treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap. ( )

101. Point of Use (POU) Treatment System. A collection of POU treatment devices. ( )

102. Potable Mains. Pipelines that deliver potable water to multiple service connections. ( )

103. Potable Services. Pipelines that convey potable water from a connection to the potable water main to individual consumers. ( )

104. Potable Water. Water for human consumption. See the definition of Water for Human Consumption in Section 003. ( )

105. Preliminary Engineering Report. The preliminary engineering report for a public drinking water system facility is a report that addresses specific portions of the system or facility for which modifications are being designed. Modifications may include, but are not limited to, significant changes to existing processes or facilities, system expansion, addition of treatment, or installation of other processes and facilities. This report addresses specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 503. Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan. ( )

106. Premises Isolation or Containment. The practice of separating the customer's structure, facility, or premises from the purveyor's system by means of a backflow prevention assembly installed on the service line before any distribution takes place. ( )

107. Presedimentation. A preliminary treatment process used to remove gravel, sand, and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant. ( )

108. Protected Water Source. For the purposes of the Revised Total Coliform Rule (40 CFR Part 141, Subpart Y), a protected water source is a ground water well that is not susceptible to contamination on the basis of well construction, hydrologic data, or contamination history. ( )

109. Public Notice. The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. ( )

110. Public Drinking Water System. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system" as further defined as: ( )

a. Community water system. A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. ( )

b. Noncommunity water system. A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. ( )

c. Nontransient noncommunity water system. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. ( )

d. Transient noncommunity public water system. A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. ( )

111. Public Water System/Water System/System. Means "public drinking water system." ( )

112. Pump House. A structure containing important water system components, such as a well, hydropneumatic tank, booster pump, pump controls, flow meter, well discharge line, or a treatment unit. Pump houses are often called well houses in common usage, even though in modern construction these structures may not contain either a well or a pump. These terms are used interchangeably in national standards and trade publications. ( )

113. Qualified Licensed Professional Engineer (QLPE). A professional engineer licensed by the state

of Idaho; qualified by education or experience in the specific technical fields involved in these rules; and retained or employed by a city, county, quasi-municipal corporation, or regulated public utility for the purposes of plan and specification review. ( )

114. Quasi-Municipal Corporation. A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to drinking water districts. ( )

115. Raw Water. Raw water is any ground water, spring water, or surface water utilized as source water prior to treatment for the purpose of producing potable water. ( )

116. Redundancy. The installation of duplicate components or backup systems that are designed to maintain minimum pressure and capacity of the system should any component fail or otherwise be out of service for maintenance or repair. ( )

117. Regulated Public Utility. For the purpose of these rules, any public water system that falls under the jurisdiction of the Idaho Public Utilities Commission and is subject to the rules thereof. ( )

118. Reverse Osmosis (RO). A membrane filtration process that removes dissolved constituents from water. Reverse osmosis is similar to nanofiltration but allows a lower percentage of certain ions to pass through the membrane. These systems typically operate under higher pressure than microfiltration and ultrafiltration. ( )

119. Repeat Compliance Period. Any subsequent compliance period after the initial compliance period. ( )

120. Resolution. As the term relates to membrane treatment, it is the size of the smallest integrity breach that contributes to a response from a direct integrity test when testing low pressure membranes. ( )

121. Responsible Charge (RC). Responsible Charge means active, daily on-site or on-call responsibility for the performance of operations or active, on-going, on-site, or on-call direction of employees and assistants. ( )

122. Responsible Charge Operator. An operator of a public drinking water system, designated by the system owner, who holds a valid license at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system. ( )

123. Reviewing Authority. For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 504.03.b. of these rules, the qualified Idaho licensed professional engineer (QLPE) is also the reviewing authority. ( )

124. Sampling Point. The location in a public water system from which a sample is drawn. ( )

125. Sanitary Defect. A defect that could provide a pathway of entry for microbial contamination into the distribution system or that is indicative of a failure or imminent failure in a barrier that is already in place. Examples of sanitary defects include but are not limited to: cross connections, inadequate distribution system pressures, inadequate or missing sanitary seal, improperly screened storage tank vents, inadequate protection from contamination during flooding, history of treatment failures, deterioration of system components, and water main leaks or breaks. ( )

126. Sanitary Survey. An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: ( )

a. Source; ( )

b. Treatment; ( )

c. Distribution system; ( )

d. Finished water storage; ( )

e. Pumps, pump facilities, and controls; ( )

f. Monitoring and reporting and data verification; ( )

g. System management and operation; and ( )

h. Operator compliance with state requirements. ( )

127. SDWIS-State. An acronym that stands for "Safe Drinking Water Information System-State Version." It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. ( )

128. Seasonal System. A noncommunity water system that is not operated as a public water system on a year-round basis and starts up and shuts down at the beginning and end of each operating season. ( )

129. Sensitivity. As the term relates to membrane treatment, it is the maximum log removal value (LRV) for a specific resolution that can be reliably verified by the direct integrity test associated with a given low pressure membrane filtration system. ( )

130. Sewage. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. ( )

131. Significant Deficiency. As identified during a sanitary survey, any defect in a system's design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the Department or its agent determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. See also the definition of Health Hazards. ( )

132. Simple Water Main Extension. New or replacement water main(s) that require plan and specification review by a qualified licensed professional engineer (QLPE) or by the Department per these rules and that is connected to existing water main facilities and does not require the addition of system components designed to control quantity or pressure, including, but not limited to, booster stations, new sources, pressure reducing valve stations, or reservoirs; and continues to provide the pressure and quantity requirements of Subsection 552.01. ( )

133. Special Irrigation District. An irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in Section 1401(4)(B)(i)(II) or (III) of the Safe Drinking Water Act. ( )

134. Spring. A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. ( )

135. Standby Storage. Standby storage provides a measure of reliability or safety factor should sources fail or when unusual conditions impose higher than anticipated demands. See also the definition of Components of Finished Water Storage in these rules. ( )

136. Substantially Modified. The Department shall consider a public water system to be substantially modified when, as the result of one (1) or more projects, there is a combined increase of twenty-five percent (25%) or more above the system's existing configuration in the population served or number of service connections, the total length of transmission and distribution water mains, and the peak or average water demand. ( )

137. Substitute Responsible Charge Operator. An operator of a public drinking water system who holds a valid license at a class equal to or greater than the drinking water system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. ( )

138. Surface Water System. A public water system which is supplied by one (1) or more surface water sources or ground water sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. ( )

139. Total Organic Carbon (TOC). Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. ( )

140. Total Trihalomethanes (TTHM). The sum of the concentration in milligrams per liter of the trihalomethane compounds (trichloromethane [chloroform], dibromochloromethane, bromodichloromethane and tribromomethane [bromoform]), rounded to two (2) significant figures. ( )

141. Transient Noncommunity Public Water System. A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. See also the definition of a Public Drinking Water System in these rules. ( )

142. Treatment Facility. Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. ( )

143. Turbidity. A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. ( )

144. Ultrafiltration (UF). A low pressure membrane filtration process with pore diameter normally in the range of five thousandths to one tenth micrometer (0.005 to 0.1 μm). ( )

145. Ultraviolet (UV) Light Technology. A physical disinfection process that has proven effective against common pathogens in drinking water. ( )

146. UV Transmittance (UVT). A measure of the fraction of incident light transmitted through a material (e.g., water sample or quartz). The UVT is usually reported for a wavelength of two hundred fifty-four (254) nm and a pathlength of one (1) cm. It is often represented as a percentage. ( )

147. Unregulated Contaminant. Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. ( )

148. Use Assessment. For the purpose of obtaining a waiver from certain monitoring requirements, a use assessment is an evaluation as to whether synthetic organic contaminants are being or have been used, manufactured, transported, stored, or disposed of in the watershed for surface water or the zone of influence for ground water. ( )

149. Variance. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the determent does not cause an unreasonable risk to public health. ( )

150. Very Small Public Drinking Water System. A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media

regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). ( )

151. Volatile Organic Chemicals (VOCs). VOCs are lightweight organic compounds that vaporize or evaporate easily. ( )

152. Vulnerability Assessment. A determination of the risk of future contamination of a public drinking water supply. ( )

153. Waiver. ( )

a. For the purposes of these rules, except Sections 500 through 552, "waiver" means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. ( )

b. For purposes of Sections 500 through 552, "waiver" means a dismissal of any requirement of compliance. ( )

c. For the purposes of Section 010, "waiver" means the deferral of a fee assessment for a public drinking water system. ( )

154. Wastewater. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. See IDAPA 58.01.16, "Wastewater Rules," for additional information. ( )

155. Water for Human Consumption. Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms "culinary water," "drinking water," and "potable water" are frequently used as synonyms. ( )

156. Water Demand. The volume of water requested by system users to satisfy their needs. Water demand can be further categorized as: ( )

a. Average day demand. The volume of water used by a system on an average day based on a one (1) year period. ( )

b. Maximum day demand. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest for the design year. ( )

c. Peak hour demand. The highest hourly flow, excluding fire flow, that a water system or distribution system pressure zone is likely to experience in the design year. ( )

157. Water Main. A pipe within a public water system which is under the control of the system operator and conveys water to two (2) or more service connections or conveys water to a fire hydrant. The collection of water mains within a given water supply is called the distribution system. ( )

158. Watershed. The land area from which water flows into a stream or other body of water which drains the area. ( )

159. Wholesale System. A public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one (1) or more consecutive systems. ( )

004. COVERAGE.
40 CFR 141.3 is herein incorporated by reference. ( )

005. GENERAL PROVISIONS FOR WAIVERS, VARIANCES, AND EXEMPTIONS.
40 CFR 141.4 is herein incorporated by reference. ( )

01. Waivers. ( )

a. The Department may waive any requirement of Sections 500 through 552 that is not explicitly imposed by Idaho Statute, if it can be shown to the satisfaction of the Department that the requirement is not necessary for the protection of public health, protection from contamination, and satisfactory operation and maintenance of a public water system. ( )

b. The Department may at its discretion waive the requirements outlined in Section 010. ( )

c. Waiver of monitoring requirements is addressed in Subsection 100.07. ( )

02. Variances. ( )

a. General Variances. A variance may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(a) (The Safe Drinking Water Act) are met. These include but are not limited to: ( )

i. The system has installed the best available technology, treatment techniques, or other means to comply with the maximum contaminant level; and ( )

ii. Alternative sources of water are not reasonably available to the system. ( )

iii. For provisions of a national primary drinking water regulation which requires the use of a specific treatment technique with respect to a contaminant, the system must demonstrate that the technique is not necessary to protect the health of the system's customers. ( )

b. Small System Variances. A small system variance for a maximum contaminant level or treatment technique may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(e) are met. These include, but are not limited to: ( )

i. The system serves three thousand three hundred (3,300) or fewer persons; ( )

ii. If the system serves more than three thousand three hundred (3,300) persons but fewer than ten thousand (10,000) persons, the application shall be approved by the U.S. Environmental Protection Agency; ( )

iii. The U.S. Environmental Protection Agency has identified a variance technology that is applicable to the size and source water quality conditions of the public water system; ( )

iv. The system installs, operates and maintains such treatment technology, treatment technique, or other means; and ( )

v. The system cannot afford to comply with a national primary drinking water regulation in accordance with affordability criteria established by the Department, including compliance through treatment, alternative source of water supply, restructuring or consolidation. ( )

03. Exemptions. An exemption may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1416(a) are met. These include but are not limited to: ( )

a. The system is unable to comply with a maximum contaminant level or treatment technique due to compelling factors, which may include economic factors; ( )

b. The system was in operation by the effective date of such contaminant level or treatment technique and no reasonable source of water is available to the system; or ( )

c. If the system was not in operation by the effective date of such contaminant level or treatment technique, then no reasonable alternative source of water is available to the system; and ( )

d. The granting of an exemption will not result in an unreasonable risk to health; ( )

e. Management or restructuring changes cannot reasonably be made to comply with the contaminant level or treatment technique to improve the quality of the drinking water; ( )

f. The system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to 42 USC Section 1412b(10); ( )

g. If the system needs financial assistance, the system has entered into an agreement to obtain such financial assistance; or ( )

h. The system has entered into an enforceable agreement to become a part of a regional public water system and is taking all practical steps to meet the standard. ( )

04. Conditions. A waiver, exemption or variance may be granted upon any conditions that the Department, in its discretion, determines are appropriate. Failure by the public water system to comply with any condition voids the waiver, variance or exemption. ( )

05. Public Hearing. The Department shall provide public notice and an opportunity for public hearing in the area served by the public water system before any exemption or variance under Section 005 is granted by the Department. At the conclusion of the hearing, the Department shall record the findings and issue a decision approving, denying, modifying, or conditioning the application. ( )

06. Exceptions. Any person aggrieved by the Department's decision on a request for a waiver, variance or exemption may file a petition for a contested case with the Board. Such petitions shall be filed with the Board, as prescribed in, IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

07. Surface Water Variances. Variances from the requirements of Sections 300 through 303 are not allowed. ( )

08. Surface Water Exemptions. Exemptions from 40 CFR 141.72(a)(3) and 40 CFR 141.72(b)(2) are not allowed. ( )

006. SITING REQUIREMENTS.
40 CFR 141.5 is herein incorporated by reference. ( )

007. DISAPPROVAL DESIGNATION.
The Department or its agent may assign a disapproved designation to a public water system when: ( )

01. Defects. There are design or construction defects, or some combination of design and construction defects; or ( )

02. Operating Procedures. Operating procedures constitute a health hazard; or ( )

03. Quality. Physical, chemical, microbiological or radiological quality does not meet the requirements of these rules; or ( )

04. Monitoring. The required monitoring as specified in these rules has not been conducted; or ( )

05. Unapproved Source. An unapproved source of drinking water is used or the system is interconnected with a disapproved water system. ( )

06. Non-Payment of Annual Fee Assessment. The annual drinking water system fee assessment is not paid as set forth in Section 010. ( )

07. Public Notification. The Department may require the owner of a water system that has been given a disapproval designation to notify the public. The manner, content, and timing of this notification will be determined by the Department. This requirement is in addition to any public notification requirements set forth in Section 150 that may also apply to the disapproved system. ( )

008. HEALTH HAZARDS.

01. Prohibited. ( )

a. No public water system, or portion of a public water system, shall constitute a health hazard, as determined by the Department and defined in Section 003 of these rules. ( )

b. No public water system, or portion of a public water system, shall create a condition which prevents, or may prevent, the detection of a health hazard, as determined by the Department. ( )

02. Schedule. Health hazards and conditions which prevent, or may prevent, the detection of a health hazard must be mitigated as required by the Department and terminated within a time schedule established by the Department. ( )

03. Standards. Design and construction revisions necessary to correct a health hazard or conditions which prevent, or may prevent, the detection of a health hazard, must be reviewed and approved by the Department, and comply with Sections 501 through 552, unless otherwise specified by the Department. ( )

009. MONITORING.
The Department may, in its discretion, alter the monitoring or sampling requirements for any contaminant otherwise specified in these rules if the Department determines that such alteration is necessary to adequately assess the level of such contamination. ( )

010. FEE SCHEDULE FOR PUBLIC DRINKING WATER SYSTEMS.
All regulated public drinking water systems shall pay an annual drinking water system fee. The fee shall be assessed to regulated public drinking water systems as provided in this section. ( )

01. Effective Date. Annual fees shall be paid for each fee year beginning October 1, 1993, and continuing for each succeeding year. ( )

02. Fee Schedule. ( )

a. Community and Nontransient noncommunity public drinking water systems shall pay an annual fee according to the following fee schedule:

Number of Connections	Fee
1 to 20	$100
21 to 184	$5 per connection, not to exceed a total of $735 per system
185 to 3,663	$4 per connection, not to exceed a total of $10,988 per system
3,664 or more	$3 per connection

( )

b. The annual fee for transient public drinking water systems is twenty-five dollars ($25). ( )

c. New public drinking water systems formed after October 1 will not pay a fee until the following October. ( )

03. Fee Assessment. ( )

a. An annual fee assessment will be generated for each community and nontransient noncommunity public drinking water system listed in the Department's Safe Drinking Water Information System (SDWIS). ( )

b. Community and nontransient noncommunity public drinking water systems will be notified each year of the official number of connections listed in SDWIS. Systems will have at least one (1) month to notify the Department if the number of connections listed in SDWIS is not in agreement with the system's records. ( )

c. The official number of connections listed in SDWIS following each yearly update, as required in Subsection 010.03.b., will be used to calculate the annual fee for community and nontransient noncommunity public drinking water systems for the next fee year of October 1 through September 30. ( )

04. Billing. An annual fee shall be assessed and a statement will be mailed to all community, nontransient noncommunity, and transient public drinking water systems listed in SDWIS by the Department on or before September 1 of each year. ( )

05. Payment. ( )

a. Payment of the annual fee shall be due on October 1, unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment shall be due on the successive business day. Fees paid by check or money order shall be made payable to the Idaho Department of Environmental Quality and sent to 1410 North Hilton Street, Boise, ID 83706-1255. ( )

b. If a public water system consists of two hundred fifty (250) connections or more, the system may request to divide its annual fee payment into equal monthly or quarterly installments by submitting a request to the Department on the proper request form provided with the initial billing statement. ( )

c. The Department will notify applicable systems, in writing, of approval or denial of a requested monthly or quarterly installment plan within ten (10) business days of the Department receiving such a request. ( )

d. If a public water system has been approved to pay monthly installments then each installment shall be due by the first day of each month, unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the successive business day. ( )

e. If a public water system has been approved to pay quarterly installments then each installment shall be due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the first successive business day. ( )

06. Delinquent Unpaid Fees. A public water system will be delinquent in payment if its annual fee assessment has not been received by the Department by November 1; or if having first opted to pay monthly or quarterly installments, its monthly or quarterly installment has not been received by the Department by the last day of the month in which the monthly or quarterly payment is due. ( )

07. Suspension of Services and Disapproval Designation. ( )

a. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of ninety (90) days, technical services provided by the Department may be suspended except for the following: ( )

i. Issuance of monitoring waivers; ( )

ii. Review and processing of engineering reports; and ( )

iii. Review of plans and specifications for design and construction as set forth in Sections 501 through 552. ( )

b. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may suspend all technical services provided by the Department including any of the following: ( )

i. Review and processing of engineering reports; ( )

ii. Review of plans and specifications for design and construction as set forth in Sections 501 through 552; ( )

iii. Renewal of monitoring waivers; or ( )

iv. Granting of new monitoring waivers. ( )

c. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may disapprove the public water system pursuant to Subsection 007.06. ( )

08. Reinstatement of Suspended Services and Approval Status. For any public water system for which delinquency of fee payment, pursuant to Subsection 010.07, has resulted in the suspension of technical services, the disapproval of a public water system, or both, continuation of technical services, reinstatement of public water system approval, or both, will occur upon payment of delinquent annual fee assessments. ( )

09. Enforcement Action. Nothing in Section 010 waives the Department's right to undertake an enforcement action at any time, including seeking penalties, as provided in Section 39-108, Idaho Code. ( )

10. Responsibility to Comply. Subsection 010.07 shall in no way relieve any system from its obligation to comply with all applicable state and federal drinking water statutes, rules, regulations, or orders. ( )

011. CONTINUITY OF SERVICE.

01. Transfer of Ownership. No owner shall transfer system ownership without providing written notice to the Department and all customers. Notification shall include a schedule for transferring responsibilities and identification of the new owner. ( )

02. Maintenance of Standards. The system transferring ownership shall ensure that all health related standards are met during transfer and shall ensure that water rights, operation and maintenance manuals, and all other pertinent documentation is transferred to the new owner. ( )

012. WRITTEN INTERPRETATIONS.

The Department of Environmental Quality may have written statements in the form of guidance and policy documents that pertain to the interpretation of the rules of this chapter. Such written statements may be inspected and copies obtained at the Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255. ( )

013. USE OF GUIDANCE.

Guidance documents referenced in these rules are to be used to assist both designers and reviewers in determining a reasonable way to achieve compliance with the rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the Department not substitute its judgment for that of the design engineer concerning the manner of compliance. If the design engineer needs assistance as to how to

comply with a particular rule, the design engineer may use the referenced guidance documents for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate his or her own professional judgment. ( )

014. ADMINISTRATIVE PROVISIONS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

015. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality." ( )

016. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. ( )

017. -- 049. (RESERVED)

050. MAXIMUM CONTAMINANT LEVELS AND MAXIMUM RESIDUAL DISINFECTANT LEVELS.

01. Maximum Contaminant Levels for Inorganic Contaminants. ( )

a. 40 CFR 141.11 is herein incorporated by reference. ( )

b. 40 CFR 141.62 is herein incorporated by reference. ( )

c. The maximum contaminant level for cyanide is two-tenths milligram per liter (0.2 mg/l). ( )

02. Maximum Contaminant Levels for Organic Contaminants. 40 CFR 141.61 is herein incorporated by reference, except that the best available technology (BAT) treatment listed in 40 CFR 141.61(b) shall be changed to reflect that packed tower aeration will not be listed for toxaphene but will be listed for toluene. ( )

03. Maximum Contaminant Levels for Turbidity. 40 CFR 141.13 is herein incorporated by reference. ( )

04. Maximum Contaminant Levels for Radionuclides. 40 CFR 141.66 is herein incorporated by reference. ( )

05. Maximum Contaminant Levels for Microbiological Contaminants. 40 CFR 141.63 is herein incorporated by reference. ( )

06. Maximum Contaminant Levels for Disinfection Byproducts. 40 CFR 141.64 is herein incorporated by reference. ( )

07. Maximum Residual Disinfectant Levels. 40 CFR 141.65 is herein incorporated by reference. ( )

08. Effective Dates. Effective date information provided in 40 CFR 141.6 and 40 CFR 141.60 is applicable. ( )

051. -- 099. (RESERVED)

100. MONITORING AND ANALYTICAL REQUIREMENTS.

01. Total Coliform Sampling and Analytical Requirements. The Total Coliform Rule, 40 CFR 141.21, is herein incorporated by reference. The Revised Total Coliform Rule, 40 CFR Part 141, Subpart Y, is herein incorporated by reference, excluding the annual monitoring provisions in 40 CFR 141.854 (a)(4), (d), (e), (f) and (h). ( )

a. Routine monitoring requirements for public water systems serving more than one thousand (1,000) people. 40 CFR 141.857 is herein incorporated by reference. ( )

b. Routine monitoring requirements for community water systems serving one thousand (1,000) or fewer people using only ground water. 40 CFR 141.855 is herein incorporated by reference. ( )

c. Routine monitoring requirements for subpart H public water system serving one thousand (1,000) or fewer people. 40 CFR 141.856 is herein incorporated by reference. ( )

d. Routine monitoring requirements for non-community water system serving one thousand (1,000) or fewer people using only ground water. 40 CFR 141.854 is herein incorporated by reference, excluding the annual monitoring provisions in 40 CFR 141.854 (a)(4), (d), (e), (f), and (h). ( )

02. Turbidity Sampling and Analytical Requirements. 40 CFR 141.22 is herein incorporated by reference. ( )

03. Inorganic Chemical Sampling and Analytical Requirements. 40 CFR 141.23 is herein incorporated by reference. ( )

04. Organic Chemicals, Sampling and Analytical Requirements. 40 CFR 141.24 is herein incorporated by reference. ( )

05. Analytical Methods for Radioactivity. 40 CFR 141.25 is herein incorporated by reference. ( )

06. Monitoring Frequency and Compliance Requirements for Radioactivity in Community Water Systems. 40CFR 141.26 is herein incorporated by reference. ( )

07. Monitoring Waivers. 40 CFR 141.23(b) 141.23(c), 141.24(f), 141.24(h) are herein incorporated by reference. ( )

a. Waivers from sampling requirements in Subsections 100.03, 100.04, 200.01, and 503.03.e.v. may be available to all systems for all contaminants except nitrate, nitrite, and disinfection byproducts and are based upon a vulnerability assessment, use assessment, the analytical results of previous sampling, or some combination of vulnerability assessment, use assessment, and analytical results. ( )

b. There are two (2) general types of monitoring waivers: ( )

i. Waivers based exclusively upon previous analytical data ( )

ii. Waivers based on a use or vulnerability assessment. ( )

c. Waivers are to be made by the Department on a contaminant specific basis and must be in writing. ( )

d. Vulnerability assessments may be conducted by the Department, the water system, or a third party organization. The Department shall approve or disapprove all vulnerability assessments in writing. ( )

e. Water systems which do not receive waivers shall sample at the required initial and repeat monitoring frequencies. ( )

f. If a system elects to request a waiver from monitoring, it shall do so in writing at least sixty (60) days prior to the required monitoring deadline date. ( )

08. Initial Monitoring Schedule. In addition to the requirements specified in 40 CFR 141.23, 40 CFR 141.24, and 40 CFR 141.40, initial monitoring must be completed according to the following schedule unless otherwise specified by the Department: ( )

a. Public water systems serving more than one hundred (100) people must conduct initial monitoring before January 1, 1995 except that: ( )

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving any public water system. ( )

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. ( )

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. ( )

b. Public water systems serving one hundred (100) or less people must conduct initial monitoring before January 1, 1996 except that: ( )

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving a public water system. ( )

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. ( )

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. ( )

09. Alternate Analytical Techniques. 40 CFR 141.27 is herein incorporated by reference. ( )

10. Approved Laboratories. 40 CFR 141.28 and 40 CFR 141.852(b) are herein incorporated by reference. All analyses conducted pursuant to these rules, except those listed below, shall be performed in laboratories certified or granted reciprocity by the Idaho Department of Health and Welfare, Bureau of Laboratories, as provided in IDAPA 16.02.13, "Rules Governing Certification of Idaho Water Quality Laboratories." The following analyses may be performed by any person acceptable to the Department of Environmental Quality: ( )

a. pH; ( )

b. Turbidity (Nephelometric method only); ( )

c. Daily analysis for fluoride; ( )

d. Temperature; ( )

e. Disinfectant residuals, except ozone, which shall be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection 300.05.d.; ( )

f. Alkalinity; ( )

g. Calcium; ( )

h. Conductivity; ( )

i. Silica; and ( )

j. Orthophosphate. ( )

11. Monitoring of Consecutive Water Systems. 40 CFR 141.29 is herein incorporated by reference. ( )

12. Disinfection Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors. 40 CFR Part 141, Subpart L is herein incorporated by reference. ( )

101. -- 149. (RESERVED)

150. REPORTING, PUBLIC NOTIFICATION, RECORDKEEPING.

01. Reporting Requirements. 40 CFR 141.31 is herein incorporated by reference. ( )

02. Public Notification of Drinking Water Violations. 40 CFR Part 141, Subpart Q is herein incorporated by reference. ( )

03. Record Maintenance. 40 CFR 141.33 is herein incorporated by reference. ( )

04. Reporting for Unregulated Contaminant Monitoring Results. 40 CFR 141.35 is herein incorporated by reference. ( )

05. Reporting and Record Keeping Requirements for the Interim Enhanced Surface Water Treatment Rule. 40 CFR 141.175 is herein incorporated by reference. ( )

06. Reporting and Record Keeping Requirements for the Disinfectants and Disinfectant Byproducts Rule. 40 CFR 141.134 is herein incorporated by reference. ( )

07. Reporting and Record Keeping Requirements for the Revised Total Coliform Rule. 40 CFR 141.861 is herein incorporated by reference. ( )

151. CONSUMER CONFIDENCE REPORTS.
40 CFR Part 141, Subpart O is herein incorporated by reference. ( )

152. -- 199. (RESERVED)

200. SPECIAL REGULATIONS.

01. Monitoring Requirements for Unregulated Contaminants. 40 CFR 141.40 is herein incorporated by reference. ( )

02. Special Monitoring for Sodium. 40 CFR 141.41 is herein incorporated by reference. ( )

03. Special Monitoring for Corrosively Characteristics. 40 CFR 141.42 is herein incorporated by reference. ( )

04. Prohibition on Use of Lead Pipes, Solder, and Flux. 40 CFR 141.43 is herein incorporated by reference. ( )

201. -- 249. (RESERVED)

250. MAXIMUM CONTAMINANT LEVEL GOALS AND MAXIMUM RESIDUAL DISINFECTION LEVEL GOALS.

01. Maximum Contaminant Level Goals for Organic Contaminants. 40 CFR 141.50 is herein incorporated by reference. ( )

02. Maximum Contaminant Level Goals for Inorganic Contaminants. 40 CFR 141.51 is herein incorporated by reference. ( )

03. Maximum Contaminant Level Goals for Microbiological Contaminants. 40 CFR 141.52 is herein incorporated by reference. ( )

04. Maximum Contaminant Level Goals for Disinfection Byproducts. 40 CFR 141.53 is herein incorporated by reference. ( )

05. Maximum Residual Disinfectant Level Goals for Disinfectants. 40 CFR 141.54 is herein incorporated by reference. ( )

06. Maximum Contaminant Level Goals for Radionuclides. 40 CFR 141.55 is herein incorporated by reference. ( )

251. -- 299. (RESERVED)

300. FILTRATION AND DISINFECTION.

01. General Requirements. 40 CFR 141.70 is herein incorporated by reference. Each public water system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel, as specified in Sections 553 and 554, who have met state requirements for licensing of water system operators. ( )

02. Filtration. 40 CFR 141.73 is herein incorporated by reference. ( )

a. Each system which provides filtration treatment shall submit engineering evaluations, other documentation, or some combination of engineering evaluations and other documentation as required by the Department to demonstrate ongoing compliance with these rules. ( )

b. The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise demonstrated to the satisfaction of the Department, the maximum log removal credit allowed for filtration is as follows:

Maximum Log Removal			
Filtration Type	**Giardia lamblia**	**Viruses**	**Cryptosporidium**
Conventional	2.5	2.0	2.5
Direct	2.0	1.0	2.0
Slow sand	2.0	2.0	2.0
Diatomaceous earth	2.0	1.0	2.0
Microfiltration	3.0	0.5	3.0
Ultrafiltration	3.5	2.0	3.5
Nanofiltration	4.0	3.0	4.0
Reverse Osmosis	4.0	3.0	4.0
Alternate technology	2.0	0	2.0

( )

c. Filtration removal credit shall be granted for filtration treatment provided the system is: ( )

i. Operated in accordance with the Operations Plan specified in Subsection 552.03.a.; and ( )

ii. The system is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and ( )

iii. Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; and ( )

iv. Slow sand filters are operated at rates not to exceed one-tenth (0.1) gallons per minute per square foot or as approved by the Department; and ( )

v. Diatomaceous earth filters are operated at a rate not to exceed one point five (1.5) gallons per minute per square foot. ( )

03. Criteria for Avoiding Filtration. 40 CFR 141.71 is herein incorporated by reference. ( )

04. Disinfection. 40 CFR 141.72 is herein incorporated by reference. ( )

a. In addition to the disinfection requirements in 40 CFR 141.72, each system with a surface water source or ground water source directly influenced by surface water shall maintain a minimum of at least two-tenths (0.2) parts per million of chlorine in the treated water after an effective contact time of at least thirty (30) minutes at peak hour demand before delivery to the first customer. Effective contact time is either demonstrated or calculated. ( )

i. Demonstrated effective contact time is generally determined by tracer studies on a completed contact basin. Prior to conducting a tracer study, a testing plan shall be submitted to the Department for review and approval. The tracer chemical shall not be reactive with anything in the water or be consumed in the process. ( )

ii. Calculated effective contact time for tank type contact basins is based on tank baffling and inlet/outlet configurations for the maximum hourly flow rate through that contact basin. Calculated effective contact time in a "pipeline type contact basin" (often called a pipeline contactor) is calculated by dividing the internal volume of the pipe by the maximum hourly flow rate through that pipeline contactor. ( )

b. The Department may allow a system to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the system demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum Giardia lamblia and virus inactivation removal rates can be achieved prior to the first customer. ( )

c. Each system which is required to provide filtration must provide disinfection treatment such that filtration plus disinfection provide at least 3-Log or ninety-nine and nine tenths percent (99.9%) inactivation/removal of Giardia lamblia cysts and at least 4-Log or ninety-nine and ninety-nine hundredths percent (99.99%) inactivation/removal of viruses as specified in 40 CFR 141.72 and Section 300, and at least 2-Log or ninety-nine percent (99%) removal of Cryptosporidium as required by 40 CFR Part 141, Subpart P or Subpart T. However, in all cases the disinfection portion of the treatment train shall be designed to provide not less than five tenths (0.5) log Giardia lamblia inactivation, irrespective of the Giardia lamblia removal credit awarded to the filtration portion of the treatment train. ( )

05. Analytical and Monitoring Requirements. 40 CFR 141.74 is herein incorporated by reference. ( )

a. Each public water system which is required to provide disinfection shall monitor as follows:

( )

i. Each day the system is in operation, the purveyor shall determine the total level of inactivation of Giardia lamblia cysts and viruses achieved through disinfection based on CT99.9 values provided in 40 CFR 141.74(b)(3) (Tables 1.1 through 1.6, 2.1 and 3.1). ( )

ii. At least once per day, the system shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection: ( )

(1) Temperature of the disinfected water at each residual disinfectant concentration sampling point; and ( )

(2) If using chlorine, the pH of the disinfected water at each chlorine residual sampling point. ( )

(3) The effective contact time, "T," must be determined each day during peak hour demand. Disinfectant contact time, "T," in pipelines used for Giardia lamblia and virus inactivation shall be calculated by dividing the internal volume of the pipe by the peak hour flow rate through that pipe. Effective contact time, "T," for all other system components used for Giardia lamblia and virus inactivation shall be determined by tracer studies or other evaluations or calculations acceptable to the Department. ( )

(4) The residual disinfectant concentrations at each residual disinfectant sampling point at or before the first customer, must be determined each day during peak hour demand, or at other times approved by the Department. ( )

iii. The purveyor may demonstrate to the Department, based on a Department approved on-site disinfection challenge study protocol, that the system is achieving disinfection requirements specified in Subsection 300.04 utilizing CT99.9 values other than those specified in 40 CFR 141.74(b)(3) (Tables 2.1 and 3.1) for ozone, chlorine dioxide, and chloramine. ( )

iv. The total inactivation ratio shall be calculated as follows: ( )

(1) If the system applies disinfectant at only one (1) point, the system shall determine the total inactivation ratio by either of the two (2) following methods: ( )

(a) One inactivation ratio (CTcalc/CT99.9) is determined at/or before the first customer during peak hour demand; or ( )

(b) Sequential inactivation ratios are calculated between the point of disinfectant application and a point at or before the first customer during peak hour demand. The following method must be used to calculate the total inactivation ratio: ( )

(i) Step 1: Determine (CTcalc/CT99.9) for each sequence. ( )

(ii) Step 2: Add the (CTcalc/CT99.9) values for all sequences. The result is the total inactivation ratio. ( )

(2) If the system uses more than one point of disinfectant application at or before the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hour demand. The sum of the (CTcalc/CT99.9) values from all sequences is the total inactivation ratio. (CTcalc/CT99.9) must be determined by the methods described in 40 CFR 141.74(b)(4)(i)(B). ( )

v. Log removal credit for disinfection shall be determined by multiplying the total inactivation ratio by three (3). ( )

vi. The Department may reduce the CT monitoring requirements specified under Section 300, for any system which demonstrates that the required inactivation levels are consistently exceeded. Reduced CT monitoring

shall be allowed only where the reduction in monitoring will not endanger the health of consumers served by the water system. ( )

b. Residual disinfectant concentrations for ozone must be measured using the Indigo Method, or automated methods may be used if approved by the Department as provided for in 40 CFR 141.74(a)(2). ( )

c. Unfiltered Subpart H systems. 40 CFR 141.857(c) is herein incorporated by reference. ( )

d. As provided for in 40 CFR 141.74(b), the Department may specify interim monitoring requirements for unfiltered systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed. Until filtration is installed, systems shall conduct monitoring for turbidity and disinfectant residuals as follows unless otherwise specified by the Department. ( )

i. Disinfectant residual concentrations entering the distribution system shall be measured at the following minimum frequencies, and samples must be taken at evenly spaced intervals throughout the workday.

Minimum Frequencies	
Population	**Samples/day**
Less than 500	1
501 - 1000	2
1,001 - 2,500	3
Greater than 2501	4

( )

ii. Turbidity shall be measured at least once per day at the entry point to the distribution system. ( )

iii. The Department may, at its discretion, reduce the turbidity monitoring frequency for any noncommunity system which demonstrates to the satisfaction of the Department: ( )

(1) A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system; ( )

(2) The water source is well protected; ( )

(3) The total coliform MCL is not exceeded or a Level 1 or Level 2 Assessment has not been triggered in accordance with 40 CFR 141.859; and ( )

(4) No significant health risk is present. ( )

e. The Department may allow systems with surface water sources or ground water sources under the direct influence of surface water, to substitute continuous turbidity monitoring for grab sample monitoring as specified in 40 CFR 141.74(b)(2) and 40 CFR 141.74(c)(1) and Subsection 300.05. The Department may allow continuous turbidity monitoring provided the continuous turbidimeter is operated, maintained, standardized and calibrated per the manufacturer's recommendations. For purposes of determining compliance with turbidity performance criteria, discrete values must be recorded every four (4) hours water is supplied to the distribution system. ( )

f. The Department may allow systems using both a surface water source(s), or ground water source(s) under the direct influence of surface water, and one (1) or more ground water sources, to measure disinfectant residual at points other than the total coliform sampling points, as specified in 40 CFR 141.74(b)(6)(i) and 40 CFR 141.74(c)(3)(i) and Subsection 300.05. The Department may allow alternate sampling points provided the system

submits an alternate monitoring plan to the Department for approval in advance of the monitoring requirement that demonstrates the alternative points are more representative of treated (disinfected) water quality within the distribution system. Heterotrophic bacteria, measured as heterotrophic plate count (HPC) as specified in 40 CFR 141.74(a)(1), may be measured in lieu of residual disinfectant concentration as outlined in 40 CFR 141.74(b)(6)(i). ( )

g. The Department may allow a reduced turbidity monitoring frequency for systems using slow sand filtration or technology other than conventional, direct, or diatomaceous earth filtration, as specified in 40 CFR 141.74(c)(1) and Subsection 300.05. To be considered for a reduced turbidity monitoring frequency, a system must submit a written request to the Department in advance of the monitoring requirement. ( )

06. Reporting and Recordkeeping Requirements. 40 CFR 141.75 is herein incorporated by reference. ( )

a. As provided in 40 CFR 141.75(a) and Section 300, the Department may establish interim reporting requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a) and as referred to in Subsection 300.06. Until filtration treatment is installed, systems required to install filtration treatment shall report as follows: ( )

i. The purveyor shall immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: ( )

(1) The occurrence of a waterborne disease outbreak potentially attributable to that water system; ( )

(2) Any turbidity measurement which exceeds five (5) NTU; and ( )

(3) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. ( )

ii. The purveyor shall report to the Department within ten (10) days after the end of each month the system serves water to the public the following monitoring information using a Department-approved form: ( )

(1) Turbidity monitoring information; and ( )

(2) Disinfectant residual concentrations entering the distribution system. ( )

iii. Personnel qualified under Subsection 300.01 shall complete and sign the monthly report forms submitted to the Department as required in Subsection 300.06. ( )

b. In addition to the reporting requirements in 40 CFR 141.75(b) pertaining to systems with filtration treatment, each public water system which provides filtration treatment must report the level of Giardia lamblia and virus inactivation/removal achieved each day by filtration and disinfection. ( )

07. Recycle Provisions. 40 CFR 141.76 is herein incorporated by reference. ( )

a. The Department shall evaluate recycling records kept by water systems pursuant to 40 CFR 141.76 during sanitary surveys, comprehensive performance evaluations, or other inspections. ( )

b. The Department may require a system to modify recycling practices if it can be shown that these practices adversely affect the ability of the system to meet surface water treatment requirements. ( )

301. ENHANCED FILTRATION AND DISINFECTION - SYSTEMS SERVING TEN THOUSAND OR MORE PEOPLE.

This Section incorporates, 40 CFR Part 141, Subpart P, of the National Primary Drinking Water Regulations, known as the Interim Enhanced Surface Water Treatment Rule. ( )

01. **General Requirements**. 40 CFR 141.170 is herein incorporated by reference. ( )

02. **Criteria for Avoiding Filtration**. 40 CFR 141.171 is herein incorporated by reference. ( )

03. **Disinfection Profiling and Benchmarking**. 40 CFR 141.172 is herein incorporated by reference. ( )

04. **Filtration**. 40 CFR 141.173 is herein incorporated by reference. ( )

05. **Filtration Sampling Requirements**. 40 CFR 141.174 is herein incorporated by reference. ( )

302. SANITARY SURVEYS FOR SYSTEMS USING SURFACE WATER OR GROUND WATER UNDER THE DIRECT INFLUENCE OF SURFACE WATER.
The Department shall conduct a sanitary survey of all public water systems which use surface water or ground water under the direct influence of surface water. ( )

01. **Frequency**. For noncommunity water systems, a sanitary survey shall be conducted every five (5) years. For community water systems, a sanitary survey shall be conducted every three (3) years, except that a community water system that has been determined to have outstanding performance, according to criteria established by the Department, may have a sanitary survey conducted every five (5) years. ( )

02. **Report**. A report describing the results of the sanitary survey will be provided to the water system. ( )

a. As part of the sanitary survey report or as an independent action, the Department shall provide written notice to the water system describing any significant deficiency within thirty (30) days after the Department identifies the significant deficiency. The notice may specify corrective actions and deadlines for completion of corrective actions. ( )

b. The Department may, at its discretion, provide this written notice at the time of the sanitary survey. ( )

03. **Response Required**. The owner of a public water system must respond in writing, describing how and on what schedule the system will address all significant deficiencies, not later than forty-five (45) days after receiving notification from the Department. ( )

04. **Consultation with the Department**. Public water systems shall consult with the Department prior to taking specific corrective actions in response to significant deficiencies identified during a sanitary survey, unless such corrective actions are specified in detail by the Department in its written notification under Subsection 302.02. ( )

05. **Violation**. Failure to address significant deficiencies identified in a sanitary survey that are within the control of the public water system and its governing body shall constitute a violation of these rules. ( )

303. SANITARY SURVEYS FOR PUBLIC WATER SYSTEMS USING GROUND WATER.
The Department shall conduct a sanitary survey of all public water systems that use ground water. 40 CFR Part 141, Subpart S, is herein incorporated by reference. ( )

01. **Frequency**. For non-community water systems, a sanitary survey shall be conducted every five (5) years. For community water systems, a sanitary survey shall be conducted every three (3) years, except as provided below. ( )

a. A community water system may have a sanitary survey conducted every five (5) years if the system provides at least a four (4)-log treatment of viruses (using inactivation, removal, or a Department approved combination of 4-log inactivation and removal) before or at the first customer for all of its ground water sources. ( )

b. A community water system may have a sanitary survey conducted every five (5) years if it has an outstanding performance record, as determined by the Department and documented in previous sanitary surveys, and has no history of Total Coliform Rule or Revised Total Coliform Rule MCL or monitoring violations under Subsection 100.01 since the last sanitary survey. ( )

02. **Report**. A report describing the results of the sanitary survey shall be provided to the water system. ( )

a. As part of the sanitary survey report or as an independent action, the Department shall provide written notice to the water system describing any significant deficiency within thirty (30) days after the Department identifies the significant deficiency. The notice may specify corrective actions and deadlines for completion of corrective actions. ( )

b. The Department may, at its discretion, provide this written notice at the time of the sanitary survey. ( )

03. **Significant Deficiencies**. For each of the eight (8) elements of a sanitary survey of a ground water system, the following deficiencies shall in all cases be considered significant for the purposes of the notice required in Subsection 303.02. Decisions about the significance of other deficiencies identified during the sanitary survey shall be at the Department's discretion, as indicated in the Department's sanitary survey protocol. ( )

a. Source: Lack of a sanitary well cap as specified in Subsection 511.06.b. ( )

b. Treatment: ( )

i. Chemical addition lacks emergency shut-off as specified in Subsection 531.02.b.ii. ( )

ii. Chemical addition is not flow proportioned where the rate of flow or chemical demand is not reasonably constant, as specified in Subsection 531.02.b.ii. ( )

c. Distribution system: No means for flushing dead end water mains, as specified in Subsection 542.09. ( )

d. Finished water storage: Roof leaking, as specified in Subsections 544.09 and 544.09.c. ( )

e. Pumps, pump facilities, and controls: No accessible check valve between pump and shut-off valve, as specified in Subsection 511.04. ( )

f. Monitoring, reporting, and data verification: Repeated failure to collect the required number and type of Total Coliform Rule or the Revised Total Coliform Rule samples during the most recent two (2) year period, as specified in Subsection 100.01. ( )

g. System management and operation: History of frequent depressurization in the distribution system in violation of Subsection 552.01. ( )

h. Operator compliance with state licensing requirements: Responsible charge operator is not licensed as required in Subsection 554.02. ( )

04. **Response Required**. The owner of a public water system must respond in writing, describing how and on what schedule the system will address all significant deficiencies, not later than thirty (30) days after receiving notification from the Department. ( )

05. **Consultation with the Department**. Public water systems shall consult with the Department prior to taking specific corrective actions in response to significant deficiencies identified during a sanitary survey unless such corrective actions are specified in detail by the Department in its written notification under Subsection 303.02. ( )

06. Violation. Failure to address significant deficiencies identified in a sanitary survey that are within the control of the public water system and its governing body shall constitute a violation of these rules. ( )

304. COMPOSITE CORRECTION PROGRAM (CCP).
In accordance with 40 CFR 142.16(g)(1), the Department may require a public water system to conduct a composite correction program, as defined in Section 003 of these rules, for the purpose of identifying and correcting deficiencies in water treatment and distribution. Composite Correction Programs consist of a Comprehensive Performance Evaluation (CPE) and Comprehensive Technical Assistance (CTA). Failure to implement any Department-required performance improvement factors identified through the CCP constitutes a violation of these rules. ( )

01. Comprehensive Performance Evaluation (CPE). If required, the CPE must be conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance. It must emphasize approaches that can be implemented without significant capital improvements and must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. ( )

02. Comprehensive Technical Assistance (CTA). During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. ( )

305. COLIFORM TREATMENT TECHNIQUE TRIGGERS AND ASSESSMENT REQUIREMENTS FOR PROTECTION AGAINST POTENTIAL FECAL CONTAMINATION.
40 CFR 141.859, excluding 40 CFR 141.859(a)(2)(iii), is herein incorporated by reference. ( )

01. Treatment Technique Triggers. Systems owners and operators must ensure that assessments are conducted in accordance with Subsection 305.02 after exceeding treatment technique triggers in this subsection. ( )

a. Level 1 treatment technique triggers: ( )

i. For systems taking forty (40) or more samples per month, the system exceeds five percent (5.0%) total coliform-positive samples for the month. ( )

ii. For systems taking fewer than forty (40) samples per month, the system has two (2) or more total coliform positive samples in the same month. ( )

iii. The system owner or operator fails to take every required repeat sample after any single total coliform-positive sample. ( )

b. Level 2 treatment technique triggers: ( )

i. An E.coli MCL violation, as specified in Subsection 050.05 and Subsection 100.01 of these rules; or ( )

ii. A second or any additional Level 1 triggers as defined in Subsection 305.01.a. within a rolling 12-month period, unless the Department has determined a likely reason that the samples that caused the first Level 1 treatment technique trigger were total coliform-positive and has established that the system has corrected the problem. ( )

02. Requirements For Assessments. ( )

a. System owners and operators must ensure that Level 1 and 2 assessments are conducted in order to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices. The assessment must be conducted consistent with any Department directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

( )

b. When conducting assessments, owners and operators must ensure that the assessor evaluates minimum elements that include review and identification of inadequacies in sample sites; sampling protocol; sample processing; atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., small ground water systems); and existing water quality monitoring data. The system owner or operator must ensure the assessments are consistent with the elements in the Department provided forms for Level 1 and Level 2 assessments. ( )

c. Level 1 Assessments. A system owner or operator must conduct a Level 1 assessment if the system exceeds one of the treatment technique triggers in Subsection 305.01.a. as soon as practical after any trigger level is identified and submit a completed Level 1 assessment report or form to the Department within thirty (30) days after the system learns that it has exceeded a trigger. ( )

i. The completed assessment report or form must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment report or form may also note that no sanitary defects were identified. ( )

ii. If the Department reviews the completed Level 1 report or form and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Department will consult with the owner or operator of the system. If the Department requires revisions after consultation, the system owner or operator must submit a revised assessment report or form to the Department on an agreed-upon schedule not to exceed thirty (30) days from the date of consultation. ( )

iii. Upon completion and submission of the assessment report or form by the system owner or operator, the Department will determine if the system has identified a likely cause for the Level 1 trigger and, if so, establish that the system has corrected the problem, or has included a schedule acceptable to the Department for correcting the problem. ( )

d. Level 2 Assessments. A system owner or operator must ensure that a Level 2 assessment is conducted if the system exceeds one of the treatment technique triggers in Subsection 305.01.b. The owner or operator must comply with any expedited actions or additional action required by the Department in the case of an E.coli MCL violation. ( )

i. The system owner or operator must ensure that a Level 2 assessment is conducted by the Department or a party approved by the Department as described in Subsection 305.03 as soon as practical after any trigger in Subsection 305.01.b. and must submit a completed Level 2 assessment report or form to the Department within 30 (thirty) days after the system learns that it has exceeded a trigger if the assessment was conducted by a party other than the Department. ( )

ii. The Department will schedule and conduct Level 2 assessments for an E.coli treatment technique trigger in Subsection 305.01.b.i. unless the Department approves another party to conduct the assessment as outlined in Subsection 305.03. ( )

iii. A second or any additional triggered Level 2 Assessment within a rolling twelve-month period must be conducted by a Department approved third party even if the public water system has staff or management approved under Subsection 305.03. ( )

iv. The completed assessment report or form must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment report or form may also note that no sanitary defects were identified. ( )

v. If the Department reviews the completed Level 2 report or form and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Department will consult with the owner or operator of the system. If the Department requires revisions after consultation, the

system owner or operator must submit a revised assessment report or form to the Department on an agreed-upon schedule not to exceed 30 (thirty) days from the date of consultation. ( )

vi. Upon completion and submission of the assessment report or form by the system owner or operator, the Department will determine if the system has identified a likely cause for the Level 2 trigger and, if so, establish that the system has corrected the problem, or has included a schedule acceptable to Department for correcting the problem. ( )

e. Corrective action. Systems must correct sanitary defects found through either Level 1 or Level 2 assessments conducted under this section. For corrections not completed by the time of submission of the assessment report or form, the system must complete the corrective action(s) in compliance with a timetable approved by the Department in consultation with the system. The system must notify the Department when each scheduled corrective action is completed. ( )

f. Consultation. At any time during the assessment or corrective action phase, either the water system or the Department may request a consultation with the other party to determine the appropriate actions to be taken. The system may consult with the Department on all relevant information that may impact its ability to comply with a requirement of this Section, including the method of accomplishment, an appropriate timeframe, and other relevant information. ( )

03. Approved Parties for Level 2 Assessments. The system may conduct a Level 2 assessment if the system has staff or management with the certification or qualifications outlined in this Subsection or if the system hires parties that meet the qualifications in this Subsection. The following parties are approved by the Department to conduct Level 2 assessments: ( )

a. The Department or persons contracted with the Department who are trained to conduct sanitary surveys; ( )

b. Currently licensed operators in good standing that are licensed through the Idaho Division of Occupational and Professional Licenses with a drinking water classification of Distribution I through IV or Treatment I through IV and that are licensed at least to the classification level of the public water system requiring the Level 2 assessment; or ( )

c. Licensed professional engineers licensed by the state of Idaho and qualified by education and experience in the specific technical fields involved in these rules. ( )

306. -- 309. (RESERVED)

310. ENHANCED FILTRATION AND DISINFECTION - SYSTEMS SERVING FEWER THAN TEN THOUSAND PEOPLE.
40 CFR 141, Subpart T is herein incorporated by reference. ( )

311. ENHANCED TREATMENT FOR CRYPTOSPORIDIUM -- LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE.
40 CFR Part 141, subpart W is herein incorporated by reference. ( )

01. Cryptosporidium Treatment Credit for Approved Watershed Control Program. The Department shall award 0.5 (zero point five) logs cryptosporidium removal credit to systems that have a Department approved Watershed Control Program. Requirements for a watershed control program are set forth in 40 CFR 141, Subpart W. Guidance on how to develop a watershed control program and obtain Department approval is provided in "Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule," as referenced in Section 002. ( )

02. Assessment of Significant Changes in the Watershed. As part of the sanitary survey process set forth in Section 302, the Department, or an agent approved by the Department, shall assess significant changes in the watershed of a surface water system that have occurred since the system conducted source water monitoring. If changes in the watershed have the potential to significantly increase contamination of the source water with

cryptosporidium, the Department shall consult with the water system owner on follow-up actions that may be required under 40 CFR 141, Subpart W, including, but not limited to, source water monitoring and/or additional treatment requirements. "Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule," as referenced in Section 002, provides a description of factors that will be considered by the Department when making an assessment of changes in the watershed. These factors include, but are not limited to the following: ( )

a. New NPDES permits or changes in existing NPDES permits that involve increased loading of contaminants. ( )

b. Changes in land use patterns. ( )

c. Changes in agricultural cropping, chemical application, or irrigation practices. ( )

d. Changes in other non-point discharge source activities (such as grazing, manure application, commercial or residential development). ( )

e. Stream or riverbed modifications. ( )

f. NPDES permit violations at wastewater treatment plants and confined animal feedlot operations. ( )

g. Dramatic natural events such as floods, forest fires, earthquakes, and landslides that may transport or expose contaminants. ( )

h. Prolonged drought conditions that may warrant special preparatory measures to minimize impacts from waste accumulations that are washed into source waters when precipitation returns. ( )

i. Status of the water system's emergency response plan. ( )

j. Accidental or illegal waste discharges and spills. ( )

312. -- 319. (RESERVED)

320. DISINFECTANT RESIDUALS, DISINFECTION BYPRODUCTS, AND DISINFECTION BYPRODUCT PRECURSORS.
This Section incorporates 40 CFR Part 141, Subpart L, of the National Primary Drinking Water Regulations, known as the Disinfectants and Disinfection Byproducts Rule. ( )

01. General Requirements. 40 CFR 141.130 is herein incorporated by reference. ( )

02. Analytical Requirements. 40 CFR 141.131 is herein incorporated by reference. DPD colorimetric test kits may be used to measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide. ( )

03. Monitoring Requirements. 40 CFR 141.132 is herein incorporated by reference. ( )

04. Compliance Requirements. 40 CFR 141.133 is herein incorporated by reference. ( )

05. Treatment Techniques for Control of Disinfection Byproduct (DBP) Precursors. 40 CFR 141.135 is herein incorporated by reference. ( )

321. INITIAL DISTRIBUTION SYSTEM EVALUATIONS.
40 CFR Part 141, Subpart U is herein incorporated by reference. "Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule," as referenced in Section 002, provides assistance to public water system owners and operators in understanding and achieving compliance with the requirements of 40 CFR 141, Subpart U. ( )

322. STAGE 2 DISINFECTION BYPRODUCTS REQUIREMENTS.
40 CFR Part 141, Subpart V is herein incorporated by reference. "Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule," as referenced in Section 002, provides assistance to public water system owners and operators in understanding and achieving compliance with the requirements of 40 CFR Part 141, Subpart V. ( )

323. GROUND WATER RULE.
40 CFR 141, Subpart S is herein incorporated by reference. "Implementation Guidance for the Ground Water Rule," as referenced in Section 002, provides assistance to public water system owners and operators in understanding and achieving compliance with the requirements of 40 CFR 141, Subpart S. ( )

01. Discontinuation of Treatment. Systems that wish to discontinue four (4)-log virus treatment at a ground water source must meet the following criteria. Ground water sources on which treatment has been discontinued shall be subject to the triggered source water monitoring requirements of 40 CFR 141, Subpart S. ( )

a. Demonstration that any known source of contamination has been removed. ( )

b. Demonstration that structural deficiencies of the well have been rehabilitated and no longer exist. ( )

c. Provide evidence that the well is drawing from a protected or confined aquifer. ( )

d. Submit results of one (1) year of monthly monitoring for a fecal indicator organism during which no positive results occurred. ( )

02. Chlorine Purging Prior to Triggered Source Sampling. 40 CFR 141.402(e) requires that ground water source samples be collected at a location prior to any treatment. Pursuant to this requirement, systems that add chlorine to a source, either in the well bore or near enough to the wellhead that chlorinated water could backflow into the well, shall ensure that all chlorine residual has been purged prior to taking a triggered source water sample. This shall be accomplished by measuring chlorine residual in the source water until a reading of zero is obtained and be recorded in the space provided for chlorine residual on the sample submittal form. ( )

324. -- 349. (RESERVED)

350. CONTROL OF LEAD AND COPPER.

01. General Requirements. 40 CFR 141.80, revised as of July 1, 2008, is herein incorporated by reference. ( )

02. Applicability of Corrosion Control Treatment Steps to Small, Medium-Size, and Large Water Systems. 40 CFR 141.81, revised as of July 1, 2008, is herein incorporated by reference. ( )

03. Description of Corrosion Control Treatment Requirements. ( )

a. 40 CFR 141.82, revised as of July 1, 2008, is herein incorporated by reference. ( )

b. The Department may modify its determination of the optimal corrosion control treatment or optimal water quality control parameters where it concludes that such changes are necessary to optimize corrosion control treatment as specified in 40 CFR 141.82(h) and as referred to in Subsection 350.03. The Department may also modify its determination of the optimal corrosion control treatment or water quality control parameters where it finds such changes will provide equivalent or improved treatment in a manner which is simpler or less costly to operate. ( )

04. Source Water Treatment Requirements. 40 CFR 141.83, revised as of July 1, 2008, is herein incorporated by reference. The Department may modify its determination of optimal source treatment or maximum permissible lead and copper concentrations where it concludes that such changes are necessary as specified in 40

CFR 141.83(b)(6). ( )

05. Lead Service Line Replacement Requirements. 40 CFR 141.84, revised as of July 1, 2008, is herein incorporated by reference. ( )

06. Public Education and Supplemental Monitoring Requirements. 40 CFR 141.85, revised as of July 1, 2008, is herein incorporated by reference. ( )

07. Monitoring Requirements for Lead and Copper in Tap Water. 40 CFR 141.86, revised as of July 1, 2008, is herein incorporated by reference. ( )

08. Monitoring Requirements for Water Quality Parameters. 40 CFR 141.87, revised as of July 1, 2008, is herein incorporated by reference. ( )

09. Monitoring Requirements for Lead and Copper in Source Water. 40 CFR 141.88, revised as of July 1, 2008, is herein incorporated by reference. ( )

10. Analytical Methods. 40 CFR 141.89, revised as of July 1, 2008, is herein incorporated by reference. ( )

11. Reporting Requirements. 40 CFR 141.90, revised as of July 1, 2008, is herein incorporated by reference. ( )

12. Recordkeeping Requirements. 40 CFR 141.91, revised as of July 1, 2008, is herein incorporated by reference. ( )

351. -- 399. (RESERVED)

400. SECONDARY MCLS.

01. Purpose. 40 CFR 143.1, revised as of July 1, 2003, is herein incorporated by reference. ( )

02. Definitions. 40 CFR 143.2, revised as of July 1, 2003, is herein incorporated by reference. ( )

03. Secondary Maximum Contaminant Levels. 40 CFR 143.3, revised as of July 1, 2003, is herein incorporated by reference. ( )

04. Monitoring. 40 CFR 143.4, revised as of July 1, 2010, is herein incorporated by reference. ( )

401. -- 449. (RESERVED)

450. USE OF NON-CENTRALIZED TREATMENT DEVICES.

01. Criteria and Procedures for Public Water Systems Using Point of Entry Devices. 40 CFR 141.100 is herein incorporated by reference. ( )

02. Point of Use (POU) Treatment Devices. ( )

a. A public water system may use point of use (POU) treatment in order to achieve compliance with certain maximum contaminant levels (MCL) or treatment techniques, in accordance with Subsection 450.02.b., when the following conditions are met: ( )

i. A program for long-term operation, maintenance, and monitoring of the POU treatment system is approved by the Department, pursuant to Section 450.02.d. ( )

ii. The public water system or a vendor of POU treatment devices under contract with the public water system shall own, control, and maintain the POU treatment system to ensure proper operation and maintenance and compliance with the MCL or treatment technique. ( )

iii. Each POU treatment device is equipped with a mechanical warning mechanism to ensure that customers are automatically notified of operational problems. ( )

iv. The POU treatment device must be certified by an accredited American National Standards Institute (ANSI) certification body to meet applicable ANSI/National Sanitation Foundation (NSF) Standards. ( )

b. POU treatment devices shall not be used to achieve compliance with a MCL or treatment technique requirement for a microbial contaminant or an indicator of a microbial contaminant. Community water systems may not use POU treatment devices to achieve compliance with a nitrate MCL. ( )

c. The Department will waive the plan and specification requirements of Section 504 relating to material modifications for the following systems only to the extent that the material modification proposed is limited to the installation or use of a POU treatment device(s): ( )

i. Community water systems serving two hundred (200) or fewer service connections. ( )

ii. Non-transient non-community water systems. ( )

iii. Transient non-community water systems. ( )

iv. Community water systems serving more than two hundred (200) service connections if approved by the Department through the waiver process outlined in Subsection 005.01.a. ( )

d. A public water system must obtain written approval by the Department before installation of a POU treatment device for the purpose of achieving compliance with a MCL or treatment technique. The public water system shall submit the following documentation for approval to the Department: ( )

i. Information identifying the public water system name and number, total number of service connections, contaminant(s) to be treated, type of POU treatment device to be installed, manufacturer and model number of the POU treatment device, type and function of the mechanical warning mechanism (performance indicator) on the POU treatment device, certification verification for ANSI/NSF, installer qualifications, and a proposed date for installation of the POU treatment device(s). ( )

ii. The manufacturer's specifications for the POU treatment device including demonstration that the POU treatment device is suited for the water chemistry of the public water system and contaminant(s) of concern and is of sufficient design and capacity for the particular application. ( )

iii. Information relating to how other drinking water dispensing units, such as instant hot water dispensers and refrigerator water and ice dispensers, whose primary function is to provide drinking water, will be provided with treated water. If water is transported from a POU treatment device to another drinking water dispensing unit, the conducting tube shall be of non-reactive material. ( )

iv. For non-transient non-community water systems and transient non-community water systems, demonstration that the drinking water dispensing units are located in areas adequate to protect public health. ( )

v. Demonstration that all POU treatment devices are owned, controlled, and maintained by the public water system or by a vendor of POU treatment devices under contract with the public water system. ( )

vi. A sampling plan identifying the location of all service connections and demonstrating how the system will ensure that all POU treatment devices are sampled for compliance with the contaminant(s) being treated during every compliance period or at a frequency designated by the Department. ( )

vii. Documentation that a customer at each service connection has agreed to installation and use of a POU treatment device and has granted access for installation, maintenance, and sampling. ( )

viii. A plan that describes how the public water system will address any non-compliance with Subsection 450.02.d.vii. ( )

ix. A maintenance plan that demonstrates how on-going maintenance activities will be performed and on what frequency, including: frequency of treatment media replacements, frequency of POU treatment device replacements, periodic verification that the mechanical warning device is functional, schedule of planned maintenance activities, plan of how the system will address unscheduled maintenance problems, and a plan and method of waste disposal. ( )

x. Documentation that the system meets the current requirements for a certified operator pursuant to Section 554. ( )

xi. A plan for on-going education and outreach to the customers of the public water system, including rental customers, on POU treatment and health effects of the contaminant(s) of concern. ( )

xii. A plan for how the system will ensure real estate disclosures for the POU treatment system. ( )

xiii. A statement of recognition that failure to maintain compliance with the MCL, or the failure to operate and maintain compliance with a POU treatment system as approved by the Department, may necessitate installation of centralized treatment. ( )

e. Within thirty (30) days of installing the approved POU treatment system, the public water system shall notify the Department in writing that the POU treatment system was installed as approved by the Department. ( )

f. Within thirty (30) days of installing the approved POU treatment system, the public water system shall submit samples from each POU treatment device to a certified laboratory for the contaminant(s) being treated by the POU treatment device. The samples shall be used to demonstrate initial compliance with the MCL. ( )

g. The water system owner or operator must maintain records for a POU treatment system. Records shall be submitted to the Department at a frequency and in a format specified by the Department. Records to maintain shall include: ( )

i. Requirements of Subsection 450.02.d.; ( )

ii. All sampling performed on the POU treatment devices; ( )

iii. Maintenance logs and schedules; ( )

iv. Log of installed units; and ( )

v. Contracts, lease agreements, or other legal documents with vendors and consumers. ( )

03. Use of Bottled Water. 40 CFR 141.101 is herein incorporated by reference. ( )

451. TREATMENT TECHNIQUES.

01. General Requirements. 40 CFR 141.110 is herein incorporated by reference. ( )

02. Treatment Techniques for Acrylamide and Epichlorohydrin. 40 CFR 141.111 is herein incorporated by reference. ( )

452. -- 499. (RESERVED)

500. FACILITY AND DESIGN STANDARDS: DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF PUBLIC DRINKING WATER SYSTEMS.
No person shall proceed, or cause to proceed, with construction of a new or substantially modified community or nontransient, noncommunity drinking water system until it has been demonstrated to the Department that the water system will have adequate technical, financial, and managerial capacity, as defined in Section 003 of these rules. With the exception of water sources, demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 504.03 of these rules. Plans and specifications for water sources may be submitted to the Department prior to demonstration of capacity for the water system. The Department shall issue its approval of the new system capacity demonstration in writing. ( )

01. Technical Capacity. In order to meet this requirement, the public water system shall submit documentation to demonstrate the following: ( )

a. The system meets the relevant design, construction, and operating requirements of these rules; ( )

b. The system has an adequate and consistent source of water; ( )

c. A plan is in place to protect the water source and deal with emergencies; ( )

d. A plan exists for replacement or improvement of infrastructure as necessary; and ( )

e. The system has trained personnel with an understanding of the technical and operational characteristics of the system. ( )

02. Financial Capacity. A demonstration of financial capacity must include but is not limited to the following information: ( )

a. Documentation that organizational and financial arrangements are adequate to construct and operate the public water system in accordance with these rules. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; ( )

b. Demonstration of revenue sufficiency, that includes but is not limited to billing and collection procedures; a proposed rate structure which demonstrates the availability of operating funds, revenues for depreciation and reserves, and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; and ( )

c. Adequate fiscal controls must be demonstrated. ( )

03. Managerial Capacity. In order to demonstrate adequate managerial capacity, the owner or operator of a new drinking water system shall submit at least the following information to the Department: ( )

a. Clear documentation of legal ownership and any plans that may exist for transfer of that ownership upon completion of construction or after a period of operation; ( )

b. The name, address, and telephone number of the person who will be accountable for ensuring that the water system is in compliance with these rules; ( )

c. The name, address, and telephone number of the responsible charge operator; ( )

d. A description of the manner in which the water system will be managed. Information such as by-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organizational structure shall be provided; ( )

e. A recommendation of staff qualifications, including training, experience, certification or licensing, and continuing education; ( )

f. An explanation of how the water system will establish and maintain effective communications and relationships between the water system management, its customers, professional service providers, and any applicable regulatory agencies; and ( )

g. Evidence of planning for future growth, equipment repair and maintenance, and long term replacement of system components. ( )

04. Submittal Form. The Department shall provide a standard form to be used in preparing a new system capacity demonstration. The submittal form and general guidance on how to prepare a new system capacity document is provided in, "How to Demonstrate Financial, Technical, and Managerial Capacity in New Public Water Systems." This document may be requested from the Department and is available on the DEQ website at http://www.deq.idaho.gov. ( )

05. Expanding Systems. A public water system which comes into existence as a result of growth in population or number of service connections within a previously unregulated system will be considered a new system under these rules and is subject to all design, construction and operating requirements herein. ( )

06. Consolidation. In demonstrating new system capacity, the owner of the proposed new system must investigate the feasibility of obtaining water service from an established public water system. If such service is available, but the owner elects to proceed with an independent system, the owner must explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. ( )

07. Exclusion. New public water systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, must meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission." Such water systems will not be required to meet any requirements of this Section which are in conflict with the provisions and requirements of the IPUC. ( )

501. FACILITY AND DESIGN STANDARDS: GENERAL DESIGN REQUIREMENTS FOR PUBLIC DRINKING WATER SYSTEMS.
Unless otherwise specified by the Department, the design of new drinking water systems, or modifications to existing, public drinking water systems, shall be in conformance with the facility and design standards set forth in Sections 006 and 500 through 552 of these rules. The following general design requirements shall apply as applicable for the type of water system and the treatment or other processes employed. ( )

01. Materials Used in Construction. Products that are used to construct public drinking water systems and have water contact surfaces shall conform to applicable AWWA standards and be certified by an accredited ANSI certification body to meet applicable ANSI/NSF standards, where products meeting such AWWA and ANSI/NSF standards exist. In the absence of such products, products meeting applicable product standards and acceptable to the reviewing authority may be selected. Corrosion control shall be taken into account during all aspects of public water system design. ( )

02. Additives Used in Operation. No chemical or other substance shall be added to drinking water, nor shall any process be utilized to treat drinking water, unless specifically approved by the Department. All chemicals shall conform to applicable AWWA standards and be certified by an accredited ANSI certification body to meet ANSI/NSF Standard 60, referenced in Subsection 002.02. ( )

03. Design Basis. The system, including the water source and treatment facilities, shall be designed to provide either peak hour demand of the system or maximum day demand plus equalization storage at the design year. ( )

04. Design of Treatment Facilities. Design of treatment facilities shall address: ( )

a. Functional aspects of facility layout and provisions for future facility expansion; ( )

b. Provision for expansion of waste treatment and disposal facilities (see Section 540); ( )

c. Roads constructed to provide year-round access by vehicles and equipment needed for repair and maintenance; ( )

d. Site grading and drainage; and ( )

e. Chemical Feed or Injection. Unless otherwise approved by the Department based on documentation provided by the design engineer, all chemical feed or injection systems must be designed to ensure complete mixing through rapid mix devices or other measures. ( )

f. Redundancy. Unless otherwise approved by the Department or as specified in other sections of these rules, to ensure that minimum quality, quantity, and pressure requirements of these rules are continuously met during maintenance, breakdowns, structural failures, emergencies, or other periods when components must be out of service, water system treatment, filtration, and disinfection components for all new or substantially modified community or nontransient, noncommunity drinking water systems shall be designed such that plant design capacity can be maintained with any component out of service. Raw water intake structures are excluded from the general redundancy requirement but shall be designed to ensure that plant design capacity will be maintained. ( )

05. Design of Buildings. The design of buildings that are a part of public drinking water systems shall provide for: ( )

a. Adequate ventilation, lighting, heating, and air conditioning; ( )

b. Adequate drainage; ( )

c. Dehumidification equipment, if necessary; ( )

d. Accessibility of equipment for operation, servicing, and removal; ( )

e. Flexibility and convenience of operation and safety of operators; and ( )

f. Separate room(s) for chemical storage and feed equipment that may be required based on type of chemicals and associated hazards. ( )

06. Electrical. Main switch gear electrical controls shall be located above grade, in areas not subject to flooding. All electrical work shall conform to the requirements of the National Electrical Code or to relevant state/local codes. The National Electrical Code is available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (617)770-3000, http://www.nfpa.org. ( )

07. Reliability and Emergency Operation. New community water systems constructed after April 15, 2007 are required to have sufficient dedicated on-site standby power, with automatic switch-over capability, or standby storage so that water may be treated and supplied to pressurize the entire distribution system during power outages. During a power outage, the water system shall be able to meet the operating pressure requirements of Subsection 552.01.b. for a minimum of eight (8) hours at average day demand plus fire flow where provided. A minimum of eight (8) hours of fuel storage shall be located on site unless an equivalent plan is authorized by the Department. Standby power provided in a public drinking water system shall be coordinated with the standby power that is provided in the wastewater collection and treatment system. ( )

a. The Department may require the installation of standby power or storage facilities in existing systems if the frequency and duration of power outages a system experiences constitute a health hazard. ( )

b. Existing community public water systems that are substantially modified after April 15, 2007 shall meet the requirements of Subsection 501.07. in those portions of the system affected by the modifications. ( )

c. New sources and booster pumps intended to increase system capacity shall be provided with standby power or equivalent unless, during a power outage, the public water system or distribution system pressure zone can already meet the minimum operating capacity and pressure requirements in Subsection 501.07 for a minimum of eight (8) hours at average day demand plus fire flow where provided for each pressure zone. ( )

d. For both new and existing public water systems, the Department may reduce the requirements of Subsection 501.07 if the system can demonstrate the capacity to adequately protect public health during a power outage. Any decision by the Department will be based on, but not limited to, the following considerations: ( )

i. An adequate emergency response and operation plan and the capacity to implement that plan. ( )

ii. The adequacy of the system's cross connection control program and the capacity to protect public health in the event of a system wide depressurization. ( )

iii. Demonstration of historical and projected reliability of the electrical power supplied to the water system. ( )

iv. A strategy for providing information to the public during power outages, including instructions to stop irrigation, boil water, etc., until notified otherwise. ( )

v. The level of reliability acceptable to consumers. This can be accomplished with either a vote of the majority of consumers for privately owned and operated systems or a decision by the governing body for publicly governed systems. ( )

vi. Other considerations that may be pertinent, including connections to other public water systems, agreements to provide water in emergency situations, and the availability of dedicated portable auxiliary power. ( )

08. On-Site Analysis and Testing Capabilities. Each public water system shall have equipment and facilities for routine testing necessary to ensure proper operation. Equipment selection shall be based on the characteristics of the raw water source and the complexity of the treatment process involved. ( )

09. Sample Taps. Sample taps shall be provided so that water samples can be obtained from each water source and from appropriate locations in each unit operation of treatment, and from the finished water. Taps shall be consistent with sampling needs and shall not be of the petcock type. Taps owned by the water system and used for obtaining samples for bacteriological analysis shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing type, and shall not have a screen, aerator, or other such appurtenance. ( )

10. Facility Potable Water Supply. The facility water supply service line and the plant finished water sample tap shall be supplied from a source of finished water at a point where all chemicals have been thoroughly mixed, and the required disinfectant contact time, if applicable, has been achieved. There shall be no cross connections between the facility water supply service line and any piping, troughs, tanks, or other treatment units containing wastewater, treatment chemicals, raw or partially treated water. ( )

11. Meters. All water supplies shall have an acceptable means of measuring the flow from each source, the wash water, the recycled water, any blended water of different quality, and the finished water. ( )

12. Operation and Maintenance Manual. A new or updated operation and maintenance manual that addresses all water system facilities shall be submitted to the Department for review and approval prior to start-up of the new or materially modified public water system unless the same system components are already covered in an existing operation and maintenance manual. For existing systems with continual operational problems as determined by the Department, the Department may require that an operation and maintenance manual be submitted to the Department for review and approval. The operator shall ensure that the system is operated in accordance with the approved operation and maintenance manual. ( )

13. **Start-Up Training**. Provisions shall be made for operator instruction at the start-up of a new plant or pumping station. ( )

14. **Safety**. Consideration shall be given to the protection of maintenance personnel and visitors from typical and foreseeable hazards in accordance with the engineering standards of care. The design shall comply with all applicable safety codes and regulations that may include the Uniform Building Code, International Fire Code, National Fire Protection Association Standards, and state and federal OSHA standards. Items to be considered include, but are not limited to, noise arresters, noise protection, confined space entry, protective equipment and clothing, gas masks, safety showers and eye washes, handrails and guards, warning signs, smoke detectors, toxic gas detectors and fire extinguishers. ( )

15. **Security**. Appropriate design measures to help ensure the security of water system facilities shall be incorporated. Such measures, at a minimum, shall include means to lock all exterior doorways, windows, gates and other entrances to source, treatment, pumping stations, and water storage facilities. ( )

16. **Other Regulations**. Consideration must be given to the design requirements of other federal, state, and local regulatory agencies for items such as safety requirements, special designs for the handicapped, plumbing and electrical codes, and construction in the flood plain. ( )

17. **Ground Water Source Redundancy**. New community water systems served by ground water shall have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) connections or equivalent dwelling units (EDUs). Under normal operating conditions, with any source out of service, the remaining source(s) shall be capable of providing either the peak hour demand of the system or a minimum of the maximum day demand plus equalization storage. See Subsection 501.18 for general design and redundancy requirements concerning fire flow capacity. ( )

18. **Redundant Fire Flow Capacity**. ( )

a. Public water systems that provide fire flow shall be designed to provide maximum day demand plus fire flow. Fire flow requirements and system adequacy shall be determined by the local fire authority or by a hydraulic analysis by a licensed professional engineer to establish required fire flows in accordance with the International Fire Code as adopted by the State Fire Marshal. Pumping systems supporting fire flow capacity must be designed so that fire flow may be provided with any pump out of service. ( )

b. The requirement for redundant pumping capacity specified in Subsection 501.18.a. may be reduced to the extent that fire suppression storage is provided in sufficient quantity to meet some or all of fire flow demands. Where fire suppression storage is not provided, the requirement for fire flow pumping redundancy may be reduced or eliminated if the following conditions are met: ( )

i. The local fire authority justifies that the fire flow capacity of the system is acceptable and is compatible with the water demand of existing and planned fire-fighting equipment and fire-fighting practices in the area served by the system. ( )

ii. In a manner appropriate to the system type and situation, notification is provided to customers that describes the design of the system's fire-fighting capability and explains how it differs from the requirements of Subsection 501.18.a. ( )

19. **Pilot Studies**. Unless otherwise approved by the Department based on documentation provided by the design engineer, pilot studies are required for treatment processes other than chlorine disinfection or point of use installations. Pilot studies may be performed in the field using the proposed source water or in conjunction with bench scale testing in the lab using the proposed source water. The system shall obtain the Department's approval of a pilot study plan before the pilot study is implemented. A pilot study shall be conducted for a period that shall be determined by the design engineer and approved by the Department. A final pilot study report with results shall be submitted to the Department for review and approval. Upon completion of the pilot study, final approval of equipment and treatment processes is subject to the applicable requirements of Sections 500 through 552. ( )

a. Pilot Study Plan. A pilot study plan shall include the following and any other items required by the

Department: ( )

i. Introduction and Background. The plan shall discuss general information about the project including the existing system, the reason for conducting the pilot study, and anticipated results of a successful pilot study. ( )

ii. Alternative Processes. Provide a brief description of alternative processes that could be used if the proposed process is shown to be ineffective from the study. ( )

iii. Procedures and Methods. The procedures and methods section shall discuss how the pilot study will be conducted, the time frame of the study, source water quality, how source water may be altered to mimic various source water quality conditions, and the water quality parameters that are monitored and evaluated to determine if the treatment process was effective. ( )

b. Pilot Study Report. The pilot study report shall include the following and any other items required by the Department: ( )

i. Introduction and Background. ( )

ii. Results. A discussion of the overall pilot study progress, including any issues or problems and a general discussion of results of the study and what the results indicate. This discussion should determine parameters necessary for full scale implementation. ( )

iii. Conclusions. Conclusions and recommendation to proceed with the treatment process if the results of the study proved successful. ( )

c. Additional specific pilot study requirements in Sections 500 through 552 shall be included in pilot study plans and reports. ( )

d. Engineer's Seal Required. Pilot study plans and pilot study reports submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. ( )

502. FACILITY AND DESIGN STANDARDS: FACILITY PLANS.
See the definition of Facility Plan in Section 003. ( )

01. Facility Plans Required. All new public drinking water systems, and existing public drinking water systems undergoing material modification or expansion, are required to have a current facility plan that shall address all applicable issues specifically required in Sections 500 through 552 of these rules including, but not limited to, hydraulic capacity, treatment capacity, standby power, redundancy, fire flows, project financing, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall infrastructure. Facility plans must address the entire potential service area of the project. Facility plans may not be required for simple water main extension projects as detailed in Subsections 502.01.a. and 502.01.b. ( )

a. Department-reviewed simple water main extension projects. A facility plan is not required if the Department is provided documentation supporting the ability of the purveyor to provide service for the simple water main extension without adding system components designed to control quantity or pressure to the system and while continuing to provide the pressure and quantity requirements of Subsection 552.01. Documentation may be in the form of: ( )

i. Hydraulic modeling; ( )

ii. Usage data and flow calculations; ( )

iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of the system served by the extension; or ( )

iv. Other documentation acceptable to the Department. ( )

b. Qualified Licensed Professional Engineer (QLPE)-reviewed Simple Water Main Extension Projects. A Department-approved facility plan is not required to be in place prior to the QLPE approving a simple water main extension pursuant to Subsection 504.03.b., provided that the service area of the system served by the extension is in compliance with the facility and design standards in Sections 500 through 552 of these rules. If the Department has not approved a facility plan for the system which includes the proposed simple water main extension, then the system purveyor or the QLPE shall provide with the transmittal letter documentation supporting the ability of the purveyor to provide service for the simple water main extension without adding system components designed to control quantity or pressure to the system and while continuing to provide the pressure and quantity requirements of Subsection 552.01. The purveyor shall provide this documentation to the QLPE as necessary. Documentation may be in the form of: ( )

i. Hydraulic modeling; ( )

ii. Usage data and flow calculations; ( )

iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of the system served by the extension; or ( )

iv. Other documentation acceptable to the Department. ( )

02. Submittal to the Department. When required, facility plans shall be submitted to the Department for review and approval prior to the submission of plans and specifications for a project related to the facility plan. ( )

03. Engineer's Seal Required. Facility plans submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. ( )

04. Facility Plan Contents. The facility plan shall include basic information, criteria and assumptions, and alternative solutions with preliminary layouts and cost estimates as applicable. The facility plan is intended to address system wide growth, to identify system deficiencies, and to lay out a plan for system upgrades and expansion. ( )

a. New public water system facility plan. The minimum requirements for a facility plan for a new public water system are listed in Subsections 502.04.a.i. through 502.04.a.viii. If specific items listed in Subsections 502.04.a.i. through 502.04.a.viii. are not applicable to a particular system, then the submitting engineer shall state this in the facility plan and state the reason why the requirement is not applicable. The facility plan must also include sufficient detail to support applicable requirements of Sections 501 through 552. ( )

i. Location. A general description and location of the system. ( )

ii. Population. The estimated design population of the system including the number of connections and the number of EDUs proposed. ( )

iii. Sources of Water. Adequacy, quality, and availability of sources of water for potable use and a description of the non-potable irrigation system. ( )

iv. Treatment. Identify and describe any anticipated treatment. ( )

v. Water Quantity. Design data for domestic, irrigation, fire fighting, commercial, or industrial water uses, including peak hour, maximum day, and average day demands. ( )

vi. Storage. Include the size and location of any anticipated storage structures. ( )

vii. Operating Pressure. Pressure ranges for all flow conditions prescribed by these rules. ( )

viii. Sewage. Describe the sewage collection system and sewage treatment works, with reference to their relationship to existing or proposed water works structures which may affect the operation of the water supply system, or which may affect the quality of the supply. ( )

b. Existing public water system facility plan. The minimum requirements for a facility plan for an existing public water system must include Subsections 502.04.b.i. through 502.04.b.vii. as well as Subsections 502.04.a.i. through 502.04.a.viii. If specific items listed in Subsections 502.04.b.i. through 502.04.b.vii. or Subsections 502.04.a.i. through 502.04.a.viii. are not applicable to a particular facility plan, then the submitting engineer shall state this in the facility plan and state the reason why the requirement is not applicable. The facility plan must also include sufficient detail to support applicable requirements of Sections 501 through 552. ( )

i. Hydraulic analysis. A computer analysis of the hydraulics of the distribution system if requested by the Department; any analysis of an existing distribution system shall be properly calibrated. The type or sophistication of analysis shall be dependent on the type of system. ( )

ii. Identify and evaluate problems related to the drinking water system. ( )

iii. Describe financing methods. ( )

iv. Set forth anticipated charges for users. ( )

v. Review organizational and staffing requirements. ( )

vi. Offer a project(s) recommendation for client consideration. ( )

vii. Outline official actions and procedures to implement the project. ( )

c. **Public Water System Facility Plan funded by the State Revolving Fund**. If the project is funded by the state revolving fund or a state grant, the facility plan must meet the requirements of Subsections 502.04.a. and 502.04.b., and other requirements that may also apply. See IDAPA 58.01.20, "Rules for Administration of Drinking Water Loan Program," and IDAPA 58.01.22, "Rules for Administration of Planning Grants for Public Drinking Water Facilities." ( )

d. Facility Plan Guidance. A checklist, which can be used as guidance, can be found on the DEQ website at http://www.deq.idaho.gov. The guidance document is for Department grant and loan projects, but may be used in part or in whole as a guide to assist in the development of any facility plan. ( )

503. FACILITY AND DESIGN STANDARDS: PRELIMINARY ENGINEERING REPORTS.
See the definition of Preliminary Engineering Report in Section 003. Preliminary engineering reports are required for all new water systems or material modifications to existing water systems that require plan and specification review and approval pursuant to Subsection 504.03. The preliminary engineering report shall be in conformance with the approved facility plan or shall describe any modifications to the facility plan. Preliminary engineering reports must be completed for all major water system projects including, but not limited to, source, pump station, pressure control, storage, and treatment projects. Preliminary engineering reports are not required for simple water main extensions that are approved in accordance with Subsections 502.01.a. or 502.01.b. ( )

01. **Submittal to Reviewing Authority**. Preliminary engineering reports shall be submitted to the Department for review and must be approved by the Department prior to the submission of plans and specifications. The Department may allow well construction plans and specifications to be submitted concurrently with a preliminary engineering report for these projects. ( )

02. **Seal Required**. Preliminary engineering reports submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. The Department will accept the seal and signature of an Idaho licensed professional geologist on preliminary reports for well source, spring source, or infiltration gallery site reports, and for well construction. ( )

03. **Preliminary Engineering Report Contents**. The preliminary engineering report must include

sufficient detail to demonstrate that the proposed project meets applicable criteria. The items included in Subsections 503.03.a. through 503.03.e., and all applicable issues and items specifically required in Sections 500 through 552, shall be addressed in detail. As required, a preliminary engineering report shall also identify and evaluate drinking water related problems, assemble basic information, present criteria and assumptions, examine alternative solutions with preliminary layouts and cost estimates, offer a conclusion with a proposed project, and outline official actions and procedures to implement the project. If specific items in Subsections 503.03.a. through 503.03.e. are not applicable to a particular design, then the designer shall state this in the preliminary engineering report and state the reason why it is not applicable. Items adequately addressed in the facility plan under which the project is being designed may be addressed by reference for purposes of the preliminary engineering report. ( )

a. All preliminary engineering reports shall include items in Subsection 503.03.a. and the applicable items from Subsections 503.03.b. through 503.03.e. ( )

i. General information. The preliminary engineering report general information shall include, but is not limited to: ( )

(1) Project description. A detailed description of the proposed project; ( )

(2) Site selection. A general description of the location of the project and justification of the site selection; ( )

(3) Access and utilities. A general discussion of adequacy of local roadways and availability of power or other utilities; ( )

(4) Surrounding land use. A general discussion of surrounding land use, including any potential sources of contamination; and ( )

(5) Security. A general discussion of planned security features such as fencing, lighting, alarm systems, etc. ( )

ii. Coordination with facility plan. The preliminary engineering report shall discuss or reference items provided in the Department-approved facility plan. These items include, but are not limited to: ( )

(1) Existing System. A general description of the existing system and how the project fits into the overall system and facility plan; ( )

(2) Size. The estimated system size based on number of persons, number of connections, or number of EDUs served or impacted by the project; ( )

(3) Water Quantity. Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including peak hour, maximum day, and average day demands; ( )

(4) Storage. How the project will affect various storage requirements. See definition of Components of Finished Water Storage in Section 003; ( )

(5) Operating Pressure. Pressure ranges for all flow conditions prescribed by these rules; ( )

(6) Hydraulic Analysis. A computer analysis of the hydraulics of the distribution system if requested by the Department; any analysis of an existing distribution system shall be properly calibrated. The type and sophistication of analysis shall be dependent on the type of system; ( )

(7) Sources of Water. A general discussion of the adequacy, quality and availability of source of water. A water system that is to be served by a separate non-potable irrigation system must provide documentation to demonstrate the actual availability of water in sufficient quantity to ensure that the irrigation system will not compete with or in any way diminish the source of water for the potable water system; ( )

(8) Sewage. Describe the sewage collection system and sewage treatment works, with special

reference to their relationship to existing or proposed water works structures which may affect the operation of the water supply system, or which may affect the quality of the supply; ( )

(9) Treatment wastes. Assesses and characterize all anticipated waste discharges generated by the project and any activities that could impact the water supply. The location of each waste handling area or discharge point shall be shown on a scale map; ( )

(10) Financing methods. Provide brief discussion of financing options investigated or planned; and ( )

(11) Flooding. Discuss mechanisms for protection of the system from flooding. ( )

iii. Code provisions. The preliminary engineering report shall include a summary of applicable codes and standards that apply to the proposed project. ( )

iv. Cost estimate. The preliminary engineering report shall provide, as applicable, estimated construction costs for public works projects or projects funded through public monies. ( )

v. Construction schedule. The preliminary engineering report shall include the proposed construction schedule. ( )

vi. Potential sources of contamination. Identify sources of contamination and describe how the drinking water sources will be protected. ( )

vii. Soils and ground water levels. Generally discuss soil, ground water conditions, and potential building foundation problems, including a description of: ( )

(1) The character of the soil through which water mains are to be laid; ( )

(2) Characteristics of the soil, water table, and geological substrate that may affect the design and construction of the foundations of proposed structures; and ( )

(3) The approximate elevation of ground water in relation to subsurface structures. ( )

b. Drinking water wells and spring construction projects. In addition to items listed in Subsection 503.03.a., a preliminary engineering report for source water construction projects shall include all items listed in Subsection 503.03.b., applicable items in Sections 510 through 514, and Sections 500 to 552 should be evaluated for their relevance to the project. ( )

i. Anticipated geology and hydrogeology. Include geological data and existing well logs. ( )

ii. Drilling methodology. Describe the anticipated drilling method and well construction. ( )

iii. Water quality. Anticipated potability and water quality including monitoring results required for new sources by these rules. ( )

iv. Water rights. Provide the appropriate documentation for the water rights for the drinking water source. ( )

v. Dimensions of the well lot and location of source. Include geographical coordinates of the source location. ( )

vi. Evaluation of surface water influence. For all new ground water sources, including but not limited to wells, springs, and infiltration galleries, systems shall supply information as required by the Department to determine if these sources are under the direct influence of surface water. ( )

vii. Provide a site evaluation report as required by Section 510 for wells and 514 for springs. ( )

c. Well and pump house construction projects. In addition to items listed in Subsection 503.03.a., preliminary engineering reports for well and pump house construction projects shall include all items listed in Subsection 503.03.c., applicable items in Sections 511, 541, 547, and Sections 500 to 552 should be evaluated for their relevance to the project. ( )

i. Well house. Include information on the anticipated construction and well house equipment such as heating, ventilation, interior lighting, and drain(s). ( )

ii. Water Level. Provide a brief description of the means for measuring the water level in the well. ( )

iii. Well pump. Include information on the proposed or planned pump, including the pump curve. ( )

iv. Controls. Describe the equipment and controls for the well and pump house. This includes but is not limited to system control and data acquisition, variable frequency drive, and other manual or automated controls within the well house. ( )

v. Piping and appurtenances including but not limited to sample taps, discharge piping, flow meters, check valves, and pressure gauges. Describe the receiving system for the pump to waste volume of water including an evaluation of the capacity of the receiving system and, if applicable, provide documentation that the system owner will accept the estimated volume of water and any limitations the owner places upon that acceptance. ( )

vi. Well vent. Describe the well vent if applicable. ( )

vii. Casings and well caps. Describe the anticipated casing and well cap type and materials. ( )

viii. Pitless adapters and units. Describe the anticipated pitless adapter for the well. ( )

ix. Soil and water conditions. Describe the soil and ground water conditions that may affect the design and construction of proposed structure(s). ( )

d. Reservoir and storage construction projects. In addition to items listed in Subsection 503.03.a., preliminary engineering reports for reservoir and storage construction projects shall include all items listed in Subsection 503.03.d., applicable items in Sections 544, and Sections 500 to 552 should be evaluated for their relevance to the project. ( )

i. Sizing. Describe the required storage capacity and the related components of finished water storage. ( )

ii. Overflow. Describe the anticipated overflow system for the water storage project and where the overflow will discharge. ( )

iii. Vents. Describe the venting system used for the water storage project if applicable. ( )

iv. Construction materials. Describe the construction materials used for the storage project. ( )

v. Protection from freezing. Describe the protection of storage facility features from freezing especially riser pipes, overflows, and vents. ( )

vi. Grading. Describe any site work or grading that may be necessary. ( )

vii. Corrosion prevention. Provide a discussion on methods to prevent corrosion such as coatings, cathodic protection, corrosion resistant materials, and encasement. ( )

viii. Disinfection. Describe the methods to be used to disinfect the storage facility and the testing to

check for proper disinfection. ( )

e. Surface water and ground water under the direct influence of surface water (GWUDI) treatment construction projects. In addition to items listed in Subsection 503.03.a., preliminary engineering reports for surface water treatment and GWUDI construction projects shall include all items listed in Sections 503.03.e., applicable items in Sections 515 through 540, and Sections 500 to 552 should be evaluated for their relevance to the project. ( )

i. Intake structures. Describe the intake structures that will be used. ( )

ii. Off-stream raw water storage. If applicable, describe the proposed off-stream raw water storage. ( )

iii. Treatment methods. Describe the treatment methods and potential alternatives including the removal of pathogens, disinfection, enhanced disinfection, water quality monitoring, and redundancy provisions. ( )

iv. Treatment Wastes. Characterize the various wastes from the water treatment processes and, if applicable, their volumes, constituents, and proposed treatment and disposal. If discharging to a sanitary sewage system, verify that the system is capable of handling the flow to the treatment works and that the treatment works is capable and willing to accept the additional loading. ( )

v. Monitoring Results. Provide applicable raw water monitoring results as required by these rules including anticipated turbidity ranges, microbiological, physical, chemical, radiological, and other parameters as determined by the Department. ( )

vi. Potential contamination. An assessment of the degree of hazard to the supply by agricultural, industrial, recreational, and residential activities in the watershed, and by accidental spillage of materials that may be toxic, harmful or detrimental to treatment processes. ( )

vii. Waste discharge. Assess all waste discharges and activities that could impact the water supply. The location of each waste discharge shall be shown on a scale map. ( )

viii. Hydrological and historical stream flow data. Provide any available records and data. ( )

ix. Water rights and water quantity. A copy of the appropriate permit(s) or application(s) from the Idaho Department of Water Resources regarding authorization to appropriate public waters of the state of Idaho in sufficient quantity to meet the design requirements of the system. ( )

x. Turbidity. Anticipated turbidity range. ( )

xi. Watershed. Assessment of the degree of control the water system will be able to exercise over the watershed. ( )

xii. Projected future uses of impoundments or reservoirs within the watershed. ( )

xiii. Water quality. Submit source water sample data over a sufficient period of time to assess the microbiological, physical, chemical and radiological characteristics of the water. ( )

xiv. Stream characteristics. Provide consideration of currents, wind and ice conditions, and the effect of confluent streams. ( )

504. FACILITY AND DESIGN STANDARDS: REVIEW OF PLANS AND SPECIFICATIONS.
The facility and design standards set forth in these rules shall be applied in the review of plans and specifications for public water system facilities. If design issues are not addressed by the facility and design standards set out in these rules, then guidance documents, some of which are listed in Subsection 002.02, shall be used as guidance in the design and review of plans and specifications for public drinking water facilities. See also Section 013. ( )

01. Ownership. Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 504.03. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the system according to these rules. Documentation shall also include the name of the water system, the name, address, and phone number of the supplier of water, the system size, and the name, address, and phone number of the system operator. ( )

02. Connection to an Existing System. If the proposed project is to be connected to an existing public water system, a letter from the purveyor must be submitted to the Department stating that the purveyor will be able to provide services to the proposed project. The Department may require documentation supporting the ability of the purveyor to provide service to the new system without diminishing quality of service to existing customers. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 504.03. ( )

03. Plans and Specifications Required. ( )

a. Prior to construction of new public drinking water systems, new drinking water systems designed to serve fifteen (15) or more service connections, or material modifications of existing public water systems, plans and specifications must be submitted to the Department for review and approval. Construction should commence as soon as practical after approval, and if construction is not completed within twelve (12) months of the Department's final approval, an extension or re-approval must be obtained from the Department. The Department may require re-submittal of all or part of the plans and specifications prior to issuing an extension or re-approving the plans and specifications. ( )

b. Plans and specifications for simple water main extensions shall not require pre-construction approval by the Department when such extensions will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, provided that such plans and specifications are reviewed and approved by a QLPE who was not involved in the preparation of the plans and specifications being reviewed to verify compliance with the requirements of these rules prior to initiation of construction. Any plans and specifications approved pursuant to Subsection 504.03.b. shall be transmitted to the Department at the time construction is authorized and shall be marked or stamped as "Approved for Construction." Along with the plans and specifications, the transmittal must include the items listed in Subsections 504.03.b.i. through 504.03.b.vii. The plans and specifications must bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer, and the approval or transmittal letter must be sealed, signed, and dated by the QLPE that is approving the plans and specifications. ( )

i. A statement that the author of the transmittal letter is the QLPE representing the city, county, quasi-municipal corporation or regulated public entity. ( )

ii. A statement that the extension project complies with the current facility plan or preliminary engineering report, or a statement that the water system has adequate capacity. Please see Subsection 502.01.b. for further information. ( )

iii. A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the water system purveyor will serve the project. ( )

iv. A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the water system purveyor will own and operate the project after construction is complete. ( )

v. A statement by the QLPE that the plans and specifications are approved for construction. ( )

vi. A statement by the QLPE that the plans and specifications comply with the facility standards within these rules. ( )

vii. A statement recommending whether sanitary restrictions can be released or should remain in force.

( )

c. Subsections 504.03.c.i. through 504.03.c.vi. outline the projects which QLPEs may approve and which QLPEs may not approve. ( )

i. A QLPE may approve plans and specifications for simple water main extensions that are able to connect to an existing water system owned by a city, county, quasi-municipal corporation, or regulated public utility at the time the extension is approved for construction by the QLPE. ( )

ii. A QLPE may approve plans for simple water main extensions which will connect to an existing water system, but are unable to connect to the system at the time the extension is approved for construction by the QLPE, provided sanitary restrictions remain in force for the proposed extension. ( )

iii. A QLPE may not approve plans and specifications which include mechanical systems such as booster stations. ( )

iv. A QLPE may not approve plans and specifications for projects which the QLPE was the design engineer or otherwise involved in the design. ( )

v. A QLPE employed by a city, county, quasi-municipal corporation, or regulated public utility may approve a design that was prepared by a subordinate engineer or an engineer from a separate design group within the city, county, quasi-municipal corporation, or regulated public utility. ( )

vi. A QLPE who is not employed by a city, county, quasi-municipal corporation, or regulated public utility, but is retained by a city, county, quasi-municipal corporation, or regulated public utility for the purpose of plan and specification review may not approve projects designed by the company with which the QLPE is employed. ( )

d. At the discretion of the city, county, quasi-municipal corporation or regulated public utility, the plans addressed by Subsection 504.03.b. may be referred to the Department for review and approval prior to initiation of construction. ( )

04. Criteria for Review. The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with the rule. ( )

05. Schedule for Review. The Department shall review plans and specifications and endeavor to resolve design issues within forty-two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 504.05 with such records including the final decision rendered and the timeliness thereof. ( )

06. Engineer's Seal Required. Plans and specifications submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal; except that the Department will accept the seal of an Idaho licensed professional geologist on the following: ( )

a. Well source, spring source, or infiltration gallery site evaluation reports, as specified in Subsections 510 and 514. ( )

b. Plans and specifications for well construction and results of field inspection and testing, as specified in Section 510. ( )

07. Contents of Plans and Specifications. Plans and specifications shall, where pertinent, provide the

following: ( )

a. General layout, including: ( )

i. Suitable title. ( )

ii. Name of municipality or other entity or person responsible for the water supply. ( )

iii. Area or institution to be served. ( )

iv. Scale of drawings. ( )

v. North arrow. ( )

vi. Datum used. ( )

vii. General boundaries of municipality or area to be served. ( )

viii. Date, name, and address of the designing engineer. ( )

ix. Legible prints suitable for reproduction. ( )

x. Location and size of existing water mains, if applicable. ( )

xi. For systems undergoing material modification, location and nature of existing water works structures and appurtenances affecting the proposed improvements. ( )

b. Detailed plans, including: ( )

i. Stream crossings, providing profiles with elevations of the stream bed and the estimated normal and extreme high and, where appropriate, low water levels. ( )

ii. Location and size of the property to be used for the development with respect to known references such as roads, streams, section lines, or streets. ( )

iii. Topography and arrangement of present or planned wells or structures. ( )

iv. Elevations of the one hundred (100) year flood level in relation to the floor of structures, upper termination of protective casings, and grade surrounding facilities. ( )

v. Details of well construction, including diameter and depth of drill holes, casing and liner diameters and depths, grouting depths, elevations, and designation of geological formations, water levels and other data as specified in Section 510. ( )

vi. Location of all known existing and potential sources of pollution within five hundred (500) feet of water sources or underground treated storage facilities. ( )

vii. Size, length, and materials of proposed water mains. ( )

viii. Location of existing or proposed streets; water sources, ponds, lakes, and drains; storm sanitary, combined and house sewers; septic tanks, disposal fields and cesspools. ( )

ix. Schematic flow diagrams and hydraulic profiles showing the flow through various plant units. ( )

x. Piping in sufficient detail to show flow through the plant including waste lines. ( )

xi. Locations of all chemical storage areas, chemical feeding equipment, and points of chemical application. ( )

xii. All appurtenances, specific structures, equipment, water treatment plant waste disposal units and points of discharge having any relationship to the plans for water mains or water works structures. ( )

xiii. Locations of sanitary or other facilities, such as lavatories, showers, toilets, and lockers, when applicable or required by the Department. ( )

xiv. Locations, dimensions, and elevations of all proposed plant facilities. ( )

xv. Locations of all sampling taps owned by the water system. ( )

xvi. Adequate description of any significant features not otherwise covered by the specifications that may impact public safety or welfare. ( )

c. Complete, detailed technical specifications shall be supplied for the proposed project, including: ( )

i. A program for keeping existing water works facilities in operation during construction of additional facilities so as to minimize interruption of service. ( )

ii. Laboratory facilities and equipment. ( )

iii. Description of chemical feeding equipment. ( )

iv. Procedures for flushing, disinfection and testing, as needed, prior to placing the project in service. All wells, pipes, tanks, and equipment which can convey or store potable water shall be disinfected in accordance with AWWA Standards, incorporated into these rules at Subsection 002.01. Plans or specifications shall outline the procedure and include the disinfectant dosage, contact time, and method of testing the results of this procedure. ( )

v. Materials or proprietary equipment for sanitary or other facilities, including any necessary backflow or back-siphonage protection. ( )

d. Complete design criteria, as set forth in these rules. ( )

e. The Department may require additional information which is not part of the construction drawings, including, but not limited to, head loss calculations, proprietary technical data, and copies of contracts. ( )

08. Notification of Material Deviations. As set forth in Subsection 504.03, during construction or modification, the reviewing authority must be notified of any material deviation from the approved plans. The reviewing authority's prior written approval is required before any material deviation is allowed. ( )

09. Record Plans and Specifications Required. ( )

a. Within thirty (30) calendar days of the completion of construction of facilities for which plans are required to be reviewed pursuant to Subsection 504.03, record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Department by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the professional engineer must confirm material compliance with the approved plans and specifications or disclose any material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. ( )

b. Record plans and specifications, or a statement submitted in lieu of record plans and specifications, must bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. ( )

c. The Department will accept the seal and signature of an Idaho licensed professional geologist on record plans and specifications, or a statement bearing the seal and signature of an Idaho licensed professional geologist in lieu of record plans and specifications, for record plans and specifications for well construction and results of field inspection and testing, as specified in Section 510. ( )

10. Exception. The Department may waive the plan and specification approval required of any particular facility or category of facilities when doing so will have no significant impact on public health or the environment. ( )

11. Requirement to Have Approved Plans and Specifications and Approval Letter On-Site During Construction. It is the responsibility of the owner to maintain one (1) copy of the approved plans and specifications and the approval letter from the reviewing authority on-site during construction at all times. ( )

12. Construction. Except as provided in Subsection 504.03.b., no construction shall commence until all of the necessary approvals have been received from the Department. The owner shall provide for the inspection of the construction of a public drinking water system facility by an Idaho licensed professional engineer to the extent required to confirm material compliance with the approved plans and to produce accurate record documents as required by Subsection 504.09. ( )

505. -- 509. (RESERVED)

510. FACILITY AND DESIGN STANDARDS: SITING AND CONSTRUCTION OF WELLS.
Written approval by the Department is required before water from any new or reconstructed well may be served to the public. Any supplier of water for a public water system served by one (1) or more wells shall ensure that the following requirements are met: ( )

01. Site Approval. Prior to drilling, the site of a public water system well must be approved in writing by the Department. The Department shall require the supplier of water to submit a well site evaluation report that takes into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: ( )

a. An evaluation of the quality of anticipated ground water. ( )

b. Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. ( )

c. An estimate of hydrologic and geologic properties of each aquifer and confining layers. ( )

d. Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models as determined by the Idaho Department of Water Resources permitting process. ( )

e. Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. ( )

f. Description of potential sources of contamination within five hundred (500) feet of the well site. ( )

02. Location. Each well shall be staked by the design engineer or licensed professional geologist prior to drilling, be located a minimum of fifty (50) feet from the nearest property line, be located a minimum of fifty (50) feet from any potential source of contamination, and be no closer to specified sources of contamination than set forth

in Subsection 900.01. In vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination. ( )

03. Construction Standards. In addition to meeting the requirements of these rules, all wells shall be constructed in accordance with IDAPA 37.03.09, "Well Construction Standards Rules," and related rules and laws administered by the Idaho Department of Water Resources. All wells shall comply with the drilling permit requirements of Section 42-235, Idaho Code. ( )

a. Casing that meets the requirements set forth in Subsection 900.02 (Table 2). The use of plastic well casing for public water system wells may be considered on a case-by-case basis. Plastic casing shall meet or exceed ASTM Standard F480-02 and ANSI/NSF Standard 61. ( )

b. Public water system wells shall have no less than fifty-eight (58) feet of annular seal of not less than one and one-half (1 ½) inches thickness as measured from land surface to the bottom of the seal unless: ( )

i. It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or ( )

ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or; ( )

iii. The Department specifies a different annular seal depth based on local hydrologic conditions. ( )

iv. More stringent standards are required by applicable Rules of the Idaho Water Resources Board, referenced in Subsection 002.02. ( )

c. Specifications shall include allowable tolerances for plumbness and alignment in accordance with AWWA Standards, incorporated by reference into these rules at Subsection 002.01, or as otherwise approved by the Department. If the well fails to meet these requirements, it may be accepted by the Department if it does not interfere with the installation or operation of the pump or uniform placement of grout. ( )

d. Geological data shall be collected at each pronounced change in formation and shall be recorded in the driller's log. Supplemental data includes, but is not limited to, accurate geographical location such as latitude and longitude or GIS coordinates, and other information on accurate records of drillhole diameters and depths, assembled order of size and length of casing, screens and liners, grouting depths, formations penetrated, and water levels. ( )

e. The owner of each well shall retain all records pertaining to each well until the well has been properly abandoned. ( )

f. Wells with intake screens shall: ( )

i. Be constructed of materials resistant to damage by chemical action of ground water or cleaning operations. ( )

ii. Have openings based on sieve analysis of formation or gravel pack materials. ( )

iii. Have sufficient length and diameter to provide adequate specific capacity and aperture entrance velocity not to exceed point three (0.3) feet per second, or as otherwise approved by the Department. ( )

iv. Be installed so that the pumping water level remains above the screen under all operating conditions, or otherwise approved by the Department. Where a bottom plate or sump is utilized, it shall be of the same material as the screen, or as otherwise approved by the Department. Where a washdown assembly, tailpipe or sump is used below the screen, it may be made of a different material than the screen. ( )

g. Permanent well casing shall be surrounded by a minimum of one and one-half (1 ½) inches of grout

to the depth required by Subsection 510.03.b. of these rules, or by the Rules of the Idaho Water Resources Board referenced in Subsection 002.02, whichever is greater. All casing identified in plans and specifications as temporary casing shall be removed prior to well completion. ( )

i. Neat cement grout consisting of cement that conforms to AWWA Standard A-100, and water, with not more than six (6) gallons of water per ninety-four (94) pounds of cement, shall be used for one and one-half (1 ½) inch openings. Additives may be used to enhance effectiveness and are subject to approval by the reviewing authority and the Idaho Department of Water Resources on a case-by-case basis. ( )

ii. Bentonite grout shall have a solids content not less than twenty-five (25) percent by weight when mixed with water and be specifically manufactured for use in sealing of well casing. Bentonite grout shall not contain weighting agents to increase solids content. Bentonite grout shall not be used above the water table. All bentonite grout shall be installed by positive displacement from the bottom up through a tremmie or float shoe. ( )

iii. Where a dry annular space is to be sealed, a minimum of two (2) inches on all sides of the casing shall be required to place bentonite to depths not greater than one hundred (100) feet, using #8 mesh granular bentonite. All dry pour granular bentonite shall be tagged at appropriate intervals to verify placement. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. ( )

iv. Dry granular bentonite used in wells where a dry annular space is to be sealed with depths greater than one hundred (100) feet shall require an annulus of at least three (3) inches on all sides of the casing, or as approved by the reviewing authority and the Idaho Department of Water Resources. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. ( )

v. All chip bentonite seals installed through water shall only be used in annular spaces of at least four (4) inches on all sides of the casing. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. Chip bentonite seals installed through water shall be: ( )

(1) Installed in accordance with manufacturer's specifications; or ( )

(2) Installed by pouring chips over a one-quarter (1/4) inch mesh screen for three-eighths (3/8) inch chips to remove fines to prevent bridging at the water table; or ( )

(3) Installed using coated pellets to retard hydration if approved by the reviewing authority and the Idaho Department of Water Resources. ( )

vi. Concrete may be approved on a case-by-case basis by the reviewing authority and the Idaho Department of Water Resources. Upon such approval, the approved method shall use a six (6) sack minus one-half (1/2) inch Portland cement concrete and shall be installed by positive displacement from the bottom up through a tremmie pipe. ( )

04. Disinfection. All tools, bits, pipe, and other materials to be inserted in the borehole shall be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Water Resources Board, referenced in Subsection 002.02 This applies to new well construction and repair of existing wells. ( )

05. Well Completion Report Required. Upon completion of a well, and prior to its use as a drinking water source, the following information and data must be submitted by the water system to the Department. The well completion report must be submitted to the Department prior to or concurrent with the submittal of the preliminary engineering report for well house construction/modification. The well completion report shall bear the imprint of an Idaho licensed professional engineer's or an Idaho licensed professional geologist's seal that is both signed and dated by the engineer or geologist: ( )

a. A copy of all well logs; ( )

b. Results of test pumping, as specified in Subsection 510.06; ( )

c. As constructed plans showing at least the following: ( )

i. Annular seal, including depth and sealant material used and method of application; ( )

ii. Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and ( )

iii. Recommended pump location. ( )

d. Other information as may be specified by the Department. ( )

e. Sampling results for iron, manganese, corrosivity, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in Subsections 510.05.e.i. through 510.05.e.iii. ( )

i. Community Systems. Results of analysis for total coliform, inorganic chemical contaminants, organic chemicals, and radionuclide contaminants set forth in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, and 100.06, unless analysis is waived pursuant to Subsection 100.07. ( )

ii. Nontransient Noncommunity Systems. Results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, 100.04, unless analysis is waived pursuant to Subsection 100.07. ( )

iii. Transient Noncommunity Systems. Results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. ( )

06. Test Pumping. Upon completion of a ground water source, test pumping shall be conducted in accordance with the following procedures to meet the specified requirements: ( )

a. The well shall be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, design of the water system shall be re-evaluated and submitted to the Department for approval. ( )

b. Upon completion of well development, the well shall be tested for sand production. Fifteen (15) minutes after the start of the test pumping (at or above the design production rate), the sand content of a new well shall not be more than five (5) parts per million. Sand production shall be measured by a centrifugal sand sampler or other means acceptable to the Department. If sand production exceeds five (5) ppm, the well shall be screened gravel packed, or re-developed. ( )

c. The following data shall be provided: ( )

i. Static water level in the well prior to test pumping; ( )

ii. Well yield in gpm and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; ( )

iii. Water level in the well recorded at regular intervals during pumping; ( )

iv. Profile of water level recovery from the pumping level projected to the original static water level. ( )

v. Depth at which the test pump was positioned in the well; ( )

vi. Test pump capacity and head characteristics; ( )

vii. Sand production data. ( )

viii. Results of analysis based on the drawdown and recovery test pertaining to aquifer properties, long term sustained yield, and boundary conditions affecting drawdown. ( )

d. The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100-97), as long as the minimum data specified in Subsection 510.06.c. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine water system operations. ( )

e. Where aquifer yield, sustainability, or water quality are questionable, the Department, at its discretion, may require additional site specific investigations that could include test well construction, long-term pumping tests, or other means to demonstrate that the aquifer yield is sufficient to meet the long-term water requirements of the project. ( )

07. Conversion of Non-Public Water System Wells for Public Water System Use. Any existing well constructed for use other than as a public water system source may be considered for use as a public water system source on a case-by-case basis. The owner of such a well must demonstrate to the Department's satisfaction that the well site conforms to the requirements of Subsections 510.01, 510.02, and Section 512, the well is constructed in a manner that is protective of public health and that both the quantity and quality of water produced by the well meet public water system standards set forth in these rules. ( )

08. Observation Wells. If observation wells are used and are intended to remain in service after completion of the water supply well, the observation wells shall be constructed in accordance with the requirements for permanent wells and be protected at the upper terminal to preclude entrance of foreign materials. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02. ( )

09. Well Abandonment. Any water supply well that will no longer be used must be abandoned by sealing the borehole carefully to prevent pollution of the ground water, eliminate any physical hazard, conserve aquifer yield, maintain confined head conditions in artesian wells, and prevent mixing of waters from different aquifers. The objective of proper well abandonment procedures is to restore, as far as possible, the original hydrogeologic conditions. The services of a licensed well driller are required. Instructions for abandoning various types of wells may be obtained from the Idaho Department of Water Resources. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02. ( )

511. FACILITY AND DESIGN STANDARDS: WELL PUMPS, DISCHARGE PIPING, AND APPURTENANCES.

01. Sample Tap Required. A sample tap suitable for collecting bacteriological samples shall be provided on the discharge piping from every well at a point where pressure is maintained but prior to any treatment. This sample tap shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing or petcock type, and shall not have a screen, aerator, or other such appurtenance. The sample tap for collecting bacteriological samples may be used for other sampling purposes. In addition, threaded hose bib taps may also be used for collecting samples, other than bacteriological samples, if equipped with an appropriate backflow prevention device as may be necessary to protect the public water system from contamination. ( )

02. Discharge Piping. The discharge line shall be equipped with the necessary valves and appurtenances to allow a well to be pumped to waste at the design capacity of the well via an approved air gap through an approved non-corrodible screen at a location prior to the first service connection, and shall meet the following requirements: ( )

a. Be designed to minimize friction loss. ( )

b. Have control valves and appurtenances located above the pump house floor when an above-ground discharge is provided. ( )

c. Be protected against contamination. ( )

d. Vertical turbine pumps shall be equipped with an air release-vacuum relief valve, or equivalent, located upstream from the check valve, with exhaust/relief piping terminating in a down-turned position at least eighteen (18) inches above the floor and covered with a twenty-four (24) mesh corrosion resistant screen. ( )

e. Have all exposed piping, valves and appurtenances protected against physical damage and freezing. ( )

f. Be properly anchored to prevent movement, and protected against surge or water hammer. ( )

g. The pump to waste discharge piping shall be valved to ensure that other system components that could be negatively affected by the quality of the discharged water are not pressurized by the water that is being pumped to waste. ( )

h. Where two (2) or more wells are connected to a common well house, the discharge piping shall be designed to ensure that each well can be pumped to waste independently without affecting the ability of the other well or wells to pressurize the system. ( )

03. Pressure Gauge Required. A pressure gauge shall be provided on all discharge piping. ( )

04. Flow Meter and Check Valve. Unless otherwise approved by the Department based on documentation provided by the design engineer, an instantaneous and totalizing flow meter equipped with nonvolatile memory shall be installed on the discharge line of each well in accordance with the manufacturer's specifications. Meters installed on systems with variable frequency drives shall be capable of accurately reading the full range of flow rates. An accessible check valve, which is not located in the pump column, shall be installed in the discharge line of each well between the pump and the shut-off valve. Additional check valves shall be located in the pump column as necessary. ( )

05. Well Vent. All wells shall be vented, unless it can be demonstrated that the drawdown under maximum pumping conditions will not exceed ten (10) feet. ( )

a. For wells not in a pump house, the open end of the vent shall be screened with a twenty-four (24) mesh or similar non-corrodible screen and terminated downward at least eighteen (18) inches above the final ground surface. ( )

b. If the well is in a pump house, the open end of the vent shall be screened with a twenty-four (24) mesh or similar non-corrodible screen and must terminate at least twelve (12) inches above the pump house floor. ( )

c. Artesian wells equipped with pumps may need venting or an air valve as determined by the Department. ( )

06. Casings and Sanitary Well Caps. The following requirements apply to well casings and sanitary caps: ( )

a. Casings shall extend at least eighteen (18) inches above the final ground surface. If the well is located within a pump house, casings shall extend least twelve (12) inches above the pump house floor. For a well located in an area subject to flooding, the Department may require an extension of the casing above the one hundred (100) year or highest known flood level, whichever is higher. ( )

b. Wells shall be cased and provided with an approved cap in such a manner that surface water cannot enter the well. ( )

c. For community water systems, a permanent means for measuring water level within the casing must be provided. For other water systems, a temporary means to measure water levels should be made available. All equipment required for conducting water level measurements shall be purchased and made available to the water system operator at the time the well is put into service. Where pneumatic or electronic water level measuring equipment is used, it shall be made using corrosion resistant materials attached firmly to the drop pipe or pump column and in such a manner as to prevent entrance of foreign materials. ( )

07. Well Houses. For regulatory purposes, a well house is considered a pump house as defined in Section 003. Well houses must meet the requirements for pump houses as set forth in Section 541. All above ground discharge piping shall be contained in a well house or otherwise protected from freezing. ( )

08. Pitless Adapters and Units. Pitless adapters or pitless units: ( )

a. Shall be of the type marked approved by the National Sanitation Foundation or Pitless Adapter Division of the Water Systems Council. ( )

b. Shall be designed, constructed and installed to be watertight including the cap, cover, casing extension and other attachments. ( )

c. Shall be field tested for leaks before being put into service. The procedure outlined in "Manual of Individual and Non-Public Water Supply Systems," referenced in Subsection 002.02, or other procedure approved by the Department shall be followed. ( )

d. Pitless adapters with a two (2) inch or smaller discharge line shall be provided with a swing joint outside the pitless adapter unit to reduce strain, deformation, and possible leakage of the pitless seal caused by settling soils in the trench. The orientation of swing joints shall be such that any settling that occurs will tighten the threads. The hole in the casing shall be cut with a saw rather than a torch with an opening large enough to allow seating of gaskets. ( )

e. Shall be provided with a contamination-proof entrance connection for electrical cable. ( )

f. In the case of pitless adapters: ( )

i. Threaded adapters shall be installed by drilling a hole not more than one quarter (1/4) inch larger than the outer diameter of the pitless shank. No torch-cut holes shall be accepted. The orientation of swing joints shall be such that any settling that occurs will tighten the threads. ( )

ii. The only field welding permitted will be that needed to connect a pitless adapter to the casing. ( )

g. In the case of pitless units: ( )

i. Shall be shop-fabricated from the point of connection with the well casing to the unit cap or cover. ( )

ii. Shall be constructed of materials and weight at least equivalent to and compatible with the well casing. ( )

iii. Shall be threaded or welded to the well casing. Threaded units shall be installed by drilling a hole not more than one quarter (¼) inch larger than the outer diameter of the pitless shank. No torch-cut holes shall be accepted. If the connection to the casing is by field weld, the shop-assembled unit must be designed specifically for field welding to the casing. ( )

iv. Shall terminate at least eighteen (18) inches above final ground elevation or three (3) feet above the

100-year flood level or the highest known flood elevation, whichever is higher, or as otherwise approved by the Department. ( )

v. Shall be provided with access to disinfect the well. ( )

vi. Shall have field connection to the lateral discharge from the pitless unit of threaded, flanged, or mechanical joint connection. ( )

h. After installation of a pitless adapter or unit, the disturbed well seal shall be repaired or replaced to meet original seal specifications unless otherwise proposed by the design engineer and approved by the Department. The engineering proposal shall ensure that the material surrounding the final seal is moisture controlled and compacted such that it equals or exceeds the characteristics of the native soil prior to being disturbed. ( )

09. Wells Not Allowed in Pits. Wells shall not be located in pits. Exceptions to this requirement will be granted by the Department if the well was constructed prior to November 5, 1964, and the installation is constructed or reconstructed in accordance with the requirements of the Department to provide watertight construction of pit walls and floors, floor drains and acceptable pit covers. ( )

10. Discharge Pumps. Discharge pumps shall be subject to the following requirements: ( )

a. Line shaft pumps shall. ( )

i. Have the casing firmly connected to the pump structure or have the casing inserted into a recess extending at least one-half (1/2) inch into the pump base. ( )

ii. Have the pump foundation and base designed to prevent water from coming into contact with the joint. ( )

iii. Use lubricants that meet ANSI/NSF Standard 61. ( )

b. When a submersible pump is used: ( )

i. The top of the casing shall be effectively sealed against the entrance of water under all conditions of vibration or movement of conductors or cables. ( )

ii. The electrical cable shall be firmly attached to the drop pipe at twenty-one (21) foot intervals or less, or at each coupling or joint. ( )

512. FACILITY AND DESIGN STANDARDS: WELL LOT.

A well lot shall be provided for wells constructed after November 1, 1977. The well lot shall be owned in fee simple by the supplier of water or controlled by lease or easement with a term of not less than the useful life of the well and be large enough to provide a minimum distance of fifty (50) feet between the well and the nearest property line. ( )

01. Use of Chemicals on the Well Lot. No pesticides, herbicides, or fertilizers shall be applied to a well lot without prior approval from the Department. ( )

02. Storage of Hazardous Materials on the Well Lot. No pesticides, herbicides, fertilizers, portable containers of petroleum products, or other materials known to be toxic or hazardous shall be stored on a well lot, except that: ( )

a. An internal combustion engine to drive either a generator for emergency standby power or a pump to provide fire flows, and an associated fuel tank, may be placed on the well lot. ( )

b. A propane or natural gas powered generator is preferable to reduce risk of fuel spillage. ( )

c. If a diesel or gasoline-fueled engine is used, the fuel tank and connecting piping must be approved

by the Underwriter's Laboratory, Inc., double-walled, meet the requirements of the local fire jurisdiction, and include both spill prevention and overfill protection features. The tank must be above ground and may be contained within the structural base of the generator unit. A licensed water system operator shall be present during filling of the tank following a period of usage, or during periodic extraction and replacement of outdated fuel. ( )

d. Should the internal combustion engine be located within the pump house, the floor of the pump house shall be constructed so as to contain all petroleum drips and spills so that they will not be able to reach the floor drain(s). Engine exhaust shall be directly discharged outside the pump house. ( )

e. A spill containment structure shall surround all fuel tanks and be sized to contain at least one hundred ten percent (110%) of the fuel tank volume. The Department may require additional containment capacity in settings where accumulation of snow, ice, or rain water could be expected to diminish the usable capacity of the structure. ( )

03. Location of Hydrants. Hydrants of the frost free type shall be placed in the buried piping system at a minimum of five (5) feet away from the well casing to prevent drain water from accumulating and compromising the grout seal surrounding the well casing. ( )

04. Parking Lots and Vehicle Storage. No public parking or vehicle storage shall be allowed on the well lot, except that operation/maintenance vehicles may be temporary parked on the well lot during the normal course of business. ( )

513. FACILITY AND DESIGN STANDARDS: NUMBER OF GROUND WATER SOURCES REQUIRED – EXISTING SYSTEMS.

Existing community water systems served by ground water and intending to serve more than twenty-five (25) connections or equivalent dwelling units are subject to the following requirements for the number of ground water sources required. ( )

01. Existing System with All Sources Constructed Prior to July 1, 1985. A community water system served by ground water and with all existing sources constructed prior to July 1, 1985 will be required to comply with Subsection 501.17 upon substantially modifying the system after July 2002. ( )

02. Existing System with Any Sources Constructed After July 1, 1985. A community water system served by ground water with any sources constructed after July 1, 1985 is required to comply with Subsection 501.17 when a modification is made to the system which increases the population served or number of service connections, increases the length of transmission and distribution water mains, or increases the peak or average water demand. ( )

514. FACILITY AND DESIGN STANDARDS: SPRING SOURCES.

Written approval by the Department is required before water from any new or reconstructed spring source may be served to the public. For new spring sources, the Department shall require a site evaluation report containing applicable required information listed in Subsection 510.01. This information includes, but is not limited to, the following: an evaluation of the potability and quality of anticipated spring water; an estimate of hydrologic and geologic properties of the aquifer; and a description of potential sources of contamination within five hundred (500) feet of the spring. Any supplier of water for a public water system served by one (1) or more springs shall ensure that the following requirements are met: ( )

01. Protection of the Spring. Springs shall be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust. ( )

02. Spring Box or Combined Spring Box/Finished Water Storage Design. To facilitate efficient design and review of spring box or combined spring box/finished water storage designs, these site-specific designs should be coordinated in advance with the Department. Specific issues to be addressed are: ( )

a. The inlet shall be screened as determined by the Department and located above the floor of the collection chamber. ( )

b. Unless otherwise approved by the Department based on documentation provided by the design engineer, the spring box or combined spring box/finished water storage tank shall meet the applicable design requirements of Section 544 - Facility and Design Standards: General Design of Finished Water Storage. ( )

03. Sample Tap Required. A sample tap suitable for collecting bacteriological samples shall be provided. This sample tap shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing or petcock type, and shall not have a screen, aerator, or other such appurtenance. The sample tap for collecting bacteriological samples may be used for other sampling purposes. In addition, threaded hose bib taps may also be used for collecting samples, other than bacteriological samples, if equipped with an appropriate backflow prevention device as may be necessary to protect the public water system from contamination. ( )

04. Flow Measurement. A flow meter or other flow measuring device shall be provided. ( )

05. Protected Area. The entire area within a one hundred (100) foot radius of the spring box shall be owned by the supplier of water or controlled by a long term lease, fenced to prevent trespass of livestock and void of buildings, dwellings and sources of contamination. Surface water shall be diverted from this area. ( )

515. FACILITY AND DESIGN STANDARDS: SURFACE SOURCES AND GROUND WATER SOURCES UNDER THE DIRECT INFLUENCE OF SURFACE WATER.
Written approval by the Department is required before water from any new surface source or ground water source that is under the direct influence of surface water may be served to the public. Infiltration collection lines or galleries are considered ground water under the direct influence of surface water unless demonstrated otherwise. Infiltration galleries that are not directly influenced by surface water shall meet the requirements of Section 514. The area around infiltration lines shall be under the control of the water purveyor for a distance acceptable to the Department. ( )

01. Intake Structures. Design of intake structures shall provide for: ( )

a. Withdrawal of water from more than one (1) level if quality varies with depth. ( )

b. Separate facilities for release of less desirable water held in storage. ( )

c. Where frazil ice may be a problem, holding the velocity of flow into the intake structure to a minimum, generally not to exceed point five (0.5) feet per second. Frazil ice is made up of randomly distributed ice crystals that are formed in flowing water that has cooled below thirty-two (32) degrees Fahrenheit and is prevented from forming into ice sheets by the movement of the water. ( )

d. Inspection manholes every one thousand (1000) feet for pipe sizes large enough to permit visual inspection. ( )

e. Cleaning the intake line as needed. ( )

f. Adequate protection against rupture by dragging anchors, ice, or other hazards. ( )

g. Ports located above the bottom of the stream, lake or impoundment, but at sufficient depth to be kept submerged at low water levels. ( )

h. Where shore wells are not provided, a diversion device capable of keeping large quantities of fish or debris from entering an intake structure. ( )

i. If necessary, provisions shall be made in the intake structure to control the influx of nuisance aquatic organisms. Specific control methods must be approved by the reviewing authority. ( )

j. When buried surface water collectors are used, sufficient intake opening area must be provided to minimize inlet headloss. Particular attention shall be given to the selection of backfill material in relation to the collector pipe slot size and gradation of the native material over the collector system. ( )

02. Raw Water Pumps. Raw water pumping wells shall: ( )

a. Have motors and electrical controls located above grade (except for submersible pumps), and protected from flooding as required by the reviewing authority. ( )

b. Be accessible and designed to prevent flotation. ( )

c. Be equipped with removable or traveling screens before the pump suction well. ( )

d. Provide for introduction of chlorine or other chemicals in the raw water transmission main if necessary for quality control. ( )

e. Where practical, have intake valves and provisions for back flushing or cleaning by a mechanical device and testing for leaks. ( )

f. Have provisions for withstanding surges where necessary. ( )

03. Offstream Raw Water Storage. An off-stream raw water storage reservoir is a facility into which water is pumped during periods of good quality and high stream flow for future release to treatment facilities. These off-stream raw water storage reservoirs shall be constructed to assure that: ( )

a. Water quality is protected by controlling runoff into the reservoir. ( )

b. Dikes are structurally sound and protected against wave action and erosion. ( )

c. Intake structures and devices meet requirements of Subsection 515.01. ( )

d. Point of influent flow is separated from the point of withdrawal. ( )

e. Separate pipes are provided for influent to and effluent from the reservoir. ( )

04. Reservoirs. Impoundments and reservoirs shall provide, where applicable: ( )

a. Removal of brush and trees to high water elevation. ( )

b. Protection from floods during construction. ( )

c. Abandonment of all wells which will be inundated, in accordance with requirements of the Idaho Department of Water Resources. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02. ( )

516. -- 517. (RESERVED)

518. FACILITY AND DESIGN STANDARDS: ADDITIONAL DESIGN CRITERIA FOR SURFACE WATER TREATMENT.

Performance criteria for surface water treatment facilities are specified in National Primary Drinking Water Regulations, as set forth in Sections 300, 301, and 310 of these rules. Surface water treatment systems must comply with applicable general design requirements in Section 503. In addition, the following design requirements apply specifically to surface water treatment facilities: ( )

01. Engineering Design Requirements. The system shall ensure that filtration and disinfection facilities for surface water or ground water directly influenced by surface water sources are designed, constructed and operated in accordance with all applicable engineering practices designated by the Department. The design of the water treatment plant must consider the worst raw water quality conditions that are likely to occur during the life of the facility. ( )

02. Removal of Pathogens. Filtration facilities (excluding disinfection) shall be designed, constructed

and operated to achieve at least two (2) log removal of Giardia lamblia cysts, two (2) log removal of Cryptosporidium oocysts, and one (1) log removal of viruses, except as allowed under Subsection 518.09.b. ( )

03. **Disinfection**. Disinfection facilities shall be designed, constructed and operated so as to achieve at least point five zero (0.50) log inactivation of Giardia lamblia cysts; and ( )

a. Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or ( )

b. Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or ( )

c. Four (4) log inactivation of viruses if using alternate filtration technology. ( )

d. Four (4) log inactivation of viruses if filtration treatment is not used. ( )

04. **Enhanced Disinfection**. Higher levels of disinfection than specified under Subsection 518.03 may be required by the Department in order to provide adequate protection against Giardia lamblia and viruses. ( )

05. **Filter to Waste**. For plants constructed after December 31, 1992, each filter unit must be capable of filter to waste. For plants constructed prior to December 31, 1992, each filter unit must be capable of filter to waste unless the system demonstrates through continuous turbidity monitoring or other means acceptable to the Department that water quality is not adversely affected following filter backwashing, cleaning or media replacement. ( )

06. **Continuous Turbidity Monitoring**. For conventional, direct, membrane, and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter unit. ( )

07. **Continuous Monitoring of Disinfectant**. Equipment must be provided and operated for continuous measurement of disinfectant residual prior to entry to the distribution system, unless the system serves fewer than three thousand three hundred (3,300) people. ( )

08. **Continuous Operation Required**. Diatomaceous earth filtration facilities shall include an alternate power source with automatic startup and alarm, or be designed in a manner to ensure continuous operation. ( )

09. **Acceptable Technology**. The purveyor shall select a filtration technology acceptable to the Department. ( )

a. Conventional, direct, membrane, slow sand, diatomaceous earth, and membrane filtration technologies are generally acceptable to the Department on a case-by-case basis. ( )

b. Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: ( )

i. That the filtration technology: ( )

(1) Is certified and listed by the National Sanitation Foundation (NSF) under Standard 53, Drinking Water Treatment Units - Health Effects, as achieving the NSF criteria for cyst reduction; or ( )

(2) Removes at least ninety-nine percent (99%) (two (2) logs) of Cryptosporidium oocysts or surrogate particles and removes or inactivates at least ninety-nine percent (99%) (two (2) logs) of Giardia lamblia cysts or Giardia lamblia cyst surrogate particles in a challenge study acceptable to the Department. ( )

ii. Based on field studies or other means acceptable to the Department, it must be demonstrated that the filtration technology has the following capabilities: ( )

(1) In combination with disinfection treatment, consistently achieves at least ninety-nine percent (99%) (two (2) logs) removal of Cryptosporidium oocysts or surrogate particles and at least ninety-nine and nine tenths

percent (99.9%) (three (3) logs) removal or inactivation of Giardia lamblia cysts and ninety-nine and ninety-nine hundredths percent (99.99%) (four (4) logs) removal or inactivation of viruses; and ( )

(2) Meets the turbidity performance requirements of 40 CFR 141.73 (b). ( )

10. Pilot Studies. The system shall conduct pilot studies in accordance with the following requirements and in accordance with Subsection 501.19 for all proposed filtration facilities and structural modifications to existing filtration facilities, unless the Department modifies the requirements in writing: ( )

a. The system shall obtain the Department's approval of the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken. ( )

b. The design and operation of the pilot study shall be overseen by an Idaho licensed professional engineer. ( )

c. The system's pilot study plan shall identify at a minimum: ( )

i. The objectives of the pilot study; ( )

ii. Pilot filter design; ( )

iii. Water quality and operational parameters to monitor; ( )

iv. Amount of data to collect; and ( )

v. Qualifications of the pilot plant operator. ( )

d. The system shall ensure that the pilot study is: ( )

i. Conducted to simulate conditions of the proposed full-scale design; ( )

ii. Conducted for at least twelve (12) consecutive months or for a shorter period upon approval by the Department; ( )

iii. Conducted to evaluate the reliability of the treatment system to achieve applicable water quality treatment criteria specified for filtration systems in 40 CFR 141.72 and 40 CFR 141.73; and ( )

iv. Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. ( )

11. Redundant Disinfection. Surface water systems constructed after July 1, 1985, are required to install redundant disinfection components or maintain a backup unit on site as required to maintain constant application of disinfectant whenever water is being delivered to the distribution system. ( )

519. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT; DESIGN STANDARDS FOR MICROSCREENING.

A microscreen may be used to reduce nuisance organisms and organic loadings. It shall not be used in place of filtration or coagulation in the preparation of water for filtration. ( )

01. Design Considerations. The following shall be taken into account during design: ( )

a. The nature of the suspended matter to be removed. ( )

b. The corrosiveness of the water. ( )

c. The effect of chlorination, when required as pre-treatment. ( )

d. The duplication of units for continuous operation during equipment maintenance. ( )

e. Automated backflushing operation when used in conjunction with microfiltration treatment. ( )

02. Design Requirements. Design shall provide the following: ( )

a. A durable, corrosion-resistant screen. ( )

b. A by-pass arrangement. ( )

c. Protection against back-siphonage when potable water is used for washing. ( )

d. Proper disposal of water used to wash the microscreen. ( )

520. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: CLARIFICATION PROCESSES.
Treatment facilities designed to include clarification for processing surface water shall meet the following requirements: ( )

01. Two Units Required. A minimum of two (2) units for redundancy shall be provided for flocculation and sedimentation such that plant design capacity can be maintained with any component out of service for maintenance or repairs. ( )

02. Parallel or Serial Operation. The units shall be capable of being operated either in series or parallel where softening is performed. ( )

03. Independent Units. The units shall be constructed in such a way that each can be taken out of service without disrupting operation, and with drains or pumps sized to allow dewatering in a reasonable period of time. ( )

04. Manual Start-Up. The units shall be started manually following shutdown. ( )

05. Pre-Treatment. Waters exhibiting high turbidity may require pretreatment, usually sedimentation with or without the addition of coagulation chemicals. When presedimentation is provided, the following requirements must be met: ( )

a. Incoming water shall be dispersed across the full width of the line of travel as quickly as possible. Short circuiting must be prevented. ( )

b. Provisions for bypassing pre-sedimentation basins shall be included. ( )

c. The need for redundant pretreatment components shall be evaluated according to the type and necessity of the pretreatment. ( )

06. Rapid Mix. Unless otherwise approved by the Department based on documentation provided by the design engineer, a rapid mix device or chamber is required prior to flocculation, clarification, sedimentation, and settler units. The need for redundant rapid mix components shall be evaluated. Rapid mix shall mean the rapid dispersion of chemicals throughout the water to be treated, usually by violent agitation. The engineer shall submit the design basis for the velocity gradient (G value) selected, considering the chemicals to be added and water temperature, color and other related water quality parameters. Basins or mixing chambers shall be equipped with devices capable of providing adequate mixing for all treatment flow rates. ( )

07. Flocculation. Flocculation shall mean the gathering together of fine particles in water by gentle mixing after the addition of coagulant chemicals to form larger particles. ( )

a. Basin inlet and outlet design shall minimize short-circuiting and destruction of floc. A drain,

pumps, or a combination of both drain and pumps shall be provided to accomplish dewatering and sludge removal. ( )

b. The flow-through velocity shall not be less than one-half (0.5) nor greater than one and one-half (1.5) feet per minute with a detention time for floc formation of at least thirty (30) minutes unless otherwise approved by the Department. ( )

c. Agitators shall be driven by variable speed drives. ( )

d. Flocculation and sedimentation basins shall be as close together as possible. The velocity of flocculated water through pipes or conduits to settling basins shall be not less than one-half (0.5) nor greater than one and one-half (1.5) feet per second. Allowances must be made to minimize turbulence at bends and changes in direction. ( )

08. Small Systems May Use Baffling. Baffling may be used to provide for flocculation in small plants upon approval by the Department. ( )

09. Sedimentation Units. The following criteria apply to conventional sedimentation units: ( )

a. A minimum of two (2) hours of settling time shall be provided following flocculation unless adequate settling in less time can be demonstrated. ( )

b. Inlets shall be designed to distribute the water equally and at uniform velocities. ( )

c. Outlet weirs or submerged orifices shall maintain velocities suitable for settling in the basin and minimize short-circuiting. Outlet weirs shall be designed so that the rate of flow over the outlet weirs or through the submerged orifices shall not exceed twenty-thousand (20,000) gallons per day per foot of the outlet launder. The entrance velocity through the submerged orifices shall not exceed one-half (0.5) feet per second. ( )

d. The velocity through settling basins shall not exceed one-half (0.5) feet per minute. The basins must be designed to minimize short-circuiting. Fixed or adjustable baffles must be provided as necessary to achieve the maximum potential for clarification. ( )

e. When an overflow weir or pipe is provided the overflow shall discharge by gravity with a free fall at a location where the discharge will be noted. ( )

f. Adequate sludge collection equipment that ensures proper basin coverage shall be provided and basins must be provided with a means for dewatering. ( )

g. Flushing lines or hydrants shall be provided and must be equipped with backflow prevention devices acceptable to the Department. ( )

h. Sludge removal design shall provide that sludge pipes are not less than three (3) inches in diameter and arranged so as to facilitate cleaning. Entrance to sludge withdrawal piping shall be designed to prevent clogging. Provision shall be made for the operator to observe and sample sludge being withdrawn from the unit. ( )

i. Sludge shall be disposed of in accordance with applicable regulations, as set forth in Section 540. ( )

10. Solids Contact Clarifiers. Solids contact clarifiers are generally acceptable for combined softening and clarification where water characteristics, especially temperature, do not fluctuate rapidly, flow rates are uniform and operation is continuous. A minimum of two (2) units are required for surface water treatment as required in Subsection 520.01. ( )

a. Chemicals shall be applied at such points and by such means as to ensure satisfactory mixing of the chemicals with the water. ( )

b. Unless otherwise approved by the Department based on documentation provided by the design engineer, a rapid mix device or chamber ahead of the solids contact clarifier is required to assure proper mixing of the chemicals applied. Mixing devices employed shall be constructed so as to provide good mixing of the raw water with previously formed sludge particles and prevent deposition of solids in the mixing zone. ( )

c. Flocculation equipment shall be adjustable as to speed, pitch, or a combination of speed and pitch and must provide for coagulation in a separate chamber or baffled zone within the unit. ( )

d. Sludge removal design shall provide that sludge pipes are not less than three (3) inches in diameter and arranged so as to facilitate cleaning. Entrance to sludge withdrawal piping shall be designed to prevent clogging. Provision shall be made for the operator to observe and sample sludge being withdrawn from the unit. ( )

e. Blow-off outlets and drains must terminate and discharge at places acceptable to the Department in regard to control of potential cross connections. Cross connection control must be included for the potable water lines used to backflush sludge lines. ( )

f. The detention time shall be established on the basis of the raw water characteristics and other local conditions that affect the operation of the unit. The Department may request data to support decisions made with respect to detention times. The Department may alter detention time requirements. ( )

g. Controls for sludge withdrawal which minimize water losses shall be provided. ( )

h. Unless otherwise approved by the Department based on documentation provided by the design engineer, weirs shall be adjustable and at least equivalent in length to the perimeter of the tank. Weir loading shall not exceed ten (10) gallons per minute per foot of weir length for units used as clarifiers or twenty (20) gallons per minute per foot of weir length for units used for softening. Where orifices are used, the loading rates per foot of launder rates shall be equivalent to weir loadings. Either shall produce uniform rising rates over the entire area of the tank. ( )

i. Upflow rates shall not exceed one (1) gallon per minute per square foot of area at the sludge separation line for units used as clarifiers or one and three-quarters (1.75) gallons per minute per foot of area at the slurry separation line for units used as softeners. The Department may consider higher rates if supporting data is provided. ( )

11. Settler Units. Settler units consisting of variously shaped tubes or plates installed in multiple layers and at an angle to the flow may be used for sedimentation following flocculation. ( )

a. Inlets and outlets shall be designed to maintain velocities suitable for settling in the basin and to minimize short-circuiting. Plate units shall be designed to minimize unequal distribution across the units. ( )

b. Drain piping from the settler units must be sized to facilitate a quick flush of the settler units and to prevent flooding other portions of the plant. ( )

c. Although most units will be located within a plant, outdoor installations must provide sufficient freeboard above the top of settlers to prevent freezing in the units. ( )

d. Water shall be applied to tube settlers at a maximum rate of two (2) gallons per minute per square foot of cross-sectional area for tube settlers, unless higher rates are justified through pilot plant or in-plant demonstration studies. See Subsection 501.19 for general information on conducting pilot studies. ( )

e. Water shall be applied to plate settlers at a maximum plate loading rate of one-half (0.5) gallons per minute per square foot, based on eighty (80) percent of the projected horizontal plate area. ( )

f. Flushing lines shall be provided to facilitate maintenance and must be properly protected against backflow or back siphonage. ( )

12. High Rate Clarification. High rate clarification processes may be approved upon demonstrating

satisfactory performance under on-site pilot plant conditions or documentation of full scale plant operation with similar raw water quality conditions. Reductions in detention times and/or increases in weir loading rates shall be justified. See Subsection 501.19 for general information on conducting pilot studies. Examples of such processes include dissolved air flotation, ballasted flocculation, contact flocculation/clarification, and helical upflow. ( )

521. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: FILTRATION USING RAPID RATE GRAVITY FILTERS.

01. Pretreatment. The use of rapid rate gravity filters shall require pretreatment in the form of coagulation, flocculation, and sedimentation. ( )

02. Rate of Filtration. The filter rate must be proposed and justified by the design engineer to the satisfaction of the Department prior to the preparation of final plans and specifications. ( )

03. Number of Units. A minimum of two (2) units for redundancy shall be provided for filtration such that plant design capacity can be maintained with any component out of service for maintenance or repairs. Where declining rate filtration is provided, the variable aspect of filtration rates, and the number of filters must be considered when determining the design capacity for the filters. ( )

04. Structure and Hydraulics. The filter structure shall be designed to provide for: ( )

a. Vertical walls within the filter. There shall be no protrusion of the filter walls into the filter media. ( )

b. Cover by superstructure with sufficient headroom to permit normal inspection and operation. ( )

c. Minimum depth of filter box of eight and one-half (8.5) feet. ( )

d. Minimum water depth over the surface of the filter media of three (3) feet. ( )

e. Trapped effluent to prevent backflow of air to the bottom of the filters. ( )

f. Prevention of floor drainage to the filter with a minimum four (4) inch curb around the filters. ( )

g. Prevention of flooding by providing overflow. ( )

h. Maximum velocity of treated water entering the filters of two (2) feet per second. ( )

i. Cleanouts and straight alignment for influent pipes or conduits where solids loading is heavy, or following lime-soda softening. ( )

j. Washwater drain capacity to carry maximum flow. ( )

k. Walkways around filters to be not less than twenty-four (24) inches wide and equipped with safety handrails or walls. ( )

l. Construction so as to prevent cross connections and common walls between potable water and non-potable fluids. ( )

05. Washwater Troughs. Washwater troughs shall be constructed to have: ( )

a. The bottom elevation above the maximum level of expanded media during washing. ( )

b. A two (2) inch freeboard at the maximum rate of wash. ( )

c. The top edge level and all at the same elevation. ( )

d. Spacing so that each trough serves the same number of square feet of filter area. ( )

e. Maximum horizontal travel of suspended particles to reach the trough not to exceed three (3) feet. ( )

06. Filter Material. The media shall be clean silica sand or other natural or synthetic media free from detrimental chemical or bacterial contaminants, approved by the Department, and having the following characteristics: ( )

a. A total depth of not less than twenty-four (24) inches and generally not more than thirty (30) inches. ( )

b. An effective size range of the smallest material no greater than forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter. ( )

c. A uniformity coefficient of the smallest material not greater than one and sixty-five hundredths (1.65). ( )

d. A minimum of twelve (12) inches of media with an effective size range no greater than forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter and a specific gravity greater than other filtering materials within the filter. ( )

e. Types of filter media are as follows: ( )

i. Clean, crushed anthracite or a combination of anthracite and other media may be considered on the basis of experimental data specific to the project. The anthracite shall have the following characteristics: ( )

(1) Effective size of forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter with uniformity coefficient not greater than sixty-five hundredths (1.65) when used alone. ( )

(2) Effective size of eight tenths (0.8) of a millimeter to one and two-tenths (1.2) millimeters with a uniformity coefficient not greater than one and eighty-five hundredths (1.85) when used as a cap. ( )

(3) Effective size for anthracite used as a single media on potable ground water for iron and manganese removal only shall be a maximum of eight tenths (0.8) of a millimeter (effective sizes greater than this may be approved based upon onsite pilot plant studies or other demonstration acceptable to the Department). See Subsection 501.19 for general information on conducting pilot studies. ( )

ii. Sand media shall have the following characteristics: ( )

(1) Effective size of forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter. ( )

(2) Uniformity coefficient of not greater than one and sixty-five hundredths (1.65). ( )

(3) Larger size sand media may be allowed by the Department where full-scale tests have demonstrated that treatment goals can be met under all conditions. ( )

iii. Granular activated carbon (GAC) as a single media may be considered for filtration only after pilot or full-scale testing and with prior approval of the Department. See Subsection 501.19 for general information on conducting pilot studies. The design shall include the following: ( )

(1) The media must meet the basic specifications for filter media as given in Subsections 521.06.a. through d., except that larger size media may be allowed where full scale tests have demonstrated that treatment goals can be met under all conditions. ( )

(2) There must be a means for periodic treatment of filter material for control of bacterial and other growth. ( )

(3) Provisions must be made for frequent replacement or regeneration. ( )

iv. Other media will be considered based on experimental data and operating experience. ( )

v. A three (3) inch layer of torpedo sand shall be used as a supporting media for filter sand where supporting gravel is used, and shall have an effective size of eight-tenths (0.8) millimeters to two (2.0) millimeters, and a uniformity coefficient not greater than one and seven-tenths (1.7). ( )

vi. Gravel, when used as the supporting media, shall consist of cleaned and washed, hard, durable, rounded silica particles and shall not include flat or elongated particles. The coarsest gravel shall be two and one-half (2.5) inches in size when the gravel rests directly on a lateral system and must extend above the top of the perforated laterals. Not less than four (4) layers of gravel shall be provided in accordance with the size and depth distribution specified in the table below. Reduction of gravel depths and other size gradations may be considered upon justification to the reviewing authority for slow sand filtration or when proprietary filter bottoms are specified.

Size of Gravel	Depth
2 ½ to 1 ½ inches	5 to 8 inches
1 ½ to ¾ inches	3 to 5 inches
¾ to ½ inches	3 to 5 inches
½ to 3/16 inches	2 to 3 inches
3/16 to 3/32 inches	2 to 3 inches

( )

07. Filter Bottoms and Strainer Systems. Departure from the standards set out in Subsection 521.07 may be acceptable for high rate filters and for proprietary bottoms. Porous plate bottoms shall not be used where iron or manganese may clog them or with waters softened by lime. The design of manifold-type collection systems shall: ( )

a. Minimize loss of head in the manifold and laterals. ( )

b. Ensure even distribution of wash water and even rate of filtration over the entire area of the filter. ( )

c. Provide the ratio of the area of the final openings of the strainer systems to the area of the filter at about three-thousandths (0.003), ( )

d. Provide the total cross-sectional area of the laterals at about twice the total area of the final openings. ( )

e. Provide the cross-sectional area of the manifold at one and one-half (1.5) to two (2) times the total area of the laterals. ( )

f. Lateral perforations without strainers shall be directed downward. ( )

08. Surface or Subsurface Wash. Surface or subsurface wash facilities are required except for filters used exclusively for iron or manganese removal, and may be accomplished by a system of fixed nozzles or a revolving-type apparatus. All devices shall be designed with: ( )

a. Provision for water pressures of at least forty-five (45) pounds per square inch. ( )

b. A properly installed vacuum breaker or other approved device to prevent back siphonage if connected to the treated water system. ( )

c. Rate of flow of two (2.0) gallons per minute per square foot of filter area with fixed nozzles or one-half (0.5) gallon per minute per square foot with revolving arms. ( )

d. Air wash can be considered based on experimental data and operating experiences. ( )

09. Air Scouring. Air scouring can be considered in place of surface wash provided the following conditions are met: ( )

a. Air flow for air scouring the filter must be three (3) to five (5) standard cubic feet per minute square foot of filter area when the air is introduced in the underdrain; a lower air rate must be used when the air scour distribution system is placed above the underdrains. ( )

b. A method for avoiding excessive loss of the filter media during backwashing must be provided. ( )

c. Air scouring must be followed by a fluidization wash sufficient to restratify the media. ( )

d. Air must be free from contamination. ( )

e. Air scour distribution systems shall be placed below the media and supporting bed interface with the following exception: if placed at the interface the air scour nozzles shall be designed to prevent media from clogging the nozzles or entering the air distribution system. ( )

f. Piping for the air distribution system shall not be flexible hose which will collapse when not under air pressure and shall not be a relatively soft material which may erode at the orifice opening with the passage of air at high velocity. ( )

g. Air delivery piping shall not pass down through the filter media nor shall there be any arrangement in the filter design which would allow short circuiting between the applied unfiltered water and the filtered water. ( )

h. The backwash water delivery system must be capable of fifteen (15) gallons per minute per square foot of filter surface area (37 m/hr); however, when air scour is provided the backwash water rate must be variable and should not exceed eight (8) gallons per minute per square foot (20 m/hr) unless operating experience shows that a higher rate is necessary to remove scoured particles from filter media surfaces. ( )

i. The filter underdrains shall be designed to accommodate air scour piping when the piping is installed in the underdrain. ( )

10. Filter Appurtenances. The following shall be provided for every filter: ( )

a. Influent and effluent sampling taps. ( )

b. A gauge capable of indicating loss of head. ( )

c. A meter indicating rate-of flow. A modified rate controller which limits the rate of filtration to a maximum rate may be used. However, equipment that simply maintains a constant water level on the filters is not acceptable, unless the rate of flow onto the filter is properly controlled. A pump or a flow meter in each filter effluent line may be used as the limiting device for the rate of filtration only if approved by the Department on a site-specific basis. ( )

11. Backwash. Provisions shall be made for washing filters as follows: ( )

a. A minimum backwash rate such that a fifty (50) percent expansion of the filter bed is achieved. ( )

b. Filtered water provided at the required rate by wash water tanks, a wash water pump, from the high service main, or a combination of these. ( )

c. Wash water pumps in duplicate unless an alternate means of obtaining wash water is available. ( )

d. Not less than fifteen (15) minutes wash of one filter at the design rate of wash. ( )

e. A wash water regulator or valve on the main wash water line to obtain the desired rate of filter wash with the wash water valves on the individual filters open wide. ( )

f. A rate-of-flow indicator, preferably with a totalizer, on the main wash water line, located so that it can be easily read by the operator during the washing process. ( )

g. Design to prevent rapid changes in backwash water flow. Backwash shall be operator initiated. Automated systems shall be operator adjustable. ( )

12. Roof Drainage. Roof drains shall not discharge into the filters or basins and conduits preceding the filters. ( )

522. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: FILTRATION USING DIATOMACEOUS EARTH.

The use of these filters may be considered for application to surface waters with low turbidity and low bacterial contamination, and may be used for iron removal for ground waters providing the removal is effective and the water is of satisfactory sanitary quality before treatment. ( )

01. Conditions of Use. Diatomaceous earth filters are expressly excluded from consideration for the following conditions: ( )

a. Bacteria removal; ( )

b. Color removal; ( )

c. Turbidity removal where either the gross quantity of turbidity is high or the turbidity exhibits poor filterability characteristics; or ( )

d. Filtration of waters with high algae counts. ( )

02. Treated Water Storage. Treated water storage capacity in excess of normal requirements shall be provided to allow operation of the filters at a uniform rate during all conditions of system demand at or below the approved filtration rate, and guarantee continuity of service during adverse raw water conditions without by-passing the system. ( )

03. Number of Units. A minimum of two (2) units for redundancy shall be provided for filtration such that plant design capacity can be maintained with any component out of service for maintenance or repairs. ( )

04. Precoat. A uniform precoat shall be applied hydraulically to each septum by introducing a slurry to the tank influent line and employing a filter-to-waste recirculation system. ( )

05. Body Feed. A body feed system to apply additional amounts of diatomaceous earth slurry during the filter run is required to avoid short filter runs or excessive head losses. ( )

a. The rate of body feed is dependent on raw water quality and characteristics and must be determined in the pilot plant study. See Subsection 501.19 for general information on conducting pilot studies. ( )

b. Continuous mixing of the body feed slurry is required. ( )

06. Filtration Requirements. ( )

a. Rate of filtration shall be controlled by a positive means. ( )

b. Head loss shall not exceed thirty (30) psi for pressure diatomaceous earth filters, or a vacuum of fifteen (15) inches of mercury for a vacuum system. ( )

c. A recirculation or holding pump shall be employed to maintain differential pressure across the filter when the unit is not in operation in order to prevent the filter cake from dropping off the filter elements. A minimum recirculation rate of one-tenth (0.1) gallon per minute per square foot of filter area shall be provided. ( )

d. The septum or filter elements shall be structurally capable of withstanding maximum pressure and velocity variations during filtration and backwash cycles, and shall be spaced such that no less than one (1) inch is provided between elements or between any element and a wall. ( )

e. The filter influent shall be designed to prevent scour of the diatomaceous earth from the filter element. ( )

07. Backwash. A satisfactory method to thoroughly remove and dispose of spent filter cake shall be provided. ( )

08. Appurtenances. The following shall be provided for every filter: ( )

a. Sampling taps for raw and filtered water. ( )

b. Loss of head or differential pressure gauge. ( )

c. Rate-of-flow indicator. ( )

d. A throttling valve used to reduce rates below normal during adverse raw water conditions. ( )

e. Evaluation of the need for body feed, recirculation, and any other pumps. ( )

f. Provisions for filtering to waste with appropriate measures for backflow prevention. ( )

09. Monitoring. A continuous monitoring turbidimeter with recorder is required on each filter effluent for plants treating surface water. ( )

523. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: SLOW SAND FILTRATION.

The use of these filters shall require prior engineering studies to demonstrate the adequacy and suitability of this method of filtration for the specific water supply. Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, Manual on Slow Sand Filtration, and Slow Sand Filtration referenced in Subsection 002.02, may be used as guidance in design of slow sand filtration facilities. ( )

01. Quality of Raw Water. Slow rate gravity filtration shall be limited to waters having maximum turbidities of ten (10) nephelometric units and maximum color of fifteen (15) units; such turbidity must not be attributable to colloidal clay. Raw water quality data must include examinations for algae. For source water having variable turbidity, the potential use of a roughing filter or other pretreatment technology should be evaluated. The Department may allow the use of a pretreatment technology on raw waters that exceed the normal limits for turbidity and color, if it can demonstrated to the Department's satisfaction that pretreatment will enable slow sand filtration to properly operate and comply with these Rules. ( )

02. Number of Units. A minimum of two (2) units for redundancy shall be provided for filtration such that plant design capacity can be maintained with any component out of service for maintenance or repairs. The

Department may allow a single bed filter if it can be demonstrated to the Department's satisfaction that an alternative water source is available such that the water system can provide plant design capacity with the filter taken out of service for maintenance and repairs. ( )

03. Structural Details and Hydraulics. Slow rate gravity filters shall be so designed as to provide a cover, unless otherwise approved by the Department based on documentation provided by the design engineer, headroom to permit normal movement by operating personnel for scraping and sand removal operations, adequate access hatches and access ports for handling of sand and for ventilation, filtration to waste, an overflow at the maximum filter water level, and protection from freezing. A permanent means of determining sand depth shall be provided. ( )

04. Underdrains. Each filter unit shall be equipped with a main drain and an adequate number of lateral underdrains to collect the filtered water. The underdrains shall be so spaced that the maximum velocity of the water flow in the underdrain will not exceed three-fourths (0.75) feet per second. The maximum spacing of laterals shall not exceed three (3) feet if pipe laterals are used. ( )

05. Filter Material. The following requirements apply: ( )

a. A minimum depth of thirty (30) inches of filter sand shall be placed on graded gravel layers. ( )

b. The effective size shall be between fifteen hundredths (0.15) of a millimeter and thirty-five hundredths (0.35) of a millimeter. Larger sizes may be considered by the Department based on the results of a pilot study. See Subsection 501.19 for general information on conducting pilot studies. ( )

c. The uniformity coefficient shall not exceed three point zero (3.0). ( )

d. The sand shall be cleaned and washed free from foreign matter. ( )

e. The sand shall be rebedded to the original minimum depth of thirty (30) inches when scraping has reduced the bed depth to no less than twenty-four (24) inches. Where sand is to be reused in order to provide biological seeding and shortening of the ripening process, rebedding shall utilize a "throw over" technique whereby new sand is placed on the support gravel and existing sand is replaced on top of the new sand. The maximum filtration rate shall not exceed zero point one (0.1) gallon per minute per square foot for each individual bed. ( )

06. Filter Sand Support. ( )

a. A three (3)-inch layer of sand shall be used as a supporting media for filter sand. The supporting sand shall have an effective size of zero point eight (0.8) millimeters to two point zero (2.0) millimeters and a uniformity coefficient not greater than one point seven (1.7). ( )

b. Gravel shall consist of cleaned and washed, hard, durable, rounded rock particles and shall not include flat or elongated particles. The coarsest gravel shall be two and one-half (2.5) inches in size when the gravel rests directly on a lateral system and must extend above the top of the perforated laterals. Not less than four (4) layers of gravel shall be provided in accordance with the size and depth distribution specified in the table below. Reduction of gravel depths and other size gradations may be considered upon justification to the Department.

Size of Gravel	Depth
2 1/2 to 1 1/2 inches	5 to 8 inches
1 1/2 to 3/4 inches	3 to 5 inches
3/4 to 1/2 inches	3 to 5 inches
1/2 to 3/16 inches	2 to 3 inches
3/16 to 3/32 inches	2 to 3 inches

( )

07. Depth of Water Over Filter Beds. The design shall provide a depth of at least three (3) to six (6) feet of water over the sand. Influent water shall not scour the sand surface. ( )

08. Control Appurtenances. Each filter shall be equipped with a loss of head gauge, an orifice, Venturi meter, or other suitable means of discharge measurement installed on each filter to control the rate of filtration, and an effluent pipe designed to maintain the water level above the top of the filter sand. The effluent piping must not be directly interconnected with the other filter beds. A sample tap shall be provided for each filter bed. ( )

09. Ripening. Slow sand filters must be filtered-to-waste until they are biologically mature before being put into service following construction, scraping, re-sanding, or reopening after extended shutdown. The period of filter-to-waste shall be as follows: ( )

a. Filters shall be filtered-to-waste after scraping or cleaning until the effluent turbidity falls consistently below the pre-cleaning level, unless otherwise approved by the Department based on documentation provided by the design engineer. ( )

b. Filters shall be filtered-to-waste following construction, re-sanding, or extended shutdown based on project specific protocols that have been approved by the Department and then incorporated into a Department approved operation and maintenance manual. These protocols may be based on factors from standard literature such as those listed in Subsection 002.02 but typically include factors such as minimum filter-to-waste time periods, bacteriological testing, and effluent turbidity. Sampling results from the filter-to-waste period shall be provided to the Department for review and the Department must provide authorization prior to restarting service to the public. ( )

10. Supernatant Drain Required. Filter beds shall be equipped with a supernatant drain to allow for quick removal of water standing over sand that has become impermeable because it requires scraping or rebedding. ( )

11. Filter Bed Control and Minimum Rate of Flow. Each filter bed shall be controlled separately and filters must be operated at a constant filtration rate with any changes made gradually. The minimum rate of filtration shall be at least two hundredths (0.02) gallons per minute per square foot. ( )

524. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: DIRECT FILTRATION.

Direct filtration, as used herein, refers to the filtration of a surface water following chemical coagulation and possibly flocculation but without prior settling. The nature of the treatment process will depend upon the raw water quality. A full scale direct filtration plant shall not be constructed without prior pilot studies which are acceptable to the reviewing authority. In-plant demonstration studies are required where conventional treatment plants are converted to direct filtration. Where direct filtration is proposed, an engineering report shall be submitted prior to conducting pilot plant or in-plant demonstration studies. See Subsection 501.19 for general information on conducting pilot studies. ( )

01. Filtration Requirements. ( )

a. Filters shall be rapid rate gravity filters with dual or mixed media. The final filter design shall be based on the pilot plant or in-plant demonstration studies, and all portions of Section 518 apply. Pressure filters or single media sand filters shall not be used. ( )

b. A continuous recording turbidimeter shall be installed on each filter effluent line and on the composite filter effluent line. ( )

c. Additional continuous monitoring equipment such as particle counting or streaming current metering to assist in control of coagulant dose may be required by the reviewing authority. ( )

02. Siting Requirements. The plant design and land ownership surrounding the plant shall allow for modifications of the plant. ( )

03. Redundancy. A minimum of two (2) units shall be provided for filtration such that plant capacity can be maintained with any component out of service for maintenance or repairs. ( )

525. FACILITY AND DESIGN STANDARDS: LOW PRESSURE MEMBRANE FILTRATION.
Low pressure filtration, as used herein, refers to microfiltration or ultrafiltration processes. Low pressure membrane systems can provide greater than 3-log removal of Giardia lamblia and Cryptosporidium, and ultrafiltration systems can also provide up to 2-log virus removal. The Department will determine maximum available removal credits for the specific membrane under consideration. The actual log removal credit that a low pressure membrane filtration system will receive is the lower of the values determined by the following: the removal efficiency demonstrated during challenge testing, or the maximum log removal that can be verified by direct integrity testing required during the course of normal operation. Membrane systems shall contain sufficient design to allow for offline direct integrity testing of all units or modules at the required interval while retaining the capability to supply maximum day demand to the water system. Membrane systems shall have at least two (2) units unless it can be demonstrated to the satisfaction of the Department that a secondary source or treatment component can supply the required minimum plant design capacity. ( )

01. Membrane Selection and Design Considerations. ( )

a. Challenge Testing. Challenge testing involves seeding feed water with an organism or particulate and measuring the log reduction of the organism or particulate between the feed and filtrate. It is a one-time product-specific test event performed by an approved third party designed to demonstrate the removal ability of the membrane. Challenge testing shall be conducted by the third party entity in general conformance with the USEPA Membrane Filtration Guidance Manual referenced in Subsection 002.02 (Membrane Filtration Guidance Manual). The challenge test report shall be submitted to the Department along with the preliminary engineering report for the project. The Department may accept another state's challenge test report approval. ( )

b. Water Quality Considerations for Design. A review of historical source water data shall be conducted to determine the degree of pretreatment needed if any, the feasibility of membrane filtration, and an estimated cost of the system. At a minimum, the following parameters shall be investigated: Seasonal temperature and turbidity profiles, total organic loading, occurrence of algae, microbial activity, iron, manganese, and hardness levels, and any other inorganic or physical parameters determined to be necessary by the Department. The data shall be used to determine anticipated fouling and scaling, backwash and cleaning cycles and regimens, acceptable trans-membrane pressure differentials, and design flux, especially during lowest anticipated water temperature. ( )

c. Pilot Study. A pilot study shall be conducted for a period that shall be determined by the design engineer and approved by the Department. The duration should include the season of lowest water temperatures and the season including the highest anticipated turbidity, algal bloom, TOC, and iron/manganese event or otherwise cover four seasons of source water quality conditions. The Department may approve a shorter duration proof pilot to verify design criteria that affect the reliable production capacity of the membrane system. The Department may approve the use of a full scale pilot study where the full scale facility will act as the pilot study. The Department may also waive the pilot study requirement. Proof pilot studies, full scale pilot studies, and the waiving of the pilot study requirement will only be approved in circumstances where source water conditions and fouling characteristics are already well understood. Such source waters include but are not limited to ground water under the influence of surface water, waters with existing membrane plants, waters where sufficient pilot test data has already been generated, and extensively used or tested membrane products where production or test data on similar waters is available (i.e., same lake, reservoir, or same reach for stream sources). In addition to the requirements in Subsection 501.19, the pilot study shall include: ( )

i. A means to identify the best membrane to use for the anticipated water quality; ( )

ii. Analysis of any need for pretreatment; ( )

iii. Range of anticipated flux rates; ( )

iv. Operating and transmembrane pressure; ( )

v. Fouling and scaling potential; ( )

vi. Backwash and recovery cleaning, cleaning processes, and intervals; ( )

vii. Efficiency and process mass balance; ( )

viii. Waste stream volume, characterization, and disposal method; ( )

ix. Turbidity; and ( )

x. Integrity testing results and procedures. ( )

02. Monitoring and Compliance Requirements for Membranes. Public drinking water systems that use low pressure membrane filtration must comply with the following requirements. ( )

a. Initial Start-Up. ( )

i. The Department shall be notified at least one (1) week in advance of the planned start-up date. ( )

ii. The design engineer shall oversee start-up procedures. ( )

iii. All monitoring equipment shall be calibrated prior to start-up. ( )

iv. The system shall pass direct integrity testing prior to going on-line and producing water for distribution. ( )

v. A method for the disposal of start-up water shall be approved by the Department prior to start-up. ( )

b. Direct Integrity Testing. ( )

i. Scale of Testing. Testing must be conducted on each membrane skid in service at least daily for the first year of operation. ( )

ii. Resolution. The test method used must have a resolution of three (3) µm or less for Cryptosporidium and Giardia lamblia removal credit. ( )

iii. Sensitivity. The test method used must have sensitivity sufficient to verify the ability of the membrane filtration system to remove the constituent at a level commensurate with the credit awarded by the Department. ( )

(1) Formulae for sensitivity calculation for pressure-based tests are available in the Membrane Filtration Guidance Manual referenced in Subsection 002.02. The volumetric concentration factor used in the calculation may be either calculated or determined experimentally. ( )

(2) Formulae for sensitivity calculation for marker-based tests are available in the Membrane Filtration Guidance Manual referenced in Subsection 002.02. ( )

iv. Control Limit. A control limit must be established within the sensitivity limits of the direct integrity test that is indicative of an integral membrane unit capable of achieving the log removal credit awarded by the Department. ( )

(1) If the direct integrity test results exceed the control limit for any membrane unit, that unit must be removed from service. ( )

(2) Any unit taken out of service for exceeding a direct integrity test control limit cannot be returned to service until repairs are confirmed by subsequent direct integrity test results that are within the control limit. ( )

v. Frequency. Direct integrity testing must be conducted on each membrane unit at a frequency of at least once per day that the unit is in operation. The Department may extend testing frequency up to a duration of once per week after one (1) year of daily testing showing a less than five percent (5%) testing failure rate for the previous year. During weekly testing, if at any time the system fails more than two (2) direct integrity tests within a three (3) month period, the system shall return to daily testing. ( )

c. Indirect Integrity Monitoring. ( )

i. Scale of Testing. Testing must be conducted on each membrane unit in service. ( )

ii. Monitoring Method. Continuous indirect integrity monitoring must be conducted using turbidity monitoring unless the Department approves an alternative method. ( )

iii. Frequency. Continuous indirect integrity monitoring must be conducted at a frequency of at least one (1) reading every fifteen (15) minutes. The Department may allow a time delay in reporting compliance turbidity measurements if it can be demonstrated that elevated turbidity readings above fifteen hundredths (0.15) NTU immediately following direct integrity testing or maintenance are the result of factors related to entrained air or membrane wettability and are not related to membrane integrity. ( )

iv. Control Limit. If the continuous indirect integrity monitoring results exceed the specified control limit for any membrane unit for a period greater than fifteen (15) minutes (i.e., two (2) consecutive readings at fifteen (15) minute intervals), direct integrity testing must be immediately conducted on that unit. ( )

(1) The control limit for turbidity monitoring is fifteen hundredths (0.15) NTU. ( )

(2) Control limits for Department approved alternative methods shall be established by the Department. ( )

d. Operations Plan. A project specific operation and maintenance manual shall be provided as required in Subsection 501.12. See definition of Operation and Maintenance Manual in Section 003 for the typical contents of an operation and maintenance manual and the included operations plan. The operations plan in the operation and maintenance manual for membrane systems shall include, but is not limited to the following information: ( )

i. Filtration: ( )

(1) Control of feed flow to the membrane system; ( )

(2) Measurement of inlet/outlet pressures and filtrate flows; ( )

(3) Measurement of transmembrane pressure changes during filter run; and ( )

(4) Feed flow control in response to temperature changes. ( )

ii. Membrane backwashing: ( )

(1) Programming automated frequency; ( )

(2) Proper backwash venting and disposal; see Section 540; ( )

(3) Appropriate backwash rate; and ( )

(4) Monitoring during return of filter to service. ( )

iii. Chemical cleaning: ( )

(1) Selection of proper chemical washing sequence; ( )

(2) Proper procedures for dilution of chemicals; ( )

(3) Monitoring of pH through chemical cleaning cycle; ( )

(4) Rinsing of membrane system following chemical clean; and ( )

(5) Return of filter to service. ( )

iv. Chemical feeders (in the case that chemical pretreatment is applied): ( )

(1) Calibration check; ( )

(2) Settings and adjustments (how they should be made); and ( )

(3) Dilution of chemicals and polymers (proper procedures). ( )

v. Monitoring and observing operation: ( )

(1) Observation of feed water or pretreated water turbidity; ( )

(2) Observation of trans-membrane pressure increase between backwashes; ( )

(3) Filtered water turbidity; ( )

(4) Procedures to follow if turbidity breakthrough occurs. ( )

vi. Troubleshooting. A troubleshooting checklist or guide shall be included. Suggested troubleshooting items include but are not limited to the following: ( )

(1) No raw water (feed water) flow to plant; ( )

(2) Can’t control rate of flow of water through equipment; ( )

(3) Valving configuration for direct flow and cross-flow operation modes; ( )

(4) Poor raw water quality (raw water quality falls outside the performance range of the equipment); ( )

(5) Poor filtrate quality; ( )

(6) Failed membrane integrity test; ( )

(7) Low pump feed pressure; ( )

(8) Automatic operation (if provided) not functioning; ( )

(9) Filtered water turbidity too high; ( )

(10) Head loss builds up excessively rapidly; ( )

(11) Reduced flux; ( )

(12) Machine will not start and "Power On" indicator off; ( )

(13) Machine will not start and "Power On" indicator on; ( )

(14) Pump cavitation; ( )

(15) Valve stuck or won't operate; and ( )

(16) No electric power. ( )

e. Reporting. The sensitivity, resolution, and frequency of the direct integrity test proposed for use with the full-scale facility must be reported to the Department prior to initial operation. The following shall be reported to the Department on a monthly basis: ( )

i. Any direct integrity test results exceeding the control limit, as well as the corrective action taken in response, must be reported to the Department within ten (10) days of the end of the monthly monitoring cycle on a Department reporting form. The form is available at www.deq.idaho.gov; ( )

ii. Any continuous indirect integrity monitoring results triggering direct integrity testing, as well as any corrective action taken in response, must be reported to the Department within ten (10) days of the end of the monthly monitoring cycle on a Department reporting form. The form is available at www.deq.idaho.gov; ( )

iii. Any additional information considered necessary by the Department on a case-specific basis to verify proper operation and maintenance of the membrane filtration process; and ( )

iv. All direct integrity test results and continuous indirect integrity monitoring results must be retained for a minimum of three (3) years. ( )

526. -- 528. (RESERVED)

529. FACILITY AND DESIGN STANDARDS: DISINFECTION OF DRINKING WATER, ULTRAVIOLET LIGHT.

01. General. ( )

a. Ultraviolet (UV) light technology is a primary disinfectant typically used for Cryptosporidium, Giardia lamblia, and virus inactivation of both surface water and ground water supplies. Reactor performance in terms of inactivation of any particular organism is a function of the delivered dose which is determined by validation testing. ( )

b. UV disinfection credit will be awarded for filtered systems and unfiltered systems if the system meets the requirements for unfiltered systems in 40 CFR 141.71. Systems will receive Cryptosporidium, Giardia lamblia, and virus treatment credits by achieving the corresponding UV dose values for the appropriate target pathogen and log reduction shown in Subsection 529.03, calculated to take into account the validation factor and reduction equivalent dose. The target pathogen and the target log inactivation shall be used to identify the corresponding required UV dose. ( )

c. For water systems using UV light to meet microbial treatment requirements, at least ninety-five percent (95%) of the water delivered to the public every month must be treated by UV reactors operating within validated conditions for the required UV dose. ( )

d. When reviewing proposed UV disinfection projects, the Department will use the USEPA UV Disinfection Guidance Manual for the Final Long Term 2 Enhanced Surface Water Treatment Rule referenced in Subsection 002.02 (UV Disinfection Guidance Manual) for guidance. ( )

02. Pilot Studies and Validation. ( )

a. The Department may allow on-site pilot studies on a case by case basis. Pilot studies are usually used to determine how much fouling occurs on site, to evaluate UV system reliability (e.g. UV sensors, UV transmittance (UVT) monitors, ballast reliability) and to provide operators experience running a UV system. They may also be used to assess lamp aging or impacts of power quality. See Subsection 501.19 for general information on conducting pilot studies. ( )

b. Validation testing determines the operating conditions and monitoring algorithms that the UV system will use to define how much UV dose is being delivered by the reactor during operation. The validated dose as determined through validation testing is compared to the required dose in the UV Dose Table (Subsection 529.03) to determine inactivation credit. The validated dose is calculated by dividing the determined reduction equivalent dose by a validation factor to account for biases and experimental uncertainty. UV light treatment reactors shall be validated by a third party entity approved by the Department. At a minimum, validation testing must account for the following: UV absorbance of the water; lamp fouling and aging; measurement uncertainty of on-line UV sensors; UV dose distributions arising from the velocity profiles through the reactor; failure of UV lamps and other critical system components; inlet and outlet piping configuration of the UV reactor; lamp and UV sensor locations; and other parameters required by the Department. The Department may allow alternative test microbes such as MS2 phage where the UV dose response better matches that of Cryptosporidium and Giardia lamblia to provide more accurate and efficient UV dose monitoring. Additional guidance is available in the UV Disinfection Guidance Manual, referenced in Subsection 002.02, or another validation standard as approved by the Department. ( )

c. Validation testing shall be conducted on full scale testing of a reactor that conforms uniformly to the UV reactors used by the system and inactivation of a test microorganism whose dose response characteristics have been quantified with a low pressure mercury vapor lamp. ( )

d. Validation testing must determine and establish validated operating conditions under which the reactor delivers the required UV dose in Subsection 529.03. Validated operating conditions include: ( )

i. Flow rate; ( )

ii. UV Intensity as measured by a UV sensor; ( )

iii. UV lamp operating status. ( )

e. The department may approve an alternative approach to validation testing. ( )

03. UV Dose Table. The treatment credits listed in the dose table are based on UV light at a wavelength of two hundred fifty-four (254) nm as produced by a low pressure mercury vapor lamp. To receive treatment credit for other lamp types, the system shall demonstrate an equivalent germicidal dose through validation testing.

UV Dose Table (millijoules per square centimeter)			
Log	**Cryptosporidium**	**Giardia lamblia**	**Virus**
0.5	1.6	1.5	39
1.0	2.5	2.1	58
1.5	3.9	3.0	79
2.0	5.8	5.2	100
2.5	8.5	7.7	121
3.0	12	11	143
3.5	15	15	163
4.0	22	22	186

( )

04. **Reactor Design**. Inlet and outlet conditions shall ensure that UV dose delivery at the plant is equal to or exceeds that utilized during validation. At a minimum, design criteria shall address target pathogen(s), required log inactivation and UV dose, flow rate, UVT, and lamp aging and fouling factors. UVT and flow rate shall be selected to account for seasonal changes in UVT. Lamp aging and fouling factors shall be supported by documentation or pilot study data. Recommended approaches of the UV Disinfection Guidance Manual, referenced in Subsection 002.02, shall be used in meeting this requirement. ( )

a. The reactor systems must be designed to monitor and record parameters to verify the operation within the validated operating conditions approved by the Department. The system must be equipped with facilities to monitor and record UV intensity as measured by a UV sensor, flow rate, lamp status, UVT, and other parameters designated by the Department. ( )

b. The ultraviolet treatment device shall be designed to provide a UV light dose equal to or greater than that specified in the UV Dose Table for the required log reduction. The UV Disinfection Guidance Manual, referenced in Subsection 002.02, shall be utilized in evaluating the appropriate dose required for the target microbe. The reactor shall also deliver the target dose while operating within the validated operating conditions for that particular unit. ( )

c. The ultraviolet treatment assemblies shall be designed to allow for cleaning and replacement of the lamp, lamp sleeves, and sensor window or lens. ( )

d. All ultraviolet treatment device designs shall evaluate lamp fouling and aging issues and manufacturer's recommendations regarding fouling, aging, and replacement shall be discussed in the Operation and Maintenance Manual. ( )

e. For in-situ cleaning of the lamp sleeve, the design shall protect the potable water from cleaning solutions. ( )

f. When off-line chemical cleaning systems are used, the UV enclosure shall be removed from service, drained, flushed with an NSF/ANSI Standard 60 certified solution, drained, and rinsed before being placed back in service. ( )

g. On-line systems that use wipers or brushes may use chemical solutions provided they are NSF/ANSI Standard 60 certified. ( )

h. An automatic shutdown valve shall be installed in the water supply line from the ultraviolet treatment device such that if power is not provided to the reactor or valve, the valve shall be in the closed position. ( )

i. The design of the inlet and outlet piping configuration and the locations of expansions, bends, tees and valves shall assure that the UV dose delivery is equal to or greater than the required UV dose. Approach length prior to each reactor included in the credited dose calculations, downstream length following each reactor, and locations of any cleaning device/mechanism shall be based on validation testing. ( )

j. For parallel trains, the flow to each reactor shall be equally distributed and metered or otherwise account for uneven flows in the design to ensure that the required UV dose is delivered to each train under varying flow conditions. ( )

k. Valves shall be provided to allow isolating and removing from service each UV reactor. ( )

l. Reactors shall be provided with air relief and pressure control valves per manufacturer requirements. ( )

m. UVT analyzers shall be provided if UVT is part of the dose monitoring strategy. It is recommended that UVT be monitored on a regular basis for all systems to assess UVT variability. ( )

n. A single train with a standby reactor or a sufficient number of parallel ultraviolet treatment devices shall be installed to ensure that adequate disinfection is provided when one unit is out of service. The Department may approve an alternate method that provides adequate disinfection such as standby chlorination. Any system that produces water on an irregular schedule may provide documentation for the Department's review and approval that a single reactor would be an acceptable design by demonstrating there would be adequate for time for maintenance and cleaning during operation shutdowns. ( )

o. No bypass of the ultraviolet treatment process may be installed unless an alternate method of providing adequate disinfection is provided. ( )

05. Controls. ( )

a. A delay mechanism shall be installed to provide sufficient lamp warm-up prior to allowing water to flow from the ultraviolet treatment unit. ( )

b. An automatic shutdown shall be designed to activate the shutdown valve in cases where the ultraviolet light dose falls below the approved design dose or outside of the validated specifications. ( )

06. Reliability. The system must be capable of producing the plant design capacity at all times. ( )

a. Standby equipment. Unless otherwise approved by the Department based on documentation provided by the design engineer and in accordance with Subsection 529.04.n., a minimum of two (2) reactors is required to maintain disinfection when one unit is taken out of service. Each reactor must be sized to deliver the required UV dose under the operating conditions of flow and UVT that occur at the plant. The conditions shall fall within the validated range of the reactor as determined during validation testing. ( )

b. Power supply. The quality and reliability of the power supply shall be analyzed and back-up power supplies shall be discussed in the contingency plan. ( )

c. Validated operating conditions. If UVT is above the validated range of UVT, the UV dose monitoring algorithm shall default to the maximum of the validated range. If UVT is below the validated range, the UV system operation shall be recorded as outside of the validated operating conditions. When UVT falls outside of ranges identified in the validated operating conditions, the contingency plan shall be enacted if UVT is part of the dose monitoring strategy. ( )

d. Contingency plan. A contingency plan for total UV disinfection failure, loss of power, or in the event that water quality changes produce water quality unsuitable for UV disinfection shall be described in the preliminary engineering report. ( )

07. Monitoring. Water systems using UV light must monitor for the parameters necessary to demonstrate operation within the validated conditions of the required UV dose. PWSs must check the calibration of UV sensors and online UVT monitors and recalibrate in accordance with a protocol approved by the Department. At a minimum, the following parameters must be monitored: ( )

a. Flow rate. If the flow rate is below the validated range, then the UV dose monitoring algorithm shall default to the validated range. If the flow rate is above the validated range, then the UV system operation shall be recorded as outside of the validated operating conditions; ( )

b. UV intensity as measured by UV sensors; ( )

c. UVT if UVT is part of the dose monitoring strategy; and ( )

d. Lamp status. ( )

08. Alarms. The settings or predetermined set points for the alarms shall be specified in the

preliminary engineering report. The report shall also specify the alarms that shall activate the contingency plan response. At a minimum, the following alarms are required: ( )

a. Low UV intensity; ( )

b. High turbidity if required by the Department; ( )

c. Low UVT; ( )

d. Low UV dose; ( )

e. Lamp failure; ( )

f. UVT monitor failure; ( )

g. UV sensor failure; ( )

h. Low water level; and ( )

i. High flow rate. ( )

09. Initial Startup. The following items shall be tested and verified before UV disinfected water is distributed: ( )

a. Electrical components; ( )

b. Water level; ( )

c. Flow split between reactor trains if applicable; ( )

d. Controls and alarms; and ( )

e. Instrument calibration. ( )

10. Operation and Maintenance Manual. A project specific operation and maintenance manual shall be provided as required in Subsection 501.12. See definition of Operation and Maintenance Manual in Section 003 for the typical contents of an operation and maintenance manual and the included operations plan. The operations plan in the operation and maintenance manual shall include, but is not limited to the following information: ( )

a. Lamp aging and replacement intervals. Lamp replacement intervals may be based on the degree of lamp aging as indicated by the UV sensors; ( )

b. Lamp fouling analysis and cleaning procedures; ( )

c. Lamp replacement; and ( )

d. Lamp breakage. ( )

530. FACILITY AND DESIGN STANDARDS: DISINFECTION OF DRINKING WATER, DISINFECTING AGENTS.

Disinfection may be accomplished with gas and liquid chlorine, calcium or sodium hypochlorites, chlorine dioxide, ozone, or ultraviolet light. Other disinfecting agents will be considered, providing reliable application equipment is available and testing procedures for a residual are recognized in "Standard Methods for the Examination of Water and Wastewater," referenced in Subsection 002.02, or an equivalent means of measuring effectiveness exists. The required amount of primary disinfection needed shall be specified by the Department. Consideration must be given to the formation of disinfection by-products (DBP) when selecting the disinfectant. See Section 531, Facility Design Standards - Design Standards for Chemical Application. For public water systems using only ground water and that voluntarily chlorinate, see Subsection 552.04. ( )

01. Chlorination. ( )

a. In addition to the requirements of Section 531, chlorination equipment shall meet the following requirements: ( )

i. Solution-feed gas chlorinators or hypochlorite feeders of the positive displacement type must be provided. ( )

ii. Standby or backup equipment of sufficient capacity shall be available to replace the largest unit. Spare parts shall be on hand to replace parts subject to wear and breakage. ( )

iii. Automatic proportioning chlorinators are required where the rate of flow or chlorine demand is not reasonably constant. ( )

iv. Each eductor (submerged jet pump) must be selected for the point of application with particular attention given to the quantity of chlorine to be added, the maximum injector waterflow, the total discharge back pressure, the injector operating pressure, and the size of the chlorine solution line. ( )

v. The chlorine solution injector/diffuser must be compatible with the point of application to provide a rapid and thorough mix with all the water being treated. ( )

vi. Automatic switch-over of chlorination treatment units shall be provided, where necessary, to assure continuous disinfection. ( )

b. Effective contact time and point of application requirements are as follows: ( )

i. Effective contact time sufficient to achieve the inactivation of target pathogens under the expected range of raw water pH and temperature variation must be demonstrated through tracer studies or other evaluations or calculations acceptable to the Department. Improving Clearwell Design for CT Compliance, referenced in Section 002.02, contains information that may be used as guidance for these calculations. Additional baffling can be added to new or existing basins to minimize short circuiting and increase contact time. ( )

ii. At least two (2) contactors shall be provided which are each capable of providing the required effective contact time at one-half (1/2) of the plant design capacity. Alternatively, a single contactor that can provide effective contact time at plant design capacity may be designed with separate sections and bypass piping to allow sections to be cleaned or maintained individually during low flow conditions. Any system that produces water on an irregular schedule may provide documentation for the Department's review and approval that a single contactor would be an acceptable design by demonstrating there would be adequate time for maintenance and cleaning during operation shutdowns. ( )

iii. At plants treating surface water, except slow sand filtration systems: ( )

(1) Unless otherwise approved by the Department, in addition to the injection point prior to the disinfection contact tank, injection points shall also be provided for applying the disinfectant to the raw water, settled water, and water entering the distribution system. ( )

(2) Unless otherwise approved by the Department, chemical piping or tubing shall be installed from the disinfectant feed system to each injection system during the initial construction. ( )

iv. For pipeline contactors, provision shall be made to drain accumulated sediment from the bottom of the contactor if the discharge from the contactor is not located at the bottom. ( )

c. Chlorine residual test equipment recognized in the "Standard Methods for the Examination of Water and Wastewater," referenced in Subsection 002.02, shall be provided for use by the operator. All surface water treatment plants that serve a population greater that three thousand three hundred (3,300) must have equipment to measure chlorine residuals continuously entering the distribution system. A sample tap shall be provided to measure

chlorine residual and shall be located at a point after receiving the required contact time and at or prior to the first service connection. ( )

d. Chlorinator piping requirements: ( )

i. Cross connection protection: The chlorinator water supply piping shall be designed to prevent contamination of the treated water supply by sources of questionable quality. At all facilities treating surface water, pre- and post-chlorination systems must be independent to prevent possible siphoning of partially treated water into the clear well. The water supply to each eductor shall have a separate shut-off valve. No master shut-off valve will be allowed. ( )

ii. The pipes carrying elemental liquid or dry gaseous chlorine under pressure must be Schedule 80 seamless steel tubing or other materials recommended by the Chlorine Institute (never use PVC). Rubber, PVC, polyethylene, or other materials recommended by the Chlorine Institute must be used for chlorine solution piping and fittings. Nylon products are not acceptable for any part of the chlorine solution piping system. ( )

02. Disinfection with Ozone. Systems that are required to maintain a disinfectant residual in the distribution system shall supplement ozone disinfection with a chemical disinfectant. ( )

a. The following are requirements for feed gas preparation: ( )

i. Feed gas can be air, oxygen enriched air, or high purity oxygen. Sources of high purity oxygen include purchased liquid oxygen conforming with AWWA Standard B-304; on site generation using cryogenic air separation; or temperature, pressure or vacuum swing (adsorptive separation) technology. In all cases, the design engineer must ensure that the maximum dew point of -76°F (-60°C) will not be exceeded at any time. ( )

ii. Air compression: ( )

(1) Air compressors shall be of the liquid-ring or rotary lobe, oil-less, positive displacement type for smaller systems or dry rotary screw compressors for larger systems. ( )

(2) The air compressors shall have the capacity to simultaneously provide for maximum ozone demand, provide the air flow required for purging the desiccant dryers (where required) and allow for standby capacity. ( )

(3) Air feed for the compressor shall be drawn from a point protected from rain, condensation, mist, fog and contaminated air sources to minimize moisture and hydrocarbon content of the air supply. ( )

(4) A compressed air after-cooler, entrainment separator, or a combination of the two (2) with automatic drain shall be provided prior to the dryers to reduce the water vapor. ( )

(5) A back-up air compressor must be provided so that ozone generation is not interrupted in the event of a break-down. ( )

iii. Air drying: ( )

(1) Dry, dust-free and oil-free feed gas must be provided to the ozone generator. Dry gas is essential to prevent formation of nitric acid, to increase the efficiency of ozone generation and to prevent damage to the generator dielectrics. Sufficient drying to a maximum dew point of -76°F (-60°C) must be provided at the end of the drying cycle. ( )

(2) Drying for high pressure systems may be accomplished using heatless desiccant dryers only. For low pressure systems, a refrigeration air dryer in series with heat-reactivated desiccant dryers shall be used. ( )

(3) A refrigeration dryer capable of reducing inlet air temperature to 40°F (4°C) shall be provided for low pressure air preparation systems. The dryer can be of the compressed refrigerant type or chilled water type. ( )

(4) For heat-reactivated desiccant dryers, the unit shall contain two (2) desiccant filled towers complete with pressure relief valves, two (2) four-way valves and a heater. In addition, external type dryers shall have a cooler unit and blowers. The size of the unit shall be such that the specified dew point will be achieved during a minimum adsorption cycle time of sixteen (16) hours while operating at the maximum expected moisture loading conditions. ( )

(5) Multiple air dryers shall be provided so that the ozone generation is not interrupted in the event of dryer breakdown. ( )

(6) Each dryer shall be capable of venting "dry" gas to the atmosphere, prior to the ozone generator, to allow start-up when other dryers are "on-line." ( )

iv. Air filters: ( )

(1) Air filters shall be provided on the suction side of the air compressors, between the air compressors and the dryers and between the dryers and the ozone generators. ( )

(2) The filter before the desiccant dryers shall be of the coalescing type and be capable of removing aerosol and particulates larger than 0.3 microns in diameter. The filter after the desiccant dryer shall be of the particulate type and be capable of removing all particulates greater than 0.1 microns in diameter, or smaller if specified by the generator manufacturer. ( )

v. Piping in the air preparation system can be common grade steel, seamless copper, stainless steel or galvanized steel. The piping must be designed to withstand the maximum pressures in the air preparation system. ( )

b. The following requirements apply to the ozone generator: ( )

i. Capacity. ( )

(1) The production rating of the ozone generators shall be stated in pounds per day and kWhr per pound at a maximum cooling water temperature and maximum ozone concentration. ( )

(2) The design shall ensure that the minimum concentration of ozone in the generator exit gas will not be less than one (1) percent (by weight). ( )

(3) Generators shall be sized to have sufficient reserve capacity so that the system does not operate at peak capacity for extended periods of time resulting in premature breakdown of the dielectrics. ( )

(4) The production rate of ozone generators will decrease as the temperature of the coolant increases. If there is to be a variation in the supply temperature of the coolant throughout the year, then pertinent data shall be used to determine production changes due to the temperature change of the supplied coolant. The design shall ensure that the generators can produce the required ozone at maximum coolant temperature. ( )

(5) Appropriate ozone generator backup equipment must be provided. ( )

ii. Electrical. The generators can be low, medium or high frequency type. Specifications shall require that the transformers, electronic circuitry and other electrical hardware be proven, high quality components designed for ozone service. ( )

iii. Cooling. Adequate cooling shall be provided. The cooling water must be properly treated to minimize corrosion, scaling and microbiological fouling of the water side of the tubes. Where cooling water is treated, cross connection control shall be provided to prevent contamination of the potable water supply. ( )

iv. Materials. To prevent corrosion, the ozone generator shell and tubes shall be constructed of Type 316L stainless steel. ( )

c. The following requirements apply to ozone contactors: ( )

i. Bubble diffusers. ( )

(1) Where disinfection is the primary application, a minimum of two (2) contact chambers, each equipped with baffles to prevent short circuiting and induce countercurrent flow, shall be provided. Ozone shall be applied using porous-tube or dome diffusers. ( )

(2) The minimum contact time shall be ten (10) minutes. A shorter contact time (CT) may be approved by the Department if justified by appropriate design and "CT" considerations. ( )

(3) Where taste and odor control is of concern, multiple application points and contactors shall be considered. ( )

(4) Contactors shall be separate closed vessels that have no common walls with adjacent rooms. The contactor must be kept under negative pressure and sufficient ozone monitors shall be provided to protect worker safety. ( )

(5) Contact vessels can be made of reinforced concrete, stainless steel, fiberglass or other material which will be stable in the presence of residual ozone and ozone in the gas phase above the water level. If contact vessels are made of reinforced concrete, all reinforcement bars shall be covered with a minimum of one and one-half (1.5) inches of concrete. ( )

(6) Where necessary, a system shall be provided between the contactor and the off-gas destruct unit to remove froth from the air and return the other to the contactor or other location acceptable to the reviewing authority. If foaming is expected to be excessive, then a potable water spray system shall be placed in the contactor head space. ( )

(7) All openings into the contactor for pipe connections, hatchways, etc. shall be properly sealed using welds or ozone resistant gaskets such as Teflon or Hypalon. ( )

(8) Multiple sampling ports shall be provided to enable sampling of each compartment's effluent water and to confirm "CT" calculations. ( )

(9) A pressure/vacuum relief valve shall be provided in the contactor and piped to a location where there will be no damage to the destruction unit. ( )

(10) The depth of water in bubble diffuser contactors shall be a minimum of eighteen (18) feet. The contactor shall also have a minimum of three (3) feet of freeboard to allow for foaming. ( )

(11) All contactors shall have provisions for cleaning, maintenance and drainage of the contactor. Each contactor compartment shall also be equipped with an access hatchway. ( )

(12) Aeration diffusers shall be fully serviceable by either cleaning or replacement. ( )

ii. Other contactors, such as the venturi or aspirating turbine mixer contactor, may be approved by the Department provided adequate ozone transfer is achieved and the required contact times and residuals can be met and verified. ( )

d. The following requirements apply to ozone destruction units: ( )

i. A system for treating the final off-gas from each contactor must be provided in order to meet safety and air quality standards. Acceptable systems include thermal destruction and thermal/catalytic destruction units. ( )

ii. The maximum allowable ozone concentration in the discharge is 0.1 ppm (by volume). ( )

iii. At least two (2) units shall be provided which are each capable of handling the entire gas flow. ( )

iv. Exhaust blowers shall be provided in order to draw off-gas from the contactor into the destruct unit. ( )

v. Catalysts must be protected from froth, moisture and other impurities which may harm the catalyst. ( )

vi. The catalyst and heating elements shall be located where they can easily be reached for maintenance. ( )

e. Piping materials: Only low carbon 304L and 316L stainless steels shall be used for ozone service with 316L preferred. ( )

f. The following requirements apply to joints and connections: ( )

i. Connections on piping used for ozone service are to be welded where possible. ( )

ii. Connections with meters, valves or other equipment are to be made with flanged joints with ozone resistant gaskets, such as Teflon or Hypalon. Screwed fittings shall not be used because of their tendency to leak. ( )

iii. A positive closing plug or butterfly valve plus a leak-proof check valve shall be provided in the piping between the generator and the contactor to prevent moisture reaching the generator. ( )

g. The following requirements apply to instrumentation: ( )

i. Pressure gauges shall be provided at the discharge from the air compressor, at the inlet to the refrigeration dryers, at the inlet and outlet of the desiccant dryers, at the inlet to the ozone generators and contactors, and at the inlet to the ozone destruction unit. ( )

ii. Each generator shall have a trip which shuts down the generator when the wattage exceeds a certain preset level. ( )

iii. Dew point monitors shall be provided for measuring the moisture of the feed gas from the desiccant dryers. Where there is potential for moisture entering the ozone generator from downstream of the unit or where moisture accumulation can occur in the generator during shutdown, post-generator dew point monitors shall be used. ( )

iv. Air flow meters shall be provided for measuring air flow from the desiccant dryers to each of the other ozone generators, air flow to each contactor, and purge air flow to the desiccant dryers. ( )

v. Temperature gauges shall be provided for the inlet and outlet of the ozone cooling water and the inlet and outlet of the ozone generator feed gas and, if necessary, for the inlet and outlet of the ozone power supply cooling water. ( )

vi. Water flow meters shall be installed to monitor the flow of cooling water to the ozone generators and, if necessary, to the ozone power supply. ( )

vii. Ozone monitors shall be installed to measure zone concentration in both the feed-gas and off-gas from the contactor and in the off-gas from the destruct unit. For disinfection systems, monitors shall also be provided for monitoring ozone residuals in the water. The number and location of ozone residual monitors shall be such that the amount of time that the water is in contact with the ozone residual can be determined. ( )

viii. A minimum of one ambient ozone monitor shall be installed in the vicinity of the contactor and a minimum of one shall be installed in the vicinity of the generator. Ozone monitors shall also be installed in any areas

where ozone gas may accumulate. ( )

h. Safety requirements are as follows: ( )

i. The maximum allowable ozone concentration in the air to which workers may be exposed must not exceed one-tenth part per million (0.1 ppm) by volume. ( )

ii. Noise levels resulting from the operating equipment of the ozonation system shall be controlled to within acceptable limits by special room construction and equipment isolation. ( )

iii. Emergency exhaust fans must be provided in the rooms containing the ozone generators to remove ozone gas if leakage occurs. ( )

iv. A sign shall be posted indicating "No smoking, oxygen in use" at all entrances to the treatment plant. In addition, no flammable or combustible materials shall be stored within the oxygen generator areas. ( )

03. Disinfection with Chlorine Dioxide. Chlorine dioxide may be considered as a primary and residual disinfectant, a pre-oxidant to control tastes and odors, to oxidize iron and manganese, and to control hydrogen sulfide and phenolic compounds. When choosing chlorine dioxide, consideration must be given to formation of the regulated by-products, chlorite and chlorate. ( )

a. Chlorine dioxide generation equipment shall be factory assembled pre-engineered units with a minimum efficiency of ninety-five (95) percent. The excess free chlorine shall not exceed three (3) percent of the theoretical stoichiometric concentration required. ( )

b. Other design requirements include: ( )

i. The design shall comply with all applicable portions of Subsections 530.01.a. through 530.01.d. ( )

ii. The maximum residual disinfectant level allowed shall be zero point eight (0.8) milligrams per liter (mg/l), even for short term exposures. ( )

iii. Notification of a change in disinfection practices and the schedule for the changes shall be made known to the public; particularly to hospitals, kidney dialysis facilities and fish breeders, as chlorine dioxide and its by-products may have effects similar to chloramines. ( )

04. Other Disinfecting Agents. Proposals for use of disinfecting agents other than those listed shall be submitted to the Department for approval prior to preparation of final plans and specifications. ( )

531. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR CHEMICAL APPLICATION.

01. General Equipment Design. General equipment design shall be such that: ( )

a. Feeders will be able to supply, at all times, the necessary amounts of chemicals at an accurate rate, throughout the range of feed. ( )

b. Chemical-contact materials and surfaces are resistant to the aggressiveness of the chemical solution. ( )

c. Corrosive chemicals are introduced in such a manner as to minimize potential for corrosion. ( )

d. Chemicals that are incompatible are not stored or handled together. At facilities where more than one (1) chemical is stored or handled, tanks and pipelines shall be clearly labeled to identify the chemical they contain. ( )

e. All chemicals are conducted from the feeder to the point of application in separate conduits. ( )

f. Chemical feeders are as near as practical to the feed point. ( )

g. Chemical feeders and pumps shall operate at no lower than twenty percent (20%) of the feed range unless two fully independent adjustment mechanisms such as pump pulse rate and stroke length are fitted when the pump shall operate at no lower than ten percent (10%) of the rated maximum. ( )

h. Spare parts shall be on hand for parts of feeders that are subject to frequent wear and damage. ( )

i. Redundant chemical feeders with automatic switchover shall be provided when necessary to ensure adequate treatment. If the water treatment system includes at least two (2) process trains of equipment so that the plant design capacity can be maintained with any component out of service, redundant chemical feeders are not required on each process train. ( )

02. Facility Design. ( )

a. Where chemical feed is necessary for the protection of the supply, such as disinfection, coagulation or other essential processes, a minimum of two feeders shall be provided and a separate feeder shall be used for each chemical applied. ( )

b. Chemical application control systems shall meet the following requirements: ( )

i. Feeders may be manually or automatically controlled, with automatic controls being designed so as to allow override by manual controls. ( )

ii. Chemical feeders shall be controlled by a flow sensing device so that injection of the chemicals will not continue when the flow of water stops. ( )

iii. Automatic proportioning chlorinators are required where the rate of flow or chlorine demand is not reasonably constant. ( )

iv. A means to measure water flow must be provided in order to determine chemical feed rates. ( )

v. Provisions shall be made for measuring the quantities of chemicals used. ( )

vi. Weighing scales shall be provided for weighing cylinders at all plants utilizing chlorine gas, fluoride solution feed. ( )

vii. Weighing scales shall be capable of providing reasonable precision in relation to average daily dose. ( )

viii. Where conditions warrant, for example with rapidly fluctuating intake turbidity, coagulant and coagulant aid addition may be made according to turbidity, streaming current or other sensed parameter. ( )

c. Dry chemical feeders shall measure chemicals volumetrically or gravimetrically, provide adequate solution water and agitation of the chemical in the solution pot, and completely enclose chemicals to prevent emission of dust to the operating room. ( )

d. Positive displacement type solution feed pumps must be capable of operating at the required maximum head conditions found at the point of injection. ( )

e. Liquid chemical feeders shall be such that chemical solutions cannot be siphoned or overfed into

the water supply, by assuring discharge at a point of positive pressure, or providing vacuum relief, or providing a suitable air gap, or providing other suitable means or combinations as necessary. ( )

f. Cross connection control must be provided to assure that the following requirements are satisfied. ( )

i. The service water lines discharging to solution tanks shall be properly protected from backflow. ( )

ii. No direct connection exists between any sewer and a drain or overflow from the feeder, solution chamber or tank by providing that all drains terminate at least six (6) inches or two pipe diameters, whichever is greater, above the overflow rim of a receiving sump, conduit or waste receptacle. ( )

g. Chemical feed equipment shall be readily accessible for servicing, repair, and observation of operation. ( )

h. In-plant water supply for chemical mixing shall be: ( )

i. Ample in quantity and adequate in pressure. ( )

ii. Provided with means for measurement when preparing specific solution concentrations by dilution. ( )

iii. Properly treated for hardness, when necessary. ( )

iv. Properly protected against backflow. ( )

v. Obtained from a location sufficiently downstream of any chemical feed point to assure adequate mixing. ( )

i. Chemical storage facilities shall satisfy the following requirements: ( )

i. Storage tanks and pipelines for liquid chemicals shall be specified for use with individual chemicals and not used for different chemicals. Off-loading areas must be clearly labeled to prevent accidental cross-contamination. ( )

ii. Chemicals shall be stored in covered or unopened shipping containers, unless the chemical is transferred into an approved storage unit. ( )

j. Bulk liquid storage tanks shall comply with the following requirements: ( )

i. A means which is consistent with the nature of the chemical solution shall be provided in a solution tank to maintain a uniform strength of solution. Continuous agitation shall be provided to maintain slurries in suspension. ( )

ii. Means shall be provided to measure the liquid level in the tank. ( )

iii. Bulk liquid storage tanks shall be kept covered. Bulk liquid storage tanks with access openings shall have such openings curbed and fitted with overhanging covers. ( )

iv. Subsurface locations for bulk liquid storage tanks shall be free from sources of possible contamination, and assure positive drainage for ground waters, accumulated water, chemical spills and overflows. ( )

v. Bulk liquid storage tanks shall be vented, but shall not vent through vents common with day tanks. Acid storage tanks must be vented to the outside atmosphere, but not through vents in common with day tanks. ( )

vi. Each bulk liquid storage tank shall be provided with a valved drain, protected against backflow. ( )

vii. Bulk liquid storage tanks shall have an overflow that is turned downward with the end screened with a twenty-four (24) mesh or similar non-corrodible screen, have a free fall discharge, and be located where noticeable. ( )

viii. Bulk liquid storage tanks shall be provided with secondary containment so that chemicals from equipment failure, spillage, or accidental drainage shall be fully contained. A common receiving basin may be provided for each group of compatible chemicals. The bulk liquid storage tank basin or the common receiving basin shall provide a secondary containment volume sufficient to hold one hundred ten percent (110%) of the volume of the largest storage tank. Piping shall be designed to minimize or contain chemical spills in the event of pipe ruptures. ( )

ix. Where chemical feed is necessary for the protection of the supply, a means to assure continuity of chemical supply while servicing a bulk liquid storage tank shall be provided. ( )

k. Day tanks are subject to the requirements in Subsections 531.02.k.i. through 531.02.k.iv. For the purposes of Section 531, day tanks are defined as liquid chemical tanks holding no more than a thirty (30) hour chemical supply. ( )

i. Day tanks shall be provided where bulk storage of liquid chemicals are provided. The Department may allow chemicals to be fed directly from shipping containers no larger than fifty-five (55) gallons. ( )

ii. Day tanks shall meet all the requirements of Subsection 531.02.j., with the exception of Subsection 531.02.j.viii. Shipping containers do not require overflow pipes or drains as required by Subsection 531.02.j. and are not subject to the requirements of Subsection 531.02.j.viii. ( )

iii. Where feasible, secondary containment shall be provided so that chemicals from equipment failure, spillage, or accidental drainage of day tanks shall be fully contained. A common receiving basin may be provided for each group of compatible chemicals. The common receiving basin shall provide a secondary containment volume sufficient to hold the volume of the largest storage tank. If secondary containment is not feasible, day tanks shall be located and protective curbings provided so that chemicals from equipment failure, spillage, or accidental drainage of day tanks shall not enter the water in conduits, treatment, or storage basins. Secondary containment is not required for a day tank if an Idaho licensed professional engineer demonstrates to the Department that the chemical concentration and volume, if spilled, will not be a safety hazard to employees, will not be hazardous to the public health, and will not harm the environment. ( )

iv. Day tanks and the tank refilling line entry points shall be clearly labeled with the name of the chemical contained. ( )

l. Provisions shall be made for measuring quantities of chemicals used to prepare feed solutions. ( )

m. Vents from feeders, storage facilities and equipment exhaust shall discharge to the outside atmosphere above grade and remote from air intakes. ( )

03. Chemicals. Chemical shipping containers shall be fully labeled to include chemical name, purity and concentration, supplier name and address, and evidence of ANSI/NSF certification where applicable. ( )

04. Safety Requirements for Chemical Facilities. ( )

a. The following requirements apply to chlorine gas feed and storage rooms: ( )

i. Each storage room shall be enclosed and separated from other operating areas. They shall be constructed in such a manner that all openings between the chlorine room and the remainder of the plant are sealed,

and provided with doors equipped with panic hardware, assuring ready means of exit and opening outward only to the building exterior. ( )

ii. Each room shall be provided with a shatter resistant inspection window installed in an interior wall. ( )

iii. Each room shall have a ventilating fan with a capacity which provides one (1) complete air change per minute when the room is occupied. Where this is not appropriate due to the size of the room, a lesser rate may be allowed by the Department on a site specific basis. ( )

iv. The ventilating fan shall take suction near the floor as far as practical from the door and air inlet, with the point of discharge so located as not to contaminate air inlets to any rooms or structures. Air inlets shall be through louvers near the ceiling. ( )

v. Louvers for chlorine room air intake and exhaust shall facilitate airtight closure. ( )

vi. Separate switches for the fan and lights shall be located outside of the chlorine room and at the inspection window. Outside switches shall be protected from vandalism. A signal light indicating fan operation shall be provided at each entrance when the fan can be controlled from more than one (1) point. ( )

vii. Vents from feeders and storage shall discharge to the outside atmosphere, above grade. ( )

viii. Where provided, floor drains shall discharge to the outside of the building and shall not be connected to any internal drainage systems or external drainage systems unless the external drainage systems drain to an approved discharge point. ( )

ix. Chlorinator rooms shall be heated to sixty degrees Fahrenheit (60°F) and be protected from excessive heat. Cylinders and gas lines shall be protected from temperatures above that of the feed equipment. ( )

x. Pressurized chlorine feed lines shall not carry chlorine gas beyond the chlorinator room. ( )

xi. Critical isolation valves shall be conspicuously marked and access kept unobstructed. ( )

xii. All chlorine rooms, buildings, and areas shall be posted with a prominent danger sign warning of the presence of chlorine. ( )

xiii. Full and empty cylinders of chlorine gas shall be isolated from operating areas and stored in definitely assigned places away from elevators, stairs, or gangways. They shall be restrained in position to prevent being knocked over or damaged by passing or falling objects. In addition, they shall be stored in rooms separate from ammonia storage, out of direct sunlight, and at least twenty (20) feet from highly combustible materials. Cylinders shall not be kept in unventilated enclosures such as lockers and cupboards. ( )

b. Where acids and caustics are used, they shall be kept in closed corrosion-resistant shipping containers or storage units. Acids and caustics shall not be handled in open vessels, but shall be pumped in undiluted form from original containers through suitable hose to the point of treatment or to a covered day tank. ( )

c. Sodium chlorite for chlorine dioxide generation. Proposals for the storage and use of sodium chlorite shall be approved by the Department prior to the preparation of final plans and specifications. Provisions shall be made for proper storage and handling of sodium chlorite to eliminate any danger of fire or explosion associated with its oxidizing nature. ( )

i. Chlorite (sodium chlorite) shall be stored by itself in a separate room. It must be stored away from organic materials. The storage structure shall be constructed of noncombustible materials. If the storage structure must be located in an area where a fire may occur, water must be available to keep the sodium chlorite area cool enough to prevent heat-induced explosive decomposition of the chlorite. ( )

ii. Care shall be taken to prevent spillage. An emergency plan of operation shall be available for the clean up of any spillage. Storage drums shall be thoroughly flushed prior to recycling or disposal. ( )

d. Where ammonium hydroxide is used, an exhaust fan shall be installed to withdraw air from high points in the room and makeup air shall be allowed to enter at a low point. The feed pump, regulators, and lines shall be fitted with pressure relief vents discharging outside the building away from any air intake and with water purge lines leading back to the headspace of the bulk storage tank. ( )

e. Where anhydrous ammonia is used, the storage and feed systems (including heaters where required) shall be enclosed and separated from other work areas and constructed of corrosion resistant materials. ( )

i. Pressurized ammonia feed lines shall be restricted to the ammonia room. ( )

ii. An emergency air exhaust system, as described in Subsection 531.04.a., but with an elevated intake, shall be provided in the ammonia storage room. ( )

iii. Leak detection systems shall be fitted in all areas through which ammonia is piped. ( )

iv. Special vacuum breaker/regulator provisions must be made to avoid potentially violent results of backflow of water into cylinders or storage tanks. ( )

v. Consideration shall be given to the provision of an emergency gas scrubber capable of absorbing the entire contents of the largest ammonia storage unit whenever there is a risk to the public as a result of potential ammonia leaks. ( )

05. Operator Safety. The Idaho General Safety and Health Standards, referenced in Subsection 002.02, may be used as guidance in designing facilities to ensure the safety of operators. The following requirements are in addition to the requirements of Subsection 501.12. ( )

a. Respiratory protection equipment, meeting the requirements of the National Institute for Occupational Safety and Health (NIOSH) shall be available where chlorine gas is handled, and shall be stored at a convenient heated location, but not inside any room where chlorine is used or stored. The units shall use compressed air, have at least a thirty (30) minute capacity, and be compatible with or exactly the same as units used by the fire department responsible for the plant. ( )

b. Chlorine leak detection. A bottle of concentrated ammonium hydroxide (fifty-six (56) per cent ammonia solution) shall be available for chlorine leak detection. Where ton containers are used, a leak repair kit approved by the Chlorine Institute shall be provided. ( )

c. Protective equipment. ( )

i. At least one pair of rubber gloves, a dust respirator of a type certified by NIOSH for toxic dusts, an apron or other protective clothing, and goggles or face mask shall be provided for each operator. ( )

ii. A deluge shower and eyewashing device shall be installed where strong acids and alkalis are used or stored. A water holding tank that will allow water to come to room temperature shall be installed in the water line feeding the deluge shower and eyewashing device. Other methods of water tempering will be considered on an individual basis. ( )

iii. For chemicals other than strong acids and alkalis, an appropriate eye washing device or station shall be provided. ( )

iv. Other protective equipment shall be provided as necessary. ( )

06. Design Requirements for Specific Applications. In addition to Subsection 531.01 through 531.03, the following design requirements apply for the specific applications within Subsection 531.06 of this rule. ( )

a. Sodium chlorite for chlorine dioxide generation. Positive displacement feeders shall be provided. Tubing for conveying sodium chlorite or chlorine dioxide solutions shall be Type 1 PVC, polyethylene or materials recommended by the manufacturer. Chemical feeders may be installed in chlorine rooms if sufficient space is provided. Otherwise, facilities meeting the requirements of chlorine rooms shall be provided. Feed lines shall be installed in a manner to prevent formation of gas pockets and shall terminate at a point of positive pressure. Check valves shall be provided to prevent the backflow of chlorine into the sodium chlorite line. ( )

b. Hypochlorite facilities shall meet the following requirements: ( )

i. Hypochlorite shall be stored in the original shipping containers or in hypochlorite compatible containers. Storage containers or tanks shall be sited out of the sunlight in a cool and ventilated area. ( )

ii. Stored hypochlorite shall be pumped undiluted to the point of addition. Where dilution is unavoidable, deionized or softened water shall be used. ( )

iii. Storage areas, tanks, and pipe work shall be designed to avoid the possibility of uncontrolled discharges and a sufficient amount of appropriately selected spill absorbent shall be stored on-site. ( )

iv. Hypochlorite feeders shall be positive displacement pumps with compatible materials for wetted surfaces. ( )

v. To avoid air locking in smaller installations, small diameter suction lines shall be used with foot valves and degassing pump heads. In larger installations flooded suction shall be used with pipe work arranged to ease escape of gas bubbles. Calibration tubes or mass flow monitors which allow for direct physical checking of actual feed rates shall be fitted. ( )

vi. Injectors shall be made removable for regular cleaning where hard water is to be treated. ( )

c. When ammonium sulfate is used, the tank and dosing equipment contact surfaces shall be made of corrosion resistant non-metallic materials. Provision shall be made for removal of the agitator after dissolving the solid. The tank shall be fitted with a lid and vented outdoors. Injection of the solution should take place in the center of treated water flow at a location where there is high velocity movement. ( )

d. When aqua ammonia (ammonium hydroxide) is used, the feed pumps and storage shall be enclosed and separated from other operating areas. The aqua ammonia room shall be equipped as required for chlorinator rooms with the following changes: ( )

i. A corrosion resistant, closed, unpressurized tank shall be used for bulk storage, vented through an inert liquid trap to a high point outside and an incompatible connector, or lockout provisions shall be made to prevent accidental addition of other chemicals to the storage tank. ( )

ii. The storage tank shall be designed to avoid conditions where temperature increases cause the ammonia vapor pressure over the aqua ammonia to exceed atmospheric pressure. This capability can be provided by cooling/refrigeration or diluting or mixing the contents with water without opening the system. ( )

iii. The aqua ammonia shall be conveyed direct from storage to the treated water stream injector without the use of a carrier water stream unless the carrier stream is softened. ( )

iv. The point of delivery to the main water stream shall be placed in a region of turbulent water flow. ( )

v. Provisions shall be made for easy access for removal of calcium scale deposits from the injector. ( )

532. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR SOFTENING.
The softening process selected must be based upon the mineral qualities of the raw water and the desired finished

water quality in conjunction with requirements for disposal of sludge or brine waste (see Section 540), cost of plant, cost of chemicals, and plant location. Applicability of the process chosen shall be demonstrated. ( )

01. Lime or Lime-Soda Process. Rapid mix, flocculation, and sedimentation processes shall meet the requirements of Section 520. In addition the following requirements must be met: ( )

a. When split treatment is used, an accurate means of measuring and splitting the flow must be provided. ( )

b. Rapid mix basins must provide not more than thirty (30) seconds detention time with adequate velocity gradients to keep the lime particles dispersed. ( )

c. Equipment for stabilization of water softened by the lime or lime-soda process is required, see Section 537. ( )

d. Mechanical sludge removal equipment shall be provided in the sedimentation basin. ( )

e. Provisions must be included for proper disposal of softening sludges; see Section 540. ( )

f. The plant processes must be manually started following shut-down. ( )

02. Cation Exchange Process. ( )

a. Pre-treatment is required when the content of iron, manganese, or a combination of the two, is one milligram per liter (1 mg/l) or more. ( )

b. The units may be of pressure or gravity type, of either an upflow or downflow design. Automatic regeneration based on volume of water softened shall be used unless manual regeneration is justified and is approved by the Department. A manual override shall be provided on all automatic controls. ( )

c. Rate-of-flow controllers or the equivalent shall be used to control the hydraulic loading of cation exchange units. ( )

d. The bottoms, strainer systems and support for the exchange resin shall conform to the criteria provided for rapid rate gravity filters in Section 521. ( )

e. Cross Connection Control. Backwash, rinse and air relief discharge pipes shall be installed in such a manner as to prevent any possibility of back-siphonage. ( )

f. A bypass must be provided around softening units to produce a blended water of desirable hardness. Totalizing meters must be installed on the bypass line and on each softener unit. The bypass line must have a shutoff valve. ( )

g. When the applied water contains a chlorine residual, the cation exchange resin shall be a type that is not damaged by residual chlorine. ( )

h. Smooth-nose sampling taps must be provided for the collection of representative samples. The taps shall be located to provide for sampling of the softener influent, effluent, blended water, and on the brine tank discharge piping. The sampling taps for the blended water shall be at least twenty (20) feet downstream from the point of blending. Petcocks are not acceptable as sampling taps. ( )

i. Brine and salt storage tanks shall meet the following requirements: ( )

i. Salt dissolving or brine tanks and wet salt storage tanks must be covered and must be corrosion-resistant. ( )

ii. The make-up water inlet must be protected from back-siphonage. ( )

iii. Wet salt storage basins must be equipped with manholes or hatchways for access and for direct dumping of salt from truck or railcar. Openings must be provided with raised curbs and watertight covers having overlapping edges similar to those required for finished water reservoirs. ( )

iv. Overflows, where provided, must be protected with twenty-four (24) mesh or similar non-corrodible screens, and must terminate with either a turned downed bend having a proper free fall discharge or a self-closing flap valve. ( )

v. The salt shall be supported on graduated layers of gravel placed over a brine collection system. ( )

vi. Alternative designs which are conducive to frequent cleaning of the wet salt storage tank may be considered. ( )

vii. An eductor may be used to transfer brine from the brine tank to the softeners. If a pump is used, a brine measuring tank or means of metering shall be provided to obtain the proper dilution. ( )

j. Suitable disposal must be provided for brine waste; see Section 540. Where the volume of spent brine must be reduced, consideration may be given to using a part of the spent liquid concentrate for a subsequent regeneration. ( )

k. Pipes and contact materials must be resistant to the aggressiveness of salt. Plastic and red brass are acceptable piping materials. Steel and concrete must be coated with a non-leaching protective coating which is compatible with salt and brine. ( )

l. Bagged salt and dry bulk salt storage shall be enclosed and separated from other operating areas in order to prevent damage to equipment. ( )

533. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR TASTE AND ODOR CONTROL.

Provision shall be made for the control of taste and odor. Chemicals shall be added sufficiently ahead of other treatment processes to assure adequate contact time for an effective and economical use of the chemicals. Where severe taste and odor problems are encountered, in-plant studies, pilot plant studies, or both in-plant and pilot plant studies may be required. See Subsection 501.19 for general information on conducting pilot studies. ( )

01. Chlorination. When using chlorination as a method of taste and odor control adequate contact time must be provided to complete the chemical reactions involved. ( )

02. Chlorine Dioxide. Provisions shall be made for proper storing and handling of the sodium chlorite, so as to eliminate any danger of explosion. ( )

03. Powdered Activated Carbon. ( )

a. The carbon can be added as a pre-mixed slurry or by means of a dry-feed machine as long as the carbon is properly wetted. ( )

b. Continuous agitation or resuspension equipment is necessary to keep the carbon from depositing in the slurry storage tank. ( )

c. Provision shall be made for adequate dust control. ( )

d. Powdered activated carbon shall be handled as a potentially combustible material. ( )

04. Granular Activated Carbon. Replacement of anthracite with GAC may be considered as a control measure for geosmin and methyl isoborneol (MIB) taste and odors from algae blooms in surface water applications. Demonstration studies are required by the Department. ( )

05. Copper Sulfate and Other Copper Compounds. Continuous or periodic treatment of surface water with copper compounds to kill algae or other growths shall be controlled to prevent copper in excess of one point zero (1.0) milligrams per liter as copper in the plant effluent or distribution system. Care shall be taken to assure an even distribution of the chemical within the treatment area. ( )

06. Potassium Permanganate. Application of potassium permanganate may be considered, providing the treatment shall be designed so that the products of the reaction are not visible in the finished water. ( )

07. Ozone. Ozonation may be used as a means of taste and odor control. Adequate contact time must be provided to complete the chemical reactions involved. ( )

08. Other Methods. Other methods of taste and odor control shall be made only after pilot plant tests and approval of the Department. ( )

534. FACILITY AND DESIGN STANDARDS: AERATION PROCESSES.
Public water systems that install aeration treatment are subject to the Rules of the Department of Environmental Quality, IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." The system owner or the design engineer shall contact one of the Department's regional offices for information on obtaining a permit or an exemption for the emissions resulting from the aeration process. General information may be found on the DEQ website http://www.deq.idaho.gov. ( )

01. Natural Draft Aeration. Design shall provide: ( )

a. Perforations in the distribution pan three sixteenths to one-half (3/16 – ½) inches in diameter, spaced one to three (1-3) inches on centers to maintain a six (6) inch water depth. ( )

b. For distribution of water uniformly over the top tray. ( )

c. Discharge through a series of three (3) or more trays with separation of trays not less than twelve (12) inches. ( )

d. Loading at a rate of one to five (1-5) gallons per minute for each square foot of total tray area. ( )

e. Trays with slotted, heavy wire (1/2 inch openings) mesh or perforated bottoms. ( )

f. Construction of durable material resistant to aggressiveness of the water and dissolved gases. ( )

g. Protection from insects by twenty-four (24) mesh or similar non-corrodible screen. ( )

02. Forced or Induced Draft Aeration. Devices shall be designed to: ( )

a. Include a blower with a weatherproof motor in a tight housing and screened enclosure. ( )

b. Ensure adequate counter current of air through the enclosed aerator column. ( )

c. Exhaust air directly to the outside atmosphere. ( )

d. Include a down-turned and twenty-four (24) mesh or similar non-corrodible screened air outlet and inlet. ( )

e. Be such that air introduced in the column shall be as free from obnoxious fumes, dust, and dirt as possible. ( )

f. Be such that sections of the aerator can be easily reached or removed for maintenance of the

interior or installed in a separate aerator room. ( )

g. Provide loading at a rate of one to five (1-5) gallons per minute for each square foot of total tray area. ( )

h. Ensure that the water outlet is adequately sealed to prevent unwarranted loss of air. ( )

i. Discharge through a series of five (5) or more trays with separation of trays not less than six (6) inches or as approved by the Department. ( )

j. Provide distribution of water uniformly over the top tray. ( )

k. Be of durable material resistant to the aggressiveness of the water and dissolved gases. ( )

03. **Spray Aeration**. Design shall provide: ( )

a. A hydraulic head of between five (5) and twenty-five (25) feet. ( )

b. Nozzles, with the size, number, and spacing of the nozzles being dependent on the flowrate, space, and the amount of head available. ( )

c. Nozzle diameters in the range of one (1) to one and one-half (1.5) inches to minimize clogging. ( )

d. An enclosed basin to contain the spray. Any openings for ventilation must be protected with a twenty-four (24) mesh or similar non-corrodible screen. ( )

04. **Pressure Aeration**. Pressure aeration may be used for oxidation purposes only if the pilot plant study indicates the method is applicable; it is not acceptable for removal of dissolved gases. See Subsection 501.19 for general information on conducting pilot studies. Filters following pressure aeration must have adequate exhaust devices for release of air. Pressure aeration devices shall be designed to give thorough mixing of compressed air with water being treated and provide twenty-four (24) mesh or similar non-corrodible screened and filtered air, free of obnoxious fumes, dust, dirt and other contaminants. ( )

05. **Packed Tower Aeration**. Packed tower aeration may be used for the removal of volatile organic chemicals, trihalomethanes, carbon dioxide, and radon. Final design shall be based on the results of pilot studies and be approved by the Department. ( )

a. Process design criteria. ( )

i. Justification for the design parameters selected (i.e., height and diameter of unit, air to water ratio, packing depth, surface loading rate, etc.) shall be provided to the Department for review. The pilot study shall evaluate a variety of loading rates and air to water ratios at the peak contaminant concentration. Special consideration shall be given to removal efficiencies when multiple contaminations occur. Where there is considerable past performance data on the contaminant to be treated and there is a concentration level similar to previous projects, the Department may approve the process design based on use of appropriate calculations without a pilot study. ( )

ii. The tower shall be designed to reduce contaminants to below the maximum contaminant level and to the lowest practical level. ( )

iii. The type and size of the packing used in the full scale unit shall be the same as that used in the pilot study. ( )

iv. The maximum air to water ratio for which credit will be given is 80:1. ( )

v. The design shall consider potential fouling problems from calcium carbonate and iron precipitation and from bacterial growth. It may be necessary to provide pretreatment. Disinfection capability shall be provided

prior to and after packed tower aeration. ( )

vi. The effects of temperature shall be considered. ( )

vii. Redundant packed tower aeration capacity at the design flowrate shall be provided. ( )

b. The tower may be constructed of stainless steel, concrete, aluminum, fiberglass or plastic. Uncoated carbon steel is not allowed. Towers constructed of light-weight materials shall be provided with adequate support to prevent damage from wind. Packing materials shall be resistant to the aggressiveness of the water, dissolved gases and cleaning materials and shall be suitable for contact with potable water. ( )

c. Water flow system. ( )

i. Water shall be distributed uniformly at the top of the tower using spray nozzles or orifice-type distributor trays that prevent short circuiting. ( )

ii. A mist eliminator shall be provided above the water distributor system. ( )

iii. A side wiper redistribution ring shall be provided at least every ten (10) feet in order to prevent water channeling along the tower wall and short circuiting. ( )

iv. Sample taps shall be provided in the influent and effluent piping. The sample taps shall satisfy the requirements of Subsection 501.09. ( )

v. The effluent sump, if provided, shall have easy access for cleaning purposes and be equipped with a drain valve. The drain shall not be connected directly to any storm or sanitary sewer. ( )

vi. The design shall prevent freezing of the influent riser and effluent piping when the unit is not operating. ( )

vii. The water flow to each tower shall be metered. ( )

viii. An overflow line shall be provided which discharges twelve (12) to fourteen (14) inches above a splash pad or drainage inlet. Proper drainage shall be provided to prevent flooding of the area. ( )

ix. Means shall be provided to prevent flooding of the air blower. ( )

d. Air flow system. ( )

i. The air inlet to the blower and the tower discharge vent shall be down-turned and protected with a non-corrodible twenty-four (24) mesh screen to prevent contamination from extraneous matter. ( )

ii. The air inlet shall be in a protected location. ( )

iii. An air flow meter shall be provided on the influent air line or an alternative method to determine the air flow shall be provided. ( )

iv. A positive air flow sensing device and a pressure gauge must be installed on the air influent line. The positive air flow sensing device must be a part of an automatic control system which will turn off the influent water if positive air flow is not detected. The pressure gauge will serve as an indicator of fouling buildup. ( )

v. A backup motor for the air blower must be readily available. ( )

e. Other features that shall be provided: ( )

i. A sufficient number of access ports with a minimum diameter of twenty-four (24) inches to facilitate inspection, media replacement, media cleaning and maintenance of the interior. ( )

ii. A method of cleaning the packing material when iron, manganese, or calcium carbonate fouling may occur. ( )

iii. Tower effluent collection and pumping wells constructed to clearwell standards. ( )

iv. Provisions for extending the tower height without major reconstruction. ( )

v. No bypass shall be provided unless specifically approved by the Department. ( )

vi. Disinfection and adequate contact time after the water has passed through the tower and prior to the distribution system. ( )

vii. Adequate packing support to allow free flow of water and to prevent deformation with deep packing heights. ( )

viii. Operation of the blower and disinfectant feeder equipment during power failures. ( )

ix. Adequate foundation to support the tower and lateral support to prevent overturning due to wind loading. ( )

x. Fencing and locking gate to prevent vandalism. ( )

xi. An access ladder with safety cage for inspection of the aerator including the exhaust port and de-mister. ( )

xii. Electrical interconnection between blower, disinfectant feeder and supply pump. ( )

06. Other Methods of Aeration. Other methods of aeration may be used if applicable to the treatment needs. Such methods include but are not restricted to spraying, diffused air, cascades and mechanical aeration. The treatment processes are subject to the approval of the Department. ( )

07. Protection of Aerators. All aerators except those discharging to lime softening or clarification plants shall be protected from contamination by birds, insects, wind borne debris, rainfall and water draining off the exterior of the aerator. ( )

08. Disinfection. Ground water supplies exposed to the atmosphere by aeration must receive disinfection as described in Section 530 as the minimum additional treatment. ( )

535. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR IRON AND MANGANESE CONTROL SYSTEMS.

Iron and manganese control, as used herein, refers solely to treatment processes designed specifically for this purpose. The treatment process used will depend upon the character of the raw water. The selection of one (1) or more treatment processes must meet specific local conditions as determined by engineering investigations, including chemical analyses of representative samples of water to be treated, and receive the approval of the Department. The Department may require a pilot plant study in order to gather all information pertinent to the design. See Subsection 501.19 for general information on conducting pilot studies. ( )

01. Removal by Oxidation, Detention and Filtration. ( )

a. Oxidation may be by aeration or by chemical oxidation with chlorine, potassium permanganate, ozone or chlorine dioxide. ( )

b. Detention time: ( )

i. A minimum detention time of thirty (30) minutes shall be provided following aeration to ensure that the oxidation reactions are as complete as possible. This minimum detention may be omitted only where a pilot

plant study indicates no need for detention. The detention basin may be designed as a holding tank without provisions for sludge collection but with sufficient baffling to prevent short circuiting. ( )

ii. Sedimentation basins shall be provided when treating water with high iron or manganese content, or where chemical coagulation is used to reduce the load on the filters. Provisions for sludge removal shall be made. ( )

c. Filtration. Rapid rate pressure filters are normally used for iron and manganese removal. Pressure filters shall not be used in the filtration of surface or other polluted waters or following lime-soda softening. ( )

i. The rate of filtration shall not exceed three (3) gallons per minute per square foot of filter area except where in-plant testing as approved by the Department has demonstrated satisfactory results at higher rates. ( )

ii. The filters shall be designed to provide for: ( )

(1) Loss of head gauges on the inlet and outlet pipes of each battery of filters. ( )

(2) An easily readable meter or flow indicator on each battery of filters. ( )

(3) Filtration and backwashing of each filter individually with an arrangement of piping as simple as possible to accomplish these purposes. ( )

(4) Minimum side wall shell height of five (5) feet. A corresponding reduction in side wall height is acceptable where proprietary bottoms permit reduction of the gravel depth. ( )

(5) The top of the wash water collectors to be at least eighteen (18) inches above the surface of the media, ( )

(6) The underdrain system to efficiently collect the filtered water and to uniformly distribute the backwash water at a rate not less than fifteen (15) gallons per minute per square foot of filter area. ( )

(7) Backwash flow indicators and controls that are easily readable while operating the control valves. ( )

(8) An air release valve on the highest point of each filter. ( )

(9) An accessible manhole to facilitate inspection and repairs for filters thirty-six (36) inches or more in diameter. Sufficient handholds shall be provided for filters less than thirty-six (36) inches in diameter. ( )

(10) A means to observe the wastewater during backwashing and construction to prevent cross connection. ( )

02. Removal by Manganese Coated Media Filtration. This process consists of a continuous or batch feed of potassium permanganate to the influent of a manganese coated media filter. ( )

a. Other oxidizing agents or processes such as chlorination or aeration may be used prior to the permanganate feed to reduce the cost of the chemical. ( )

b. An anthracite media cap of at least six (6) inches or more as required by the Department shall be provided over manganese coated media. ( )

c. Normal filtration rate shall be three (3) gallons per minute per square foot. ( )

d. Normal wash rate shall be eight (8) to ten (10) gallons per minute per square foot with manganese greensand and fifteen (15) to twenty (20) gallons per minute with manganese coated media. ( )

e. Sample taps shall be provided prior to application of permanganate, immediately ahead of filtration, at points between the anthracite media, and at the filter effluent. The sample taps shall satisfy the requirements of Subsection 501.09. ( )

03. Removal by Ion Exchange. This process is not acceptable where either the raw water or wash water contains dissolved oxygen or other oxidants. ( )

04. Biological Removal. Biofiltration to remove manganese, iron, or a combination of manganese and iron requires on-site piloting testing to establish effectiveness. The final filter design shall be based on the on-site pilot plant studies. ( )

05. Sequestration by Polyphosphates. This process shall not be used when iron, manganese or a combination thereof exceeds one point zero (1.0) mg/l. The total phosphate applied shall not exceed ten (10) mg/l as PO_4. Where phosphate treatment is used, satisfactory chlorine residuals shall be maintained in the distribution system. Possible adverse affects on corrosion must be addressed when phosphate addition is proposed for iron sequestering. ( )

a. Stock phosphate solution must be kept covered and disinfected by carrying approximately ten (10) mg/l free chlorine residual unless it is demonstrated to the satisfaction of the Department that the phosphate solution is not able to support bacterial growth and the phosphate solution is being fed from the covered shipping container or an approved disinfected tank. Phosphate solutions having a pH of two point zero (2.0) or less may also be exempted from this requirement by the Department. ( )

b. Polyphosphates shall not be applied ahead of iron and manganese removal treatment. The point of application shall be prior to any aeration, oxidation or disinfection if no iron or manganese removal treatment is provided. ( )

06. Sequestration by Sodium Silicates. Sodium silicate sequestration of iron and manganese is allowed only for ground water supplies prior to air contact. On-site pilot studies are required to determine the suitability of sodium silicate for the particular water and the minimum feed needed. Rapid oxidation of the metal ions such as by chlorine or chlorine dioxide must accompany or closely precede the sodium silicate addition. ( )

a. Sodium silicate addition is applicable to waters containing up to two (2) mg/l of iron, manganese or combination thereof. ( )

b. Chlorine residuals shall be maintained throughout the distribution system to prevent biological breakdown of the sequestered iron. ( )

c. The amount of silicate added shall be limited to twenty (20) mg/l as SiO_2, but the amount of added and naturally occurring silicate shall not exceed sixty (60) mg/l as SiO_2. ( )

d. Sodium silicate shall not be applied ahead of iron or manganese removal treatment. ( )

07. Sampling Taps. Smooth-nosed sampling taps shall be provided for control purposes. Taps shall be located on each raw water source, each treatment unit influent and each treatment unit effluent. The sample taps shall satisfy the requirements of Subsection 501.09. ( )

536. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR FLUORIDATION.

01. Chemical Feed Equipment and Methods. In addition to the requirements in Section 531, fluoride feed equipment shall meet the following requirements: ( )

a. Scales, loss-of-weight recorders or liquid level indicators, as appropriate, accurate to within five (5) percent of the average daily change in reading shall be provided for chemical feeds. ( )

b. The accuracy of chemical feeders used for fluoridation shall be plus or minus five (5) percent of the intended dose. ( )

c. Unsealed storage units for fluorosilicic acid shall be vented to the atmosphere at a point outside any building. ( )

d. Fluoride compound shall not be added before lime-soda softening or ion exchange softening. ( )

e. The point of application of fluorosilicic acid, if into a horizontal pipe, shall be in the lower half of the pipe. ( )

f. A fluoride solution shall be applied by a positive displacement pump having a stroke rate not less than twenty (20) strokes per minute, and at a feed rate not less than twenty (20) percent of the rated capacity of the feed pump. ( )

g. A spring opposed diaphragm type anti-siphon device shall be provided for all fluoride feed lines and dilution water lines. ( )

h. Except for constant flow systems, a device to measure the flow of water to be treated is required. ( )

i. The dilution water pipe shall terminate at least two (2) pipe diameters above the solution tank. ( )

j. Water used for sodium fluoride dissolution shall be softened if hardness exceeds seventy-five (75) mg/l as calcium carbonate. ( )

k. Fluoride solutions shall be injected at a point of continuous positive pressure or a suitable air gap provided. ( )

l. The electrical outlet used for the fluoride feed pump shall be interconnected with the well or service pump. ( )

m. Consideration shall be given to providing a separate room for fluorosilicic acid storage and feed. ( )

02. Secondary Controls. Secondary control systems for fluoride chemical feed devices shall be provided as a means of reducing the possibility for overfeed; these may include flow or pressure switches or other devices. ( )

03. Dust Control. Provision must be made for the transfer of dry fluoride compounds from shipping containers to storage bins or hoppers in such a way as to minimize the quantity of fluoride dust which may enter the room in which the equipment is installed. The enclosure shall be provided with an exhaust fan and dust filter which places the hopper under a negative pressure. Air exhausted from fluoride handling equipment shall discharge through a dust filter to the outside atmosphere of the building. ( )

537. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR STABILIZATION.
Water that is unstable due either to natural causes or to subsequent treatment shall be stabilized. The expected treated water quality shall be evaluated to determine what, if any, treatment is necessary. ( )

01. Carbon Dioxide Addition. ( )

a. Recarbonation basin design shall provide the following: ( )

i. A total detention time of twenty (20) minutes. ( )

ii. A mixing compartment having a detention time of at least three (3) minutes. ( )

iii. A reaction compartment. ( )

iv. The mixing and reaction compartments shall have a depth sufficient to provide a diffuser submergence of not less than seven and one-half (7.5) feet and no greater than the manufacturer's recommendation. ( )

b. Where liquid carbon dioxide is used, adequate precautions must be taken to prevent carbon dioxide from entering the plant from the recarbonation process. ( )

c. Recarbonation tanks shall be located outside or be sealed and vented to the outside with adequate seals and adequate purge flow of air to ensure workers safety. ( )

d. Provisions shall be made for draining the recarbonation basin and removing sludge. ( )

02. Phosphates. The feeding of phosphates may be used for sequestering calcium, for corrosion control, and in conjunction with alkali feed following ion exchange softening. ( )

a. Stock phosphate solution must be kept covered and disinfected by carrying approximately ten (10) mg/l free chlorine residual unless the phosphate is not able to support bacterial growth and the phosphate is being fed from the covered shipping container. Phosphate solutions having a pH of two point zero (2.0) or less are exempted from this requirement. ( )

b. Satisfactory chlorine residuals shall be maintained in the distribution system when phosphates are used. ( )

03. Split Treatment. Raw water may be blended with lime-softened water to partially stabilize the water prior to secondary clarification and filtration. Treatment plants designed to utilize split treatment shall also contain facilities for further stabilization by other methods. ( )

04. Water Unstable Due to Biochemical Action in Distribution System. Unstable water resulting from the bacterial decomposition of organic matter in water (especially in dead end mains), the biochemical action within tubercles, and the reduction of sulfates to sulfides shall be prevented by the maintenance of a free or combined chlorine residual throughout the distribution system. ( )

538. – 539. (RESERVED)

540. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR TREATMENT AND DISPOSAL OF TREATMENT PLANT WASTE RESIDUALS.
Provisions must be made for proper disposal of water treatment plant waste such as sanitary, laboratory, clarification sludge, softening sludge, iron sludge, filter backwash water, and liquid concentrates. In locating waste disposal facilities, due consideration shall be given to preventing potential contamination of the water supply. ( )

01. Sanitary Waste. The sanitary waste from water treatment plants, pumping stations, and other waterworks installations must receive treatment. Waste from these facilities shall be discharged directly to a sanitary sewer system, when available and feasible, or to an adequate on-site waste treatment facility approved under the provisions of IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." ( )

02. Liquid Concentrates. ( )

a. Waste from ion exchange plants, demineralization plants, reverse osmosis, on-site chlorine generators, or other plants which produce liquid concentrates may be disposed of by the following methods: ( )

i. Liquid concentrates that contain radionuclides must be further treated to remove the radioactive constituents as sludge. See Subsection 540.03.e. for disposal requirements for sludge that contains radionuclides. The residual liquids from which radionuclides have been removed may be disposed of in accordance with Subsections 540.02.a.ii. through 540.02.a.iv. ( )

ii. Controlled discharge to a stream or other receiving water body if adequate dilution is available. Such discharge will require a National Pollution Elimination System Permit from the U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101, Telephone (206) 553-1200. ( )

iii. Liquid concentrates may be discharged to a sanitary sewer, if available and feasible. Acceptance of such waste must be approved by the sewer authority. ( )

iv. Subsurface disposal or land application of liquid concentrates may be permitted, but only if such discharge meets the requirements of IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules" for subsurface disposal or the requirements of IDAPA 58.01.17, "Recycled Water Rules" for land application. ( )

b. Should the nature of the liquid concentrate cause it to be ineligible for permitted discharge as described in Subsection 540.02.a., further onsite treatment of the liquid concentrate may be required in order to produce sludge and liquid waste that will meet the permit criteria for one (1) or more of the disposal options. ( )

03. Sludge Waste. Sludge is the solid waste resulting from coagulation, precipitation, or passive settling of liquid concentrates. Depending on composition, liquids remaining after sludge removal may be disposed of by methods described in Subsection 540.02, recycled through the treatment plant, or may be pure enough to be unregulated. The following methods of treatment and disposal apply to sludge: ( )

a. Precipitative Softening Sludge. ( )

i. At least two (2) temporary storage lagoons must be provided in order to give flexibility in operation. Provisions must be made for convenient cleaning. An acceptable means of final sludge disposal must be provided. ( )

ii. Liquid or dewatered precipitative softening sludge may be applied to farm land if heavy metals or other contaminants do not exceed the requirements of IDAPA 58.01.02, "Water Quality Standards." ( )

iii. Dewatered precipitative softening sludge may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste is at the discretion of the landfill authority. ( )

b. Alum or Ferric Sludge. ( )

i. Temporary storage lagoons must contain at least two (2) compartments to facilitate independent filling and dewatering operations. Mechanical concentration may be considered. If mechanical dewatering is used, it shall be preceded by sludge concentration and chemical pre-treatment. A pilot plant study is required before the design of a mechanical dewatering installation. See Subsection 501.19 for general information on conducting pilot studies. ( )

ii. Alum or ferric sludge may be discharged to a sanitary sewer if available and feasible. Acceptance of such waste must be approved by the sewer authority. ( )

iii. Dewatered alum or ferric sludge may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste is at the discretion of the landfill authority. ( )

iv. Alum or ferric sludge may be disposed of by land application if the permitting requirements of IDAPA 58.01.02, "Water Quality Standards," and IDAPA 58.01.17, "Recycled Water Rules," are met. ( )

v. Water removed from alum or ferric sludge may be disposed of in the same manner as liquid concentrates, as described in Subsection 540.02. ( )

c. Red Water. Red water is the waste filter wash water from iron and manganese removal plants.

( )

i. If sand filters are used they shall have the following features: ( )

(1) Total filter area shall be sufficient to adequately dewater applied solids. Unless the filter is small enough to be cleaned and returned to service in one (1) day, two (2) or more cells are required. ( )

(2) The "red water" filter shall have sufficient capacity to contain, above the level of the sand, the entire volume of wash water produced by washing all of the production filters in the plant, unless the production filters are washed on a rotating schedule and the flow through the production filters is regulated by true rate of flow controllers. Then sufficient volume shall be provided to properly dispose of the wash water involved. ( )

(3) Where freezing is a problem, provisions should be made for covering the filters during the winter months. ( )

(4) "Red water" filters shall not have common walls with finished water. ( )

ii. Subsurface infiltration lagoons may be permitted, but only if such discharge meets the requirements of IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." ( )

iii. "Red water" may be discharged to a sanitary sewer if available and feasible. Acceptance of such waste must be approved by the sewer authority. Design shall prevent cross connections and there shall be no common walls between potable and non-potable fluid. ( )

d. Filter Backwash Water. ( )

i. Recycling is permitted if the backwash waters are returned to the head of the treatment plant or another entry point if supported by engineering studies. Backwash water shall be held for a sufficient time prior to recycling to allow solids to settle out. ( )

ii. Dewatered sludge from backwash water clarification processes may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste must be approved by the landfill authority. ( )

e. Radioactive Sludge. Waste residuals containing radioactive substances, including, but not limited to granular activated carbon used for radon removal or ion-exchange regeneration waste from uranium removal, must be disposed of in accordance with IDAPA 58.01.10, "Rules Regulating the Disposal of Radioactive Materials Not Regulated Under The Atomic Energy Act of 1954, As Amended." ( )

i. The buildup of radioactive materials such as uranium or radon and its decay products shall be considered and adequate shielding and safeguards shall be provided for operators and visitors. ( )

ii. Waste residuals containing naturally occurring radioactive materials that have been concentrated by human activities must be disposed of in an approved hazardous waste landfill (Class D), in accordance with the IDAPA 58.01.10, "Rules Regulating the Disposal of Radioactive Materials not Regulated Under the Atomic Energy Act of 1954, as Amended," and IDAPA 58.01.06, "Solid Waste Management Rules." ( )

iii. Waste residuals containing greater than point zero five (.05) percent by weight of uranium are subject to licensing and disposal under the regulations of the U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011, Phone 817-860-8299. ( )

f. Arsenic Sludge. Solid waste residuals containing arsenic at a concentration less than five (5) mg/l may be disposed of at a sanitary landfill if permitted under IDAPA 58.01.06, "Solid Waste Management Rules." Solid waste containing arsenic at a concentration greater than five (5) mg/l must be disposed of at an approved hazardous waste landfill. Liquid wastes generated by arsenic treatment processes are subject to the handling and disposal requirements for liquid concentrates, as discussed under Subsection 540.02. ( )

04. **Spent Media**. Exhausted ion exchange media, adsorption media, disposable filters, and other components of treatment processes that contain concentrated contaminants shall be disposed of in accordance with IDAPA 58.01.06, "Solid Waste Management Rules," and/or IDAPA 58.01.10, "Rules Regulating the Disposal of Radioactive Materials not Regulated Under the Atomic Energy Act of 1954, as Amended." ( )

541. FACILITY AND DESIGN STANDARDS: PUMPING FACILITIES.
Pumping facilities shall be designed to maintain the sanitary quality of pumped water. ( )

01. **Pump Houses**. Unless otherwise approved by the Department based on documentation provided by the design engineer, pump house components shall be located above-grade. The following requirements apply to pump houses as defined in Section 003 unless it can be shown that some or all of these requirements are not needed to protect the combination of system components in a given structure: ( )

a. Pump houses shall be readily accessible for operation, maintenance, and repair at all times and under all weather conditions unless permitted to be out of service for a period of inaccessibility. ( )

b. Pump houses shall be protected from flooding and shall be adequately drained. The ground surface shall be graded so as to lead surface drainage away from the pump house. Unless otherwise approved by the Department based on documentation provided by the design engineer, the floor surface shall be at least six (6) inches above the final ground surface and pump house components shall be located at least six (6) inches above the floor surface. ( )

c. Pump houses shall be of durable construction, fire and weather resistant, and with outward-opening doors. All underground structures shall be waterproofed. ( )

d. Provisions shall be made for adequate heating for the comfort of the operator and the safe and efficient operation of the equipment. In pump houses not occupied by personnel, only enough heat need be provided to prevent freezing of equipment or treatment processes. ( )

e. Ventilation shall conform to existing local and/or state codes. Adequate ventilation shall be provided for all pumping stations for operator comfort and dissipation of excess heat and moisture from the equipment. In all cases, measures must be taken to minimize corrosion of metallic and electrical components. ( )

f. Pump houses shall be provided with a locking door or access to prohibit unauthorized entrance and shall be protected to prevent vandalism and entrance by animals. Plans and specifications for pump houses must provide enough detail to enable the reviewing engineer to determine that the facility is secure, safe, accessible, and that it conforms to electrical and plumbing codes. ( )

g. Pump houses shall be kept clean and in good repair and shall not be used to store toxic or hazardous materials other than those materials required for treatment processes. ( )

h. A suitable outlet shall be provided for drainage from pump glands without discharging onto the floor. ( )

i. Floor drains shall not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination unless otherwise approved by the Department based on documentation provided by the design engineer. Gas chlorination room drains shall not be connected to any other drainage system and should terminate in a properly located below ground sump. Sumps for pump house floor drains shall not be closer than thirty (30) feet from any well. ( )

j. Adequate space shall be provided for the installation of potential additional units and for the safe and efficient servicing of all equipment. ( )

k. Suction basins shall be watertight, have floors sloped to permit removal of water and settled solids, be covered or otherwise protected against contamination, and have two (2) pumping compartments or other means to allow the suction basin to be taken out of service for inspection maintenance or repair. ( )

l. Pump houses shall be designed to allow efficient equipment servicing. Crain-ways, hoist beams, eyebolts, or other adequate facilities for servicing or removal of pumps, motors or other heavy equipment shall be provided. Openings in floors, roofs or wherever else shall be provided as needed for removal of heavy or bulky equipment. ( )

m. All remote controlled stations shall be electrically operated and controlled and shall have signaling apparatus of proven performance. Signaling apparatus shall report automatically when the station is out of service. ( )

n. Any threaded hose bib installed in the pump house must be equipped with an appropriate backflow prevention device. ( )

02. Pumping Units. At least two (2) pumping units shall be provided for raw water and surface source pumps. Pumps using seals containing mercury shall not be used in public drinking water system facilities. With any pump out of service, the remaining pump or pumps shall be capable of providing the peak hour demand of the system or a minimum of the maximum day demand plus equalization storage. See Subsection 501.18 for general design requirements concerning fire flow capacity and Subsection 501.07 regarding reliability and emergency operation. The pumping units shall meet the following requirements: ( )

a. The pumps shall have ample capacity to supply the maximum demand against the required pressure without dangerous overloading. ( )

b. The pumps shall be driven by prime movers able to meet the maximum horsepower condition of the pumps. ( )

c. The pumps shall be provided with readily available spare parts and tools. ( )

d. The pumps shall be served by control equipment that has proper heater and overload protection for air temperature encountered. ( )

e. Suction lift shall be avoided if possible. When suction lift is used, it shall be within the limits allowed by the manufacturer of the pumps, and provision shall be made for priming the pumps. ( )

f. Prime water must not be of lesser sanitary quality than that of the water being pumped. Means shall be provided to prevent either backpressure or backsiphonage backflow. When an air-operated ejector is used, the twenty-four (24) mesh or similar non-corrodible screened intake shall draw clean air from a point at least ten (10) feet above the ground or other source of possible contamination, unless the air is filtered by an apparatus approved by the reviewing authority. Vacuum priming may be used. ( )

03. Appurtenances. The following appurtenances shall be provided for all water pumps. Additional requirements specific to well pumps are provided in Section 511. ( )

a. Pumps shall be protected against freezing and valved to permit satisfactory operation, maintenance, and repair of the equipment. If foot valves are necessary, they shall have a net valve area of at least two and one-half (2.5) times the area of the suction pipe and they shall be screened. Each pump shall have an accessible check valve on the discharge side between the pump and the shut-off valve or a combination valve that performs both control valve and check valve functions. Surge relief measures shall be designed to minimize hydraulic transients. ( )

b. In general, piping shall be designed so that it will have watertight joints, be protected against surge or water hammer, be provided with suitable restraints where necessary, be designed so that friction losses will be minimized, and not be subject to contamination. Each pump shall have an individual suction line or the suction lines shall be manifolded such that they will ensure similar hydraulic and operating conditions. ( )

c. Each pump station shall have a standard pressure gauge on its discharge line and suction line. ( )

d. Water seals shall not be supplied with water of a lesser sanitary quality than that of the water being pumped. Where pumps are sealed with potable water and are pumping water of lesser sanitary quality, the seal shall: ( )

i. Be provided with either an approved reduced pressure principle backflow preventer or a break tank open to atmospheric pressure, ( )

ii. Where a break tank is provided, have an air gap of at least six (6) inches or two (2) pipe diameters, whichever is greater, between the feeder line and the flood rim of the tank. ( )

e. Pumps, their prime movers, and accessories shall be controlled in such a manner that they will operate at rated capacity without dangerous overload. Where two (2) or more pumps are installed, provision shall be made for alternation. Provision shall be made to prevent energizing the motor in the event of a backspin cycle. Equipment shall be provided or other arrangements made to prevent surge pressures from activating controls which switch on pumps or activate other equipment outside the normal design cycle of operation. ( )

04. Booster Pumps. In addition to other applicable requirements in Section 541, booster pumps must comply with the following: ( )

a. In-line booster pumps shall maintain an operating pressure that is consistent with the requirements specified in Subsection 552.01, and shall be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. ( )

b. Booster pumps with a suction line directly connected to any storage reservoirs shall be protected by an automatic cutoff to prevent pump damage and avoid excessive reservoir drawdown. ( )

c. Each booster pumping station shall contain not less than two (2) pumps with capacities such that peak hour demand, or a minimum of the maximum day demand plus equalization storage, can be satisfied with any pump out of service. See Subsection 501.18 for general design requirements concerning fire flow capacity. ( )

542. FACILITY AND DESIGN STANDARDS - DISTRIBUTION SYSTEM.

01. Protection from Contamination. The distribution system shall be protected from contamination and be designed to prevent contamination by steam condensate or cooling water from engine jackets or other heat exchange devices. ( )

02. Installation of Water Mains. Division 400 of "Idaho Standards for Public Works Construction," referenced in Subsection 002.02, may be used as guidance for installation of water mains. In addition, the following provisions shall apply: ( )

a. Installed pipe shall be pressure tested and leakage tested in accordance with the applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. ( )

b. New, cleaned, and repaired water mains shall be disinfected in accordance with AWWA Standard C651, incorporated by reference into these rules at Subsection 002.01. The specifications shall include detailed procedures for the adequate flushing, disinfection, and microbiological testing of all water mains. ( )

c. In areas where aggressive soil conditions are suspected or known to exist, analyses shall be performed to determine the actual aggressiveness of the soil. If soils are found to be aggressive, action shall be taken to protect metallic joint restraints and the water main, such as encasement in polyethylene, provision of cathodic protection, or use of corrosion resistant materials. ( )

d. The Department must approve any interconnection between potable water supplies, taking into account differences in water quality between the two systems. ( )

e. A continuous and uniform bedding shall be provided in the trench for all buried pipe. Backfill material shall be tamped in layers around the pipe and to a sufficient height above the pipe to adequately support and

protect the pipe. Stones found in the trench shall be removed for a depth of at least six (6) inches below the bottom of the pipe. ( )

f. Water mains shall be covered with sufficient earth or other insulation to prevent freezing. ( )

g. All tees, bends, plugs and hydrants shall be provided with reaction blocking, tie rods or joints designed to prevent movement. ( )

03. Pressure Relief Valves. All pumps connected directly to the distribution system shall be designed in conjunction with a water pressure relief valve of type, size, and material approved by the Department unless the Department approves another method that will prevent excessive pressure development. ( )

04. Flow Meter Required. Unless otherwise approved by the Department based on documentation provided by the design engineer, all source pumps and booster pumps connected directly to the distribution system shall have an instantaneous and totalizing flow meter, equipped with nonvolatile memory, installed in accordance with manufacture's specifications. ( )

05. Pipe and Jointing Materials. Pipe and jointing materials comply with the standards set forth in Subsection 501.01. Pipe shall be manufactured of materials resistant internally and externally to corrosion and not imparting tastes, odors, color, or any contaminant into the system. Where distribution systems are installed in areas of ground water contaminated by organic compounds: ( )

a. Pipe and joint materials which do not allow permeation of the organic compounds shall be used; and ( )

b. Non-permeable materials shall be used for all portions of the system including pipe, joint materials, hydrant leads, and service connections. ( )

06. Size of Water Mains. When fire hydrants are provided, they shall not be connected to water mains smaller than six (6) inches in diameter, and fire hydrants shall not be installed unless fireflow volumes are available. If fire flow is not provided, water mains shall be no less than three (3) inches in diameter. Any departure from this minimum standard shall be supported by hydraulic analysis and detailed projections of water use. ( )

07. Separation of Potable, Non-Potable, and Raw Water Pipelines. The requirements for the protection of potable mains from contamination by non-potable pipelines are described in Subsections 542.07.a. through 542.07.c. For the purposes of Subsection 542.07, the term "pipeline" applies to both mains and services. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. The conditions of Subsections 542.07.a. and 542.07.b. shall apply to all potable services constructed or reconstructed after April 15, 2007 and where the Department or the QLPE is the reviewing authority. Raw water pipelines must be protected from contamination from non-potable pipelines, and must not contaminate potable pipelines. They shall therefore meet equivalent separation distances shown below from either potable or non-potable pipelines. ( )

a. Parallel installation requirements. ( )

i. Potable mains in relation to non-potable mains. ( )

(1) Greater than ten (10) feet separation: no additional requirements. ( )

(2) Ten (10) feet to six (6) feet separation: separate trenches, with the bottom of the potable main above the top of the non-potable main, and non-potable main constructed with potable water class pipe. ( )

(3) Less than six (6) feet separation: design engineer to submit data to the Department for review and approval showing that this installation will protect public health and the environment, non-potable main to be constructed of potable water class pipe, and with the bottom of the potable main above the top of the non-potable main. ( )

(4) Non-potable mains are prohibited from being located in the same trench as potable mains. ( )

(5) Pressure wastewater mains or other pressurized mains or lines containing non-potable fluids shall be no closer horizontally than ten (10) feet from potable mains. ( )

ii. New potable services in relation to non-potable services, new potable services in relation to non-potable mains, and new non-potable services in relation to potable mains. ( )

(1) Greater than six (6) feet separation: no additional requirements based on separation distance. ( )

(2) Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe. ( )

(3) New potable services are prohibited from being located in the same trench as non-potable mains or non-potable services. ( )

b. Requirements for potable water mains or services crossing non-potable water mains or services. ( )

i. If there is eighteen (18) inches or more vertical separation with the potable water pipeline above the non-potable pipeline, then the potable pipeline joints must be as far as possible from the non-potable water pipeline. ( )

ii. If there is eighteen (18) inches or more vertical separation with the potable water pipeline below the non-potable pipeline, then the potable pipeline joints must be as far as possible from the non-potable pipeline, and the non-potable pipeline must be supported through the crossing to prevent settling. ( )

iii. Less than eighteen (18) inches vertical separation: ( )

(1) Potable pipeline joint to be as far as possible from the non-potable pipeline; and either: ( )

(a) Non-potable pipeline constructed with potable water class pipe for a minimum of ten (10) feet either side of potable pipeline with a single twenty (20) foot section of potable water class pipe centered on the crossing; or ( )

(b) Sleeve non-potable or potable pipeline with potable water class pipe for ten (10) feet either side of crossing. Use of hydraulic cementitious materials such as concrete, controlled density fill, and concrete slurry encasement is not allowed as a substitute for sleeving. ( )

(2) If potable pipeline is below non-potable pipeline, the non-potable pipeline must also be supported through the crossing to prevent settling. ( )

iv. Pressure wastewater mains or other pressurized mains or lines containing non-potable fluids shall be no closer vertically than eighteen (18) inches from potable mains. ( )

c. Existing potable services in relation to new non-potable mains, existing non-potable services in relation to new potable mains, and existing potable services in relation to new non-potable services shall meet the requirements of Subsection 542.07.b., where practical, based on cost, construction factors, and public health significance. If the Department determines that there are significant health concerns with these services, such as where a large existing service serves an apartment building or a shopping center, then the design shall conform with Subsection 542.07.b. ( )

08. Separation from Subsurface Wastewater Systems and Other Sources of Contamination. A minimum horizontal distance of twenty-five (25) feet shall be maintained between any potable water pipe and a septic tank or subsurface wastewater disposal system. Guidance on separation from other potential sources of contamination, such as stormwater facilities, may be found on the DEQ website http://www.deq.idaho.gov.

( )

09. Dead End Mains. All dead end water mains shall be equipped with a means of flushing and shall be flushed at least semiannually at a water velocity of two and one-half (2.5) feet per second. ( )

a. Dead ends shall be minimized by making appropriate tie-ins whenever practical in order to provide increased reliability of service and reduce head loss. ( )

b. Flushing shall be performed in such a way as to minimize any erosion of unprotected areas and, if applicable, shall be coordinated with the owner of the receiving system. No water main flushing device shall be directly connected to any sewer. ( )

c. Stub outs for future main connections shall meet all requirements for dead end mains listed in Subsection 542.09 as determined by the Department. Flushing devices may be temporary in nature. ( )

10. Repair of Leaks. Leaking water mains shall be repaired or replaced upon discovery and disinfected in accordance with American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01. ( )

11. Separation from Structures. Water mains shall be separated by at least five (5) feet from buildings, industrial facilities, and other permanent structures. ( )

12. Meter Vault Required. All new public water systems shall include a meter vault at each service connection. A lockable shut-off valve shall be installed in the meter vault. This requirement shall also apply to extensions of the distribution system of existing public water systems. ( )

13. Minimum Pressure at Building Sites. Any public water system constructed or undergoing material modification where topographical relief may affect water pressure at the customers' premises shall provide the Department with an analysis which demonstrates that the pressure at each designated building site will be at least forty (40) psi, based on dynamic pressure in the main, as set forth in Subsections 552.01.b.i. and 552.01.b.v., plus a static compensation from the elevation of the main to the elevation of each building site. ( )

a. If forty (40) psi cannot be provided at each designated building site, the Department may require that reasonable effort be made to provide notification to existing and potential customers of the expected pressure. ( )

b. The Department will not authorize a service connection at any designated building site where analysis indicates that pressure will be less than twenty (20) psi static pressure (or twenty-six point five (26.5) psi for two (2) story buildings). ( )

14. Isolation Valves. A sufficient number of valves shall be provided on water mains to minimize inconvenience and sanitary hazards during repairs. ( )

15. Air Valves. At high points in water mains where air can accumulate, provisions shall be made to remove the air by means of air release and vacuum relief valves or combination air release/vacuum relief valves. Air release valves, vacuum relief valves, or combination air release/vacuum relief valves may not be required if vacuum relief and air release functions in the pipeline can be adequately handled by approved appurtenances such as fire hydrants. ( )

a. The open end of an air valve shall be extended to at least one (1) foot above grade and provided with a twenty-four (24) mesh or similar non-corrodible screened, downward-facing elbow. When the air vent on an air relief valve cannot be practically installed above ground, the vent may be below grade provided that the valve is manually operated and the air vent is extended to the top of the valve vault and provided with a twenty-four (24) mesh or similar non-corrodible screened, downward-facing elbow. In addition, for below ground vents, the valve vault must be rated for appropriate traffic loading in traffic areas and the vault drained to daylight or provided with adequate drainage to prevent flooding of the vault. ( )

b. Discharge piping from air valves or combination air release/vacuum relief valves shall not connect directly to any storm drain, storm sewer, or sanitary sewer. ( )

16. Backflow Protection. Automatic air relief valves shall be equipped with a means of backflow protection. ( )

17. Surface Water Crossings. For the purposes of Subsection 542.17, surface water is defined as all surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. Surface water crossings, whether over or under water, shall be constructed as follows: ( )

a. Above water crossings: the pipe shall be adequately supported and anchored, protected from damage and freezing, and shall be accessible for repair or replacement. ( )

b. Under water crossings: A minimum cover of two (2) feet shall be provided over the pipe. When crossing a water course that is greater than fifteen (15) feet in width, the following shall be provided: ( )

i. The pipe shall be of special construction, having flexible, restrained, or welded water-tight joints; and ( )

ii. Valves shall be provided at both ends of water crossings so that the section can be isolated for testing or repair; the valves shall be easily accessible and not subject to flooding; and ( )

iii. Permanent taps or other provisions to allow insertion of a small meter to determine leakage and obtain water samples shall be made on each side of the valve closest to the supply source. ( )

543. FACILITY AND DESIGN STANDARDS: CROSS CONNECTION CONTROL.
There shall be no connection between the distribution system and any pipes, pumps, hydrants, water loading stations, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into a public water system. The water purveyor is responsible through its cross connection control program to take reasonable and prudent measures to protect the water system against contamination and pollution from cross connections through premises isolation or containment, internal or in-plant isolation, fixture protection, or some combination of premises isolation, internal isolation, and fixture protection. ( )

01. Testable Assemblies. All double check valve backflow prevention assemblies, reduced pressure principle backflow prevention assemblies, spill resistant vacuum breakers, and pressure vacuum breakers used must pass a performance test conducted by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research (USC Foundation) and be included on the USC Foundation "List of Approved Assemblies." ( )

02. Atmospheric Vacuum Breakers. All atmospheric vacuum breakers used shall be marked approved either by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitation Engineers (ASSE). ( )

03. Replacement Parts and Components. All replacement parts and components, including resilient seated shutoff valves, shall meet original manufacturer's specifications or otherwise be approved by the USC Foundation as replacement parts or components for use on double check valve backflow prevention assemblies, reduced pressure principle backflow prevention assemblies, pressure vacuum breakers, and spill resistant pressure vacuum breakers. The design, material, or operational characteristics of any assembly must not be altered during maintenance or repair. ( )

04. Assembly Selection. Appropriate and adequate backflow prevention assembly types for various facilities, fixtures, equipment, and uses of water should be selected from the AWWA Pacific Northwest Section Cross Connection Control Manual, the Uniform Plumbing Code, the AWWA Recommended Practice for Backflow Prevention and Cross Connection Control (M14), the USC Foundation Manual of Cross Connection Control, or other sources deemed acceptable by the Department. The selected assembly manufacturer model number must be included

on the USC Foundation "List of Approved Assemblies" and must comply with local ordinances. ( )

544. FACILITY AND DESIGN STANDARDS: GENERAL DESIGN OF FINISHED WATER STORAGE. The materials and designs used for finished water storage structures shall provide stability and durability as well as protect the quality of the stored water. Finished water storage structures shall be designed to maintain water circulation and prevent water stagnation. Steel structures and facilities such as steel tanks, standpipes, reservoirs, and elevated tanks shall be designed and constructed in accordance with applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. Other materials of construction are acceptable when properly designed to meet the requirements of Section 544. ( )

01. Sizing and Isolation Requirements. ( )

a. Storage facilities shall have sufficient capacity, as determined from engineering studies that consider peak flows, fire flow capacity, and analysis of the need for various components of finished storage as defined under the term "Components of Finished Water Storage" in Section 003. The requirement for storage may be reduced when the source and treatment facilities have sufficient capacity with standby power to supply peak demands of the system. ( )

b. All storage structures which provide pressure directly to the distribution system, such as elevated storage structures or ground level storage structures with associated pumping systems, shall be designed so they can be isolated and drained for cleaning or maintenance without causing a loss of pressure in the distribution system. ( )

02. Location. Storage facilities shall be located in a manner that protects against contamination, ensures structural stability, protects against flooding, and provides year-round access by vehicles and equipment needed for repair and maintenance. ( )

a. If the bottom elevation of a storage reservoir must be below normal ground surface, it shall be placed above the seasonal high ground water table. ( )

b. Non-potable mains and services, standing water, and similar sources of possible contamination must be kept at least fifty (50) feet from any partially buried or below-ground storage structure or facility, except that non-potable mains and services constructed of potable water class pipe are allowed as close as twenty (20) feet from a partially buried or below-ground storage structure or facility. Partially buried or below-ground storage structures or facilities shall be located a minimum of fifty (50) feet from the nearest property line. ( )

c. No public water supply storage tank shall be located within five hundred (500) feet of any municipal or industrial wastewater treatment plant or any land which is spray irrigated with wastewater or used for sludge disposal. ( )

d. The top of a partially buried storage structure shall not be less than two (2) feet above normal ground surface. ( )

e. Ground-level or above-ground storage structures or facilities shall be located a minimum of twenty (20) feet from the nearest property line and a minimum of twenty (20) feet from any potential source of contamination. ( )

03. Protection from Contamination. All finished water storage structures shall have suitable watertight roofs which exclude birds, animals, insects, and excessive dust. The installation of appurtenances, such as antennas, shall be done in a manner that ensures no damage to the tank, coatings or water quality, or corrects any damage that occurred. ( )

04. Protection from Trespassers. Fencing, locks on access manholes, and other necessary precautions shall be provided to prevent trespassing, vandalism, and sabotage. ( )

05. Drains. No drain on a water storage structure may have a direct connection to a sewer or storm drain. The design shall allow draining the storage facility for cleaning or maintenance without causing loss of

pressure in the distribution system. ( )

06. **Overflow**. Overflow pipes of any storage structure or facility shall discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. The overflow pipe shall be of sufficient diameter to permit waste of water in excess of the filling rate. The overflow shall discharge over a drainage inlet structure or a splash plate and, when practical, discharge at an elevation between twelve (12) and twenty-four (24) inches above the receiving surface. ( )

a. When an internal overflow pipe is used on above-ground tanks, it shall be located in the access tube. ( )

b. The overflow for ground-level, partially buried, or below-ground storage structures or facilities shall have a vertical section of pipe at least two (2) pipe diameters in length and either: ( )

i. Be screened with a twenty-four (24) mesh non-corrodible screen installed within the pipe when practical or an expanded metal screen installed within the pipe plus a weighted flapper valve or check; or ( )

ii. Be an equivalent system acceptable to the Department. ( )

07. **Access**. Finished water storage structures shall be designed with reasonably convenient access to the interior for cleaning and maintenance. At least two (2) manholes shall be provided above the waterline at each water compartment where space permits, as determined by the Department. One (1) manhole may be allowed on smaller tanks on a case-by-case basis. ( )

a. The following access requirements apply to above-ground and ground-level storage structures. Each access manhole shall be framed a minimum of four (4) inches above the surface of the roof at the opening. The actual height above the surface of the roof must be sufficient to prevent incidental contamination from snow accumulation, storm water runoff or accumulation, irrigation water, or other potential sources of contamination. ( )

b. The following access requirements apply to, partially buried or below-ground storage structures. Each access manhole shall be elevated a minimum of twenty-four (24) inches above the surface of the roof or the ground level, whichever is higher. The actual height above the surface of the roof or the ground level must be sufficient to prevent incidental contamination from snow accumulation, storm water runoff or accumulation, irrigation water, or other potential sources of contamination. ( )

c. Each manhole shall be fitted with a solid water tight cover designed to prevent the entrance of contaminants. Each cover shall be hinged only on one (1) side and shall have a locking device. Unless otherwise approved by the Department based on documentation provided by the design engineer, each cover shall have a framed opening with the lid extending down around the frame at least two (2) inches, and the frame shall be at least four (4) inches high. ( )

08. **Vents**. Finished water storage structures shall be vented. The overflow pipe shall not be considered a vent. Open construction between the sidewall and roof is not permissible. Vents shall: ( )

a. Prevent the entrance of surface water and rainwater and extend twelve (12) inches above the roof. ( )

b. Exclude birds and animals. ( )

c. Exclude insects and dust, as much as this function can be made compatible with effective venting. ( )

d. On ground-level, partially buried, or below-ground structures, open downward with the opening at least twenty-four (24) inches above the roof or the ground level and covered with twenty-four (24) mesh non-corrodible screen. The screen shall be installed within the pipe at a location least susceptible to vandalism. ( )

e. On above-ground tanks and standpipes, open downward, and be fitted with twenty-four (24) mesh or similar non-corrodible screen. ( )

09. Roof and Sidewall. The roof and sidewalls of all water storage structures must be watertight with no openings except properly constructed vents, manholes, overflows, risers, drains, pump mountings, control ports, or piping for inflow and outflow. Particular attention shall be given to the sealing of roof structures which are not integral to the tank body. ( )

a. Any pipes running through the roof or sidewall of a metal storage structure must be welded, or properly gasketed. In concrete tanks, these pipes shall be connected to standard wall castings which were poured in place during the forming of the concrete. ( )

b. Openings in the roof of a storage structure designed to accommodate control apparatus or pump columns shall be curbed and sleeved with proper additional shielding to prevent contamination from surface or floor drainage. ( )

c. The roof of the storage structure shall be sloped to facilitate drainage. Downspout pipes shall not enter or pass through the reservoir. Parapets, or similar construction which would tend to hold water and snow on the roof, will not be approved unless adequate waterproofing and drainage are provided. ( )

d. Reservoirs with pre-cast concrete roof structures must be made watertight with the use of a waterproof membrane or similar product. ( )

10. Construction Materials. Materials used in storage facility construction shall meet the requirements for water contact surfaces set forth in Subsection 501.01. Porous materials such as wood or concrete block are not acceptable for use in storage construction. ( )

11. Protection from Freezing. Finished water storage structures and their appurtenances, especially the riser pipes, overflows, and vents, shall be designed to prevent freezing which will interfere with proper functioning. ( )

12. Internal Catwalk. Every catwalk over finished water in a storage structure shall have a solid floor with sealed raised edges, designed to prevent contamination from shoe scrapings and dirt. ( )

13. Silt Stops. Removable silt stops shall be provided to prevent sediment from entering the reservoir discharge pipe. ( )

14. Grading. The area surrounding a ground-level, partially buried, or below-ground structures shall be graded in a manner that will prevent surface water from standing within fifty (50) feet of it. ( )

15. Coatings and Cathodic Protection. Proper protection shall be given to metal surfaces by paints or other protective coatings, by cathodic protective devices, or by both. ( )

16. Disinfection. Storage facilities shall be disinfected in accordance with AWWA Standard C652, incorporated by reference into these rules at Subsection 002.01. Two (2) or more successive sets of samples, taken at twenty-four (24) hour intervals, shall indicate microbiologically satisfactory water before the facility is placed into operation. ( )

17. Abandonment. All unused subsurface storage tanks shall be removed and backfilled, or abandoned by extracting residual fluids and filling the structure with sand or fine gravel. ( )

545. FACILITY AND DESIGN STANDARDS: TREATMENT PLANT STORAGE FACILITIES.
The design standards of Section 544 shall apply to treatment plant storage. ( )

01. Filter Wash Water. Filter wash water tanks shall be sized, in conjunction with available pump units and finished water storage, to provide the backwash water required by Section 521. Consideration must be given

to the backwashing of several filters in rapid succession. ( )

02. Clearwell. When finished water storage is used to provide disinfectant contact time special attention must be given to tank size and baffling. An overflow and vent shall be provided. A minimum of two (2) clearwell compartments shall be provided to allow for cleaning or maintenance. Clearwells constructed under filters may be exempt from the requirements set out in Subsection 544.02.d. when the design provides adequate protection from contamination. ( )

03. Adjacent Storage. Finished or treated water must not be stored or conveyed in a compartment adjacent to untreated or partially treated water when the two (2) compartments are separated by a single wall, unless approved by the reviewing authority. ( )

04. Other Treatment Plant Storage Tanks. Unless otherwise allowed by the reviewing authority, other treatment plant storage tanks/basins such as detention basins, backwash reclaim tanks, receiving basins, and pump wet-wells for finished water shall be designed as finished water storage structures. In addition, these tanks/basins shall be designed to allow for cleaning or maintenance through temporary tanks, standby pumping capabilities, or other means approved by the Department. ( )

546. FACILITY AND DESIGN STANDARDS: DISTRIBUTION SYSTEM STORAGE FACILITIES.

01. Design. The applicable design standards of Section 544 shall be followed for distribution system storage. ( )

02. Isolation. Finished water storage structures which provide pressure directly to the distribution system shall be designed so they can be isolated from the distribution system and drained for cleaning or maintenance without causing a loss of pressure in the distribution system. This requirement may be met through available temporary tanks, redundant pumping capabilities, or other temporary means approved by the Department. If the finished water storage structure provides fire flow for the water system, the water system owner shall provide the local fire authority advance notification of cleaning or maintenance events which isolate the structure from the distribution system and reduce available fire flow to less than the minimum required by the local fire authority. ( )

03. Drain. Drains shall discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. The drain shall, when practical, discharge at an elevation between twelve (12) and twenty-four (24) inches above the receiving surface, and discharge over a drainage inlet structure or a splash plate. ( )

04. Level Controls. Adequate controls shall be provided to maintain levels in distribution system storage structures. Level indicating devices shall be provided at a central location. ( )

547. FACILITY AND DESIGN STANDARDS: HYDROPNEUMATIC TANK SYSTEMS.
Hydropneumatic tanks use compressed air to regulate pump cycling and to absorb pressure surges (water hammer). These tanks do not provide true storage. Systems serving more than one-hundred-fifty (150) homes are generally better served by providing reservoir storage, as set forth in Sections 544, 545 and 546. ( )

01. General Design of Hydropneumatic Systems. ( )

a. Tanks shall be located above normal ground surface and be completely housed. ( )

b. Tanks shall have bypass piping to permit operation of the system while the tank is being repaired or painted. Exterior surfaces and accessible interior surfaces shall be provided with protective coatings and shall be maintained in good condition. Supports beneath tanks shall be structurally sound. ( )

c. Tanks shall be sized to limit pump cycles to not more than six (6) per hour unless a pump manufacturer's warranty specifically supports more frequent cycling. The number of pump cycles may be increased in systems with multiple pumps if a means to automatically alternate pumps is provided. The Franklin Electric AIM

manual, referenced in Subsection 002.02, Chapter 11 of the Washington State Department of Health Water System Design Manual, referenced in Subsection 002.02, or manufacturer's recommendations may be used as guidance in calculating the size of hydropneumatic tanks. ( )

d. Tanks of greater than one-hundred twenty (120) gallons volume shall conform with the American Society of Mechanical Engineers (ASME) specifications code for unfired pressure vessels. Tanks of less than one hundred twenty (120) gallons volume shall meet the ASME code or be certified by a nationally recognized testing agency to be capable of withstanding twice the maximum allowable working pressure. ( )

02. Requirements Specific to Conventional Hydropneumatic Tanks. Conventional tanks are those that have a direct air to water interface and require periodic air recharge to compensate for absorption of air into the water. ( )

a. Each tank shall have an access manhole, a drain, and control equipment consisting of a pressure gauge, water sight glass, automatic or manual air blow-off, means for adding air that is filtered or otherwise protected from contamination, and pressure operated start-stop controls for the pumps. If tank size allows, the access manhole shall be at least twenty-four (24) inches in diameter. ( )

b. The gross volume of tanks in systems served by variable speed pumps may be less than that required for systems served by constant speed pumps. Design volumes shall be approved by the Department on a site-specific basis. ( )

03. Requirements Specific to Bladder Tanks. Bladder tanks have a membrane that separates air and water inside the tank. ( )

a. Bladder tanks must be pre-charged with air to a pressure of five (5) psi below the setting at which the pump turns on (the low operating pressure for the system). ( )

b. Each manifold assembly shall have a pressure gauge and pressure operated start-stop controls for the pumps. ( )

c. The procedure for sizing bladder tanks is to determine the number of a selected size of tanks that are needed to provide pump protection. Reduced tank volume in systems served by variable speed pumps shall be approved by the Department on a site specific basis. ( )

548. FACILITY AND DESIGN STANDARDS: DISINFECTION OF FACILITIES PRIOR TO USE.
Any supplier of water for a public water system shall ensure that new construction or modifications to an existing system shall be flushed and disinfected in accordance with American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01, prior to being placed into service. ( )

549. -- 551. (RESERVED)

552. OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.

01. Quantity and Pressure Requirements. Design requirements regarding pressure analysis are found in Section 542.13. ( )

a. Minimum Capacity. The capacity of a public drinking water system shall be at least eight hundred (800) gallons per day per residence. ( )

i. The minimum capacity of eight hundred (800) gallons per day shall be the design maximum day demand rate exclusive of irrigation and fire flow requirements. ( )

ii. The minimum capacity of eight hundred (800) gallons per day is only acceptable if the public drinking water system has equalization storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. ( )

iii. The design capacity of a public drinking water system for material modifications may be less than eight hundred (800) gallons per day per residence if the water system owner provides information that demonstrates to the Department's satisfaction the maximum day demand for the system, exclusive of irrigation and fire flows, is less than eight hundred (800) gallons per day per residence. ( )

b. Pressure. All public water systems shall meet the following requirements: ( )

i. Any public water system shall be capable of providing sufficient water during maximum day demand conditions, including fire flow where provided, to maintain a minimum pressure of twenty (20) psi throughout the distribution system, at ground level, as measured at the service connection or along the property line adjacent to the consumer's premises. ( )

ii. Public Notification. ( )

(1) During unplanned or emergency situations, when water pressure within the system is known to have fallen below twenty (20) psi, the water supplier must notify the Department, provide public notice to the affected customers within twenty-four (24) hours, and disinfect or flush the system as appropriate. When sampling and corrective procedures have been conducted and after determination by the Department that the water is safe, the water supplier may re-notify the affected customers that the water is safe for consumption. The water supplier shall notify the affected customers if the water is not safe for consumption. ( )

(2) During planned maintenance or repair situations, when water pressure within the system is expected to fall below twenty (20) psi, the water supplier must provide public notice to the affected customers prior to the planned maintenance or repair activity and shall ensure that the water is safe for consumption. ( )

iii. If an initial investigation by the water supplier fails to discover the causes of inadequate or excessive pressure, the Department may require the water supplier to conduct a local pressure monitoring study to diagnose and correct pressure problems. Compliance with these requirements by water systems that do not have a meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured shall be determined by measurements within the consumer's premises, or at another representative location acceptable to the Department. ( )

iv. Copies of pressure monitoring study reports required under Subsection 552.01.b.iii. detailing study results and any resulting corrective actions planned or performed by the public water system shall be submitted to the Department in accordance with these rules. ( )

v. The following public water systems or service areas of public water systems shall maintain a minimum pressure of forty (40) psi throughout the distribution system, during peak hour demand conditions, excluding fire flow, measured at the service connection or along the property line adjacent to the consumer's premises. ( )

(1) Any public water system constructed or substantially modified after July 1, 1985. ( )

(2) Any new service areas. ( )

(3) Any public water system that is undergoing material modification where it is feasible to meet the pressure requirements as part of the material modification. ( )

vi. Any public water system shall keep static pressure within the distribution system below one hundred (100) psi and should ordinarily keep static pressure below eighty (80) psi. Pressures above one hundred (100) psi shall be controlled by pressure reducing valve stations installed in the distribution main. In areas where failure of installed pressure reducing valve stations would result in extremely high pressure, pressure relief valves may be required. The Department may approve the use of pressure reducing devices at individual service connections on a case by case basis, if it can be demonstrated that higher pressures in portions of the distribution system are required for efficient system operation. If system modification will cause pressure to routinely exceed eighty (80) psi, or if a check valve or an individual pressure reducing device is added to the service line, the water system owner shall notify affected customers. Notification may include reasons for the elevated pressure, problems or damage that

elevated pressure can inflict on appliances or plumbing systems, and suggested procedures or mitigation efforts affected property owners may initiate to minimize problems or damage. ( )

vii. The Department may allow the installation of booster pump systems at individual service connections on a case by case basis. However, such an installation may only occur with the full knowledge and agreement of the public water system, including assurance by the water system that the individual booster pump will cause no adverse effects on system operation. ( )

viii. For elevated storage tanks, pressure calculations during peak hour demand shall be based on the lowest water level after both operational storage and equalization storage have been exhausted. Pressure calculations during fire flow demands shall be based on the lowest water level after operational storage, equalization storage, and fire suppression storage have been exhausted. ( )

ix. For hydropneumatic tanks, pressure calculations shall be based on the lowest pressure of the pressure cycle and this requirement shall be noted in the operation and maintenance manual. ( )

c. Fire Flows. Any public water system designed to provide fire flows shall ensure that such flows are compatible with the water demand of existing and planned fire-fighting equipment and fire fighting practices in the area served by the system. ( )

d. Irrigation Flows. ( )

i. Any public water system constructed after November 1, 1977, shall be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which shall include all acreage that the system is designed to irrigate. ( )

(1) The Department must concur with assumptions regarding the acreage to be irrigated. In general, an assumption that no outside watering will occur is considered unsound and is unlikely to be approved. ( )

(2) An assumption of minimal outside watering, as in recreational subdivisions, may be acceptable if design flows are adequate for maintenance of "green zones" for protection against wildland fire. ( )

ii. The requirement of Subsection 552.01.d.i. may be modified by the Department if: ( )

(1) A separate irrigation system is provided; or ( )

(2) The supplier of water can regulate the rate of irrigation through its police powers, and the water system is designed to accommodate a regulated rate of irrigation flow. The Department may require the water system to submit a legal opinion addressing the enforceability of such police powers. ( )

iii. If a separate non-potable irrigation system is provided for the consumers, all mains, hydrants and appurtenances shall be easily identified as non-potable. The Department must concur with a plan to ensure that each new potable water service is not cross-connected with the irrigation system. ( )

02. Ground Water. ( )

a. Public water systems constructed after July 1, 1985, and supplied by ground water, shall treat water within the system by disinfection if the ground water source is not protected from contamination. ( )

b. The Department may, in its discretion, require disinfection for any existing public water system supplied by ground water if the system has repeated coliform present samples or E.coli MCL exceedances, and if the system does not appear adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: ( )

i. Location of possible sources of contamination; ( )

ii. Size of the well lot; ( )

iii. Depth of the source of water; ( )

iv. Bacteriological quality of the aquifer; ( )

v. Geological characteristics of the area; and ( )

vi. Adequacy of development of the source. ( )

03. Operating Criteria. The operating criteria for systems that provide filtration shall be as follows: ( )

a. A project specific operation and maintenance manual shall be provided as required in Subsection 501.12. See definition of Operation and Maintenance Manual in Section 003 for the typical contents of an operation and maintenance manual and the included operations plan. For the operations plan in the operation and maintenance manual, additional guidance for several types of filtration systems can be found in the Department's SWTR Compliance Guidance referenced in Subsection 002.02. ( )

b. The system shall conduct monitoring specified by the Department before serving water to the public in order to protect the health of consumers served by the system. ( )

c. New treatment facilities shall be operated in accordance with Subsection 552.03.a., and the system shall conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of consumers served by the system. ( )

04. Chlorination. Systems that regularly add chlorine to their water are subject to the provisions of Section 320. Systems using surface water or ground water under the direct influence of surface water, are subject to the disinfection requirements of Sections 300 and 518. ( )

a. Systems using only ground water that add chlorine for the purpose of disinfection, as defined in Section 003, are subject to the following requirements: ( )

i. Chlorinator and chlorine contact tank capacity shall be such that the system is able to demonstrate that it is routinely achieving four (4) logs (ninety-nine point ninety-nine percent) (99.99%)) inactivation/removal of viruses. The required effective contact time will be specified by the Department. This condition must be attainable even when the plant design capacity coincides with anticipated maximum chlorine demands. ( )

ii. A detectable chlorine residual shall be maintained throughout the distribution system. ( )

iii. Automatic proportioning chlorinators are required where the rate of flow or chlorine demand is not reasonably constant. ( )

iv. Analysis for free chlorine residual shall be conducted at a location at or prior to the first service connection at least daily and records of these analyses shall be kept by the supplier of water for at least one (1) year. A report of all daily chlorine residual measurements for each calendar month shall be submitted to the Department no later than the tenth day of the following month. The frequency of measuring free chlorine residuals shall be sufficient to detect variations in chlorine demand or changes in water flow. ( )

v. If gas chlorination equipment is provided, a separate and ventilated room is required. ( )

vi. The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.04.a.i. ( )

vii. When chlorine gas is used, chlorine leak detection devices and safety equipment shall be provided and equipped with both an audible alarm and a warning light. ( )

viii. The Department may require redundant chlorine pumping capabilities with automatic switchover

for systems with documented source water contamination problems and that lack adequate storage to supply the system during a pump failure. ( )

b. Systems using only ground water that add chlorine for the purpose of maintaining a disinfectant residual in the distribution system, when the source(s) is not at risk of microbial contamination, are subject to the following requirements: ( )

i. Automatic proportioning chlorinators are required where the rate of flow or chlorine demand is not reasonably constant. ( )

ii. Analysis for free chlorine residual shall be made at a frequency that is sufficient to detect variations in chlorine demand or changes in water flow. ( )

c. Systems using only ground water that add chlorine for other purposes, such as oxidation of metals or taste and odor control, when the source(s) is known to be free of microbial contamination, must ensure that chlorine residual entering the distribution system after treatment is less than four (4.0) mg/L. The requirements in Subsection 552.04.b.ii. also apply if the system maintains a chlorine residual in the distribution system. ( )

05. Fluoridation. ( )

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01, are acceptable. Use of other chemicals shall be specifically approved by the Department. ( )

b. Fluoride compounds shall be stored in covered or unopened shipping containers. ( )

c. Provisions shall be made to minimize the quantity of fluoride dust. Empty bags, drums, or barrels shall be disposed of in a manner that will minimize exposure to fluoride dusts. ( )

d. Daily records of flow and amounts of fluoride added shall be kept. An analysis for fluoride in finished water shall be made at least weekly. Records of these analyses shall be kept by the supplier of water for five (5) years. ( )

06. Cross Connection Control Program - Community Water Systems. The water purveyor is responsible through its cross connection control program to take reasonable and prudent measures to protect the water system against contamination and pollution from cross connections through premises isolation, internal or in-plant isolation, fixture protection, or some combination of premises isolation, internal isolation, and fixture protection. Pursuant to Section 543, all suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance to the system of materials known to be toxic or hazardous. The water purveyor is responsible to enforce the system's cross connection control program. The program will at a minimum include: ( )

a. An inspection program to locate cross connections and determine required suitable protection. For new connections, suitable protection must be installed prior to providing water service. ( )

b. Required installation and operation of adequate backflow prevention assemblies. Appropriate and adequate backflow prevention assembly types for various facilities, fixtures, equipment, and uses of water should be selected from the AWWA Pacific Northwest Section Cross Connection Control Manual, the Uniform Plumbing Code, the AWWA Recommended Practice for Backflow Prevention and Cross Connection Control (M14), the USC Foundation Manual of Cross Connection Control, or other sources deemed acceptable by the Department. The assemblies must meet the requirements of Section 543 and comply with local ordinances. ( )

c. Annual inspections and testing of all installed backflow prevention assemblies by a tester licensed by a licensing authority recognized by the Department. Testing shall be done in accordance with the test procedures published by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. See the USC Foundation Manual of Cross-Connection Control referenced in Subsection 002.02. ( )

d. Discontinuance of service to any structure, facility, or premises where suitable backflow protection has not been provided for a cross connection. ( )

e. Assemblies that cannot pass annual tests or those found to be defective shall be repaired, replaced, or isolated within ten (10) business days. If the failed assembly cannot be repaired, replaced, or isolated within ten (10) business days, water service to the failed assembly shall be discontinued. ( )

07. Cross Connection Control - Non-Community Water Systems. All suppliers of water for non-community water systems shall ensure that cross connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies shall be inspected and tested annually for functionality by an Idaho licensed tester, as specified in Subsections 552.06.c. and 552.06.e. ( )

08. Start-up Procedures For Seasonal Systems Subject To Subsections 100.01.a., c., and d. ( )

a. All seasonal system owners and operators must demonstrate completion of a Department approved start-up procedure, including start-up sampling, prior to serving water to the public. The system owner or operator must submit information on a Department provided or approved form that includes a statement certifying that the system owner or operator followed proper start-up procedures. The form shall be submitted to the Department within 30 (thirty) days following the system's start-up date. ( )

b. The Department may exempt any seasonal system from Subsection 552.08.a. if the entire distribution system remains pressurized during the entire period that the system is not operating, except that the systems that monitor less frequently than monthly must still monitor during the vulnerable period designated by the Department. The Department may exempt a seasonal system from Subsection 552.08.a. if the owner or operator of the system meets all of the following conditions: ( )

i. Requests an exemption in writing to the Department for approval; ( )

ii. Demonstrates a clean compliance history as defined in Section 003 for a minimum of five (5) years; ( )

iii. Has no uncorrected significant deficiencies from the most recent sanitary survey; and ( )

iv. Total coliform samples submitted to a certified laboratory within 30 (thirty) days prior to serving water to the public demonstrate the absence of total coliform. ( )

553. CLASSIFICATION OF WATER SYSTEMS.

01. System Classification Required. The Department shall classify community, nontransient noncommunity, and surface water systems based on indicators of potential health risks. ( )

a. The owner or designee of every community and nontransient noncommunity public water system shall submit proof of the current conditions related to the classification of the system every five (5) years or more frequently if required by the Department. ( )

b. The owner or designee of all surface water systems shall submit proof of the current conditions related to the classification of the system every five (5) years or more frequently if required by the Department. ( )

02. Classification Criteria. Systems shall be classified under a system that uses the following criteria: ( )

a. Complexity, size, and type of source water for treatment facilities. ( )

b. Complexity and size of distribution systems. ( )

c. Other criteria deemed necessary to completely classify systems. ( )

d. The Department shall develop guidelines for applying the criteria set forth in Section 553. ( )

554. LICENSE REQUIREMENTS.

01. Licensed Operator Required. ( )

a. Owners of all community and nontransient noncommunity public drinking water systems must place the direct supervision of their drinking water system, including each treatment facility and distribution system, under the responsible charge of a properly licensed operator. ( )

b. Owners of all surface water systems must place the direct supervision of their public drinking water system under the responsible charge of a properly licensed operator. ( )

02. Responsible Charge Operator License Requirement. An operator in responsible charge of a public drinking water system must hold a valid license equal to or greater than the classification of the public water system where the responsible charge operator is in responsible charge. Responsible charge means active, daily on-site or on-call responsibility for the performance of operations or active, on-going, on-site, or on-call direction of employees and assistants. ( )

03. Substitute Responsible Charge Operator License Requirement. At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. A substitute responsible charge operator of a public water system must hold a valid license equal to or greater than the classification of the public water system where the substitute responsible charge operator is in responsible charge. ( )

04. Shift Operator Requirement. Any public drinking water system subject to these requirements with multiple operating shifts must have a designated properly licensed operator available for each operating shift. An on-duty designated shift operator does not replace the requirements in Subsections 554.01 and 554.03 for responsible charge operator coverage during all operating shifts. ( )

05. Water Operator License Requirement. All operating personnel at public drinking water systems subject to these requirements making process control/ system integrity decisions about water quality or quantity that affect public health must hold a valid and current license. ( )

555. -- 559. (RESERVED)

560. CONTRACTING FOR SERVICES.
Public water systems may contract with persons to provide responsible charge operators and substitute responsible charge operators. Proof of such contract shall be submitted to the Department prior to the contracted person performing any services at the public water system. ( )

561. -- 562. (RESERVED)

563. ADVISORY GROUP.
Stakeholder Involvement. Ongoing stakeholder involvement will be provided through the existing drinking water advisory committee at the Department. ( )

564. -- 899. (RESERVED)

900. TABLES.

01. Table 1 -- Minimum Distances From a Public Water System Well.

Minimum Distances from a Public Water System Well	
Gravity wastewater line	50 feet
Any potential source of contamination	50 feet
Pressure wastewater line	100 feet
Class A Municipal Reclaimed Wastewater Pressure distribution line	50 feet
Individual home septic tank	100 feet
Individual home disposal field	100 feet
Individual home seepage pit	100 feet
Privies	100 feet
Livestock	50 feet
Drainfield - standard subsurface disposal module	100 feet
Absorption module - large soil absorption system	150 - 300 feet, see IDAPA 58.01.03
Canals, streams, ditches, lakes, ponds and tanks used to store non-potable substances	50 feet
Storm water facilities disposing storm water originating off the well lot	50 feet
Municipal or industrial wastewater treatment plant	500 feet
Reclamation and reuse of municipal and industrial wastewater sites	See IDAPA 58.01.17
Biosolids application site	1,000 feet

( )

02. Table 2 - Well Casing Standards for Public Water System Wells.

STEEL PIPE					
				WEIGHT PER FOOT (pounds)	
DIAMETER (inches)			THICKNESS (inches)	Plain Ends	With Threads and Couplings
SIZE	External	Internal		(calculated)	(nominal)
6 (id) *	6.625	6.065	0.280	18.97	19.18
8	8.625	7.981	0.322	28.55	29.35
10	10.750	10.020	0.365	40.48	41.85
12	12.750	12.000	0.375	49.56	51.15

STEEL PIPE					
14 (od) *	14.000	13.250	0.375	54.57	57.00
16	16.000	15.250	0.375	62.58	
18	18.000	17.250	0.375	70.59	
20	20.000	19.250	0.375	78.60	
22	22.000	21.000	0.500	114.81	
24	24.000	23.000	0.500	125.49	
26	26.000	25.000	0.500	136.17	
28	28.000	27.000	0.500	146.85	
30	30.000	29.000	0.500	157.53	
32	32.000	31.000	0.500	168.21	
34	34.000	33.000	0.500	178.89	
36	36.000	35.000	0.500	189.57	

* id = inside diameter
od = outside diameter ( )

901. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature has given the Idaho Board of Environmental Quality the authority to promulgate Rules Regulating Swine Facilities pursuant to Sections 39-104A, 39-105, and 39-107, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.09, "Rules Regulating Swine Facilities." ( )

02. Scope. These rules establish the procedures and requirements for the issuance of a permit to construct, operate, close or expand swine facilities of a defined capacity. The intent of these rules is to ensure animal waste from swine facilities are properly controlled so as not to adversely affect public health or the environment. ( )

002. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. ( )

003. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. Animal Unit. An animal unit equals two and a half (2.5) swine, each weighing over twenty-five (25) kilograms (approximately fifty-five (55) pounds), or ten (10) weaned swine, each weighing under twenty-five (25) kilograms. Total animal units are calculated by adding the number of swine weighing over twenty-five (25) kilograms multiplied by four-tenths (.4) plus the number of weaned swine weighing under twenty-five (25) kilograms multiplied by one-tenth (.1). ( )

02. Animal Waste. Animal excrement, feed wastes, process wastewater or any other waste associated with the confinement of swine. ( )

03. Animal Waste Management System. Any structure or system that provides for the collection, treatment, disposal, distribution, or storage of animal waste. ( )

04. Certified Planner. A person who has completed the nutrient management certification in accordance with the Nutrient Management Standard. ( )

05. Department. The Idaho Department of Environmental Quality. ( )

06. Director. The Director of the Department of Environmental Quality or his designee. ( )

07. Existing Facility. A facility built and in operation one (1) year or more prior to the original effective date of these rules. ( )

08. Expanding Facility. A swine facility of less than two thousand (2,000) animal units that increases its one-time animal unit capacity to two thousand (2,000) or more animal units or an existing facility that increases its one-time animal unit capacity by ten percent (10%). ( )

09. Facility or Swine Facility. Any place, site or location or part thereof where swine are kept, handled, housed, or otherwise maintained and includes but is not limited to buildings, lots, pens, and animal waste management system, and which has the one-time animal unit capacity of two thousand (2000) or more animal units. ( )

10. Land Application. The spreading on or incorporation of animal waste into the soil mantle primarily for beneficial purposes. ( )

11. Nutrient Management Plan. A plan prepared in compliance with the Nutrient Management

Standard or other equally protective standard approved by the Director for managing the amount, source, placement, form, and timing of the land application of nutrients and soil amendments for plant production and to minimize the potential for environmental degradation, particularly impairment of water quality. ( )

12. **Nutrient Management Standard**. The United States Department of Agriculture-Natural Resource Conservation Service Code 590 or the Idaho Agricultural Pollution Abatement Plan-Nutrient Management Standard Component Practice. ( )

13. **One-Time Animal Unit Capacity**. The maximum number of animal units that a facility is capable of housing at any given point in time. ( )

14. **Operate**. Confine, feed, propagate, house, or otherwise sustain swine. ( )

15. **Permit**. A written authorization by the Director to construct, operate, or expand a swine facility. ( )

16. **Permittee**. The person in whose name a permit is issued. ( )

17. **Person**. Any individual, association, partnership, firm, joint stock company, joint venture, trust, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity which is recognized by law as the subject of rights and duties. ( )

18. **Process Wastewater**. Any water used in the facility that comes into contact with any manure, litter, bedding, raw, intermediate, or final material or product used in or resulting from the production of swine and any products directly or indirectly used in the operation of a facility, such as spillage or overflow from animal watering systems; washing, cleaning, or flushing pens, barns, manure pits, or spray cooling of animals; and dust control and any precipitation which comes into contact with animals or animal waste. ( )

19. **Unauthorized Discharge**. A release of animal waste to the environment or waters of the state that is not authorized by the permit or the terms of an NPDES permit issued by the federal EPA. ( )

20. **Waters of the State**. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. ( )

011. -- 099. (RESERVED)

100. APPLICABILITY.

01. **Permit Required**. No person shall construct, operate, or expand a regulated swine facility without first obtaining a permit issued by the Director as provided in these rules. ( )

02. **Regulated Facilities**. New swine facilities having a one-time animal unit capacity of two thousand (2,000) or more animal units and expanding facilities are required to be permitted as provided in these rules. ( )

03. **Common Control**. Two (2) or more swine facilities under common control of the same person may be considered, for purposes of permitting, to be a single facility, even though separately their capacity is less than two thousand (2,000) animal units, if they use a common animal waste management system or land application site. ( )

04. **Existing Swine Facilities**. Those swine facilities built and in operation one (1) year or more prior to the original effective date of these rules are exempt from the requirements of these rules except as provided in Section 210. ( )

101. -- 199. (RESERVED)

200. PERMIT APPLICATION.

01. Permit Application. Every person requiring a permit under these rules shall submit a permit application to the Department. A permit application will be used to determine if the construction, operation, and closure of a swine facility will be in conformance with these and other applicable rules. ( )

02. Preapplication Conference. Prospective applicants are encouraged to meet with the Department to discuss application requirements and procedures. ( )

03. Contents of Application. Each application shall include, in the format set forth by the Director and when determined applicable by the Director, the following information in Subsections 200.04 through 200.08 in sufficient detail to allow the Director to make necessary application review decisions concerning design, environmental protection and public health. ( )

04. Relevant Information. ( )

a. Name, mailing address and phone number of the facility owner. ( )

b. Name, mailing address and phone number of the facility operator. ( )

c. Name and mailing address of the facility. ( )

d. Legal description of the facility location. ( )

e. The legal structure of the entity owning the facility, including the names and addresses of all directors, officers, registered agents and partners. ( )

f. The names and locations of all swine facilities owned and/or operated by the applicant within the last ten (10) years. ( )

g. The one-time animal unit capacity of the facility. ( )

h. The type of animals to be confined at the facility. ( )

i. Evidence that a valid water right exists to supply adequate water for the proposed facility or a copy of either an application for permit to appropriate water or an application to change the point of diversion, place, period and nature of use of an existing water right that has been filed with the Idaho Department of Water Resources which, if approved, will supply adequate water for the proposed operation. ( )

j. Proof of financial capability to perform remedial actions and to meet the conditions of an approved closure plan for a facility. The mechanism used to demonstrate financial capability must be legally valid, binding and enforceable under applicable law and must insure that the funds necessary to meet the costs of remediation and closure will be available whenever they are needed in accordance with Section 205. The mechanisms include, but are not limited to, trust funds, surety bonds, letters of credit, insurance and corporate guarantees. ( )

k. The facility's biosecurity and sanitary standards. ( )

l. A statement of estimated annual income and operating expenses that demonstrate, to the satisfaction of the Department, financial capability to operate the facility. ( )

05. Construction Plan. Plans and specifications for the facility's animal waste management system that include the following information: ( )

a. Vicinity map(s) prepared on one (1) or more seven and one-half minute (7.5') USGS topographic quadrangle maps or a high quality reproduction(s) that includes the following: ( )

i. Layout of the facility, including buildings and animal waste management system; ( )

ii. The one hundred (100) year FEMA flood zones or other appropriate flood data for the facility site and land application sites owned or leased by the applicant; ( )

iii. The location of occupied dwellings, public and private gathering places, such as schools, churches and parks, and incorporated municipalities which are within a two (2) mile radius of the facility; and ( )

iv. Private and community domestic water wells, irrigation wells, irrigation conveyance and drainage structures, monitoring wells, wetlands, streams, springs, and reservoirs which are within a one (1) mile radius of the facility. ( )

b. Facility construction specifications including: ( )

i. A site plan showing: ( )

(1) Building locations; ( )

(2) Waste facilities; ( )

(3) All waste conveyance systems; and ( )

(4) All irrigation systems used for land application, including details of approved water supply protection devices. ( )

ii. Building plans showing: ( )

(1) All wastewater collection systems in housed units; ( )

(2) All freshwater supply systems, including details of approved water supply protection devices; ( )

(3) Detailed drawings of wastewater collection and conveyance systems and containment construction; and ( )

(4) Detailed construction and installation procedures. ( )

06. Site Characterization. A characterization of the facility and any land application site(s) owned or operated by the applicant, prepared by a registered professional geologist, a registered professional engineer or a qualified ground water hydrologist, that includes the following information: ( )

a. A description of monitoring methods, frequency, and reporting components related to either leak detection systems and/or ground water monitoring wells; ( )

b. The climatic, hydrogeologic, and soil characteristics; ( )

c. The depth to water and a potentiometric map for the uppermost and regional aquifer; ( )

d. The vertical and horizontal conductivity, gradient, and ground water flow direction and velocity; ( )

e. Estimates of recharge to the uppermost aquifer; ( )

f. Information which characterizes the relationship between the ground water and adjacent surface waters; and ( )

g. A summary of local ground water quality data. ( )

07. Nutrient Management Plan. A plan prepared by a Certified Planner demonstrating compliance

with the Nutrient Management Standard for land application. ( )

08. Closure Plan. A plan describing the procedures for final closure of a facility that ensures no adverse impacts to the environment and waters of the state and that includes: ( )

a. The estimated length of operation of the facility; and ( )

b. A description of the procedures, methods, and schedule to be implemented at the facility for final disposal, handling, management and/or treatment of all animal waste. ( )

09. Other Information. An applicant shall provide any other information relative to Subsections 200.04 through 200.08 deemed necessary by the Director to assess protection of human health and the environment ( )

10. Application Fee. A fee shall be submitted with each permit application as follows: ( )

a. Three thousand dollars ($3,000) for facilities that have a one-time animal unit capacity of less than five-thousand (5,000) animal units; ( )

b. Five thousand dollars ($5,000) for facilities that have a one-time animal unit capacity of five thousand to ten thousand (5,000-10,000) animal units; and ( )

c. Ten thousand dollars ($10,000) for facilities that have a one-time animal unit capacity over ten thousand (10,000) animal units. ( )

201. -- 204. (RESERVED)

205. FINANCIAL ASSURANCE REQUIREMENTS.

01. Written Estimate of Costs. The owner of a swine facility shall submit, as part of the permit application, a detailed written estimate, in current dollars, of the cost of hiring a third party to: ( )

a. Remediate potential contamination caused by the operation of the facility or of any potential spill or breech, including, without limitation, remediation pursuant to the facility's Spill Contingency Plan; and ( )

b. Close the facility in accordance with an approved closure plan. ( )

c. The Department must approve the cost estimate as reasonable prior to the issuance of a permit. ( )

02. Financial Assurance Mechanisms. The owner shall submit as part of the permit application evidence of financial assurance to cover the approved remediation and closure cost estimates. However, if the Department has determined, prior to October 19, 2000, that a complete application has been submitted, the owner shall submit the remediation and closure cost estimates and financial assurance mechanism to the Department for approval prior to the issuance of a permit. The mechanism used to demonstrate financial assurance shall be submitted to the Department for approval and shall ensure that the funds necessary to meet the approved costs of remediation and closure will be available whenever they are needed. The financial assurance mechanisms allowed for swine facilities shall include any mechanism or a combination of mechanisms meeting the criteria set forth below or other mechanism approved by the Department. ( )

a. Trust Fund. ( )

i. An owner may satisfy the requirements of Subsection 205.02 by establishing a trust fund and submitting an originally signed duplicate of the trust agreement to the Department. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. ( )

ii. After the trust fund is established, whenever the current remediation and closure cost estimates change, the owner must compare the new estimates with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner, within sixty (60) days after the change in the cost estimate, must either deposit an amount equal into the fund so that its value after this deposit at least equals the amount of the current remediation or closure cost estimate, or obtain other financial assurance as specified in Subsection 205.02 to cover the difference. ( )

iii. If the value of the trust fund is greater than the total amount of the current remediation or closure cost estimate, the owner may submit a written request to the Department for release of the amount in excess of the current remediation or closure cost estimate. ( )

iv. If an owner substitutes other financial assurance as specified in Subsection 205.02 for all or part of the trust fund, he may submit a written request to the Department for release of the amount in excess of the current remediation or closure cost estimate covered by the trust fund. ( )

b. Surety Bond. ( )

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining a payment or performance surety bond and submitting a certified copy of the bond to the Department. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury. ( )

ii. The penal sum of the bond must be in an amount at least equal to the current remediation and closure cost estimates. ( )

iii. Under the terms of the bond, the surety will become liable on the bond obligation when: ( )

(1) The owner fails to perform as guaranteed by the bond; or ( )

(2) The Department notifies the owner that he has failed to meet requirements of these rules. ( )

iv. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner and the Department one hundred twenty (120) days in advance of cancellation. Cancellation may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the Department, as evidenced by the return receipt. The surety shall remain liable on the bond for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. ( )

c. Letter of Credit. ( )

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining an irrevocable standby letter of credit and submitting a certified copy of the letter to the Department. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency. ( )

ii. The letter of credit must be accompanied by a letter from the owner referring to the letter of credit by number, issuing institution, and date, and providing the following information: the type of facility, name and address of the facility, and the amount of funds assured for remediation and closure of the facility by the letter of credit. ( )

iii. The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least one hundred twenty (120) days before the current expiration date, the issuing institution notifies both the owner and the Department by certified mail of a decision not to extend the expiration date. Cancellation may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the Department, as evidenced by the return receipt. The issuing institution shall remain liable on the letter of credit for

costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. ( )

iv. The letter of credit must be issued in an amount at least equal to the current remediation and closure cost estimates. ( )

d. Insurance. ( )

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining remediation and closure insurance and submitting a certificate of such insurance to the Department. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one (1) or more states. ( )

ii. The insurance policy must be issued for a face amount at least equal to the current remediation and closure cost estimates. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments. ( )

iii. Each insurance policy must contain a provision allowing assignment of the policy to a successor. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused. ( )

iv. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. The insurer may cancel the policy by sending notice by certified mail to the owner and the Department one hundred twenty (120) days in advance. Cancellation may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the Department, as evidenced by the return receipt. The insurer shall remain liable on the policy for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. ( )

e. Corporate Guarantee. ( )

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining a written guarantee and submitting a certified copy of the guarantee and appropriate letter from the guarantor. The guarantor must be the direct or higher-tier parent corporation of the owner, a firm whose parent corporation is also the parent corporation of the owner, or a firm with a "substantial business relationship" with the owner. ( )

ii. If the guarantor's parent company is also the parent corporation of the owner, a letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee. ( )

iii. If the guarantor is a firm with a "substantial business relationship" with the owner, the letter must describe the "substantial business relationship" and the value received in consideration of the guarantee. ( )

iv. The terms of the guarantee shall provide that if the owner fails to perform remediation or closure of a facility covered by the guarantee, the guarantor will: ( )

(1) Perform, or pay a third party to perform, remediation and closure as required (performance guarantee); or ( )

(2) Establish a fully funded trust fund as specified in Subsection 205.02.a. in the name of the owner (payment guarantee). ( )

v. The guarantee shall remain in force for as long as the owner must comply with the applicable financial assurance requirements of Subsection 205.02 unless the guarantor sends notice of cancellation by certified mail to the owner and to the Department one hundred twenty (120) days in advance. Cancellation may not occur,

however, during the one hundred twenty (120) days beginning on the date of receipt of the notice by the Department, as evidenced by the return receipt. The guarantor shall remain liable on the guarantee for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. ( )

f. If a financial assurance mechanism is cancelled by the issuing entity, the owner shall obtain alternate financial assurance, within sixty (60) days of receipt of notice of cancellation by the Department, which shall be submitted to the Department for approval. The alternate financial assurance must become effective not later than the effective date of cancellation or termination of the existing financial assurance. An owner may only cancel a financial assurance mechanism after first obtaining an alternative mechanism approved by the Department. ( )

03. Continuous Coverage. The owner shall provide continuous coverage for remediation and closure until released from financial assurance requirements by the Department. ( )

04. Adjustment of Financial Assurance Amounts. The following provisions apply to the adjustment of the amount of financial assurance: ( )

a. The owner shall increase the remediation and closure cost estimates and the amount of financial assurance if changes to the closure plan or facility conditions or operations increase the cost estimates at any time during the active life of the facility. The cost estimates and financial assurance shall also be adjusted to reflect inflation. Increased cost estimates and financial assurance shall be submitted to the Department for approval. ( )

b. The owner may reduce the remediation and closure cost estimates and the amount of financial assurance if the cost estimates exceed the maximum cost of remediation or closure at any time during the active life of the facility. The owner shall first notify the Department and obtain its approval of the justification for the reduction of the remediation and closure cost estimates. ( )

05. Release from Financial Assurance Requirements. When remediation and closure conditions required by a permit are complete, financial assurance shall be released by the Department as follows: ( )

a. When the Department determines that initial closure activities have been completed, financial assurance, less identified retainages, shall be released. ( )

b. A sufficient amount of financial assurance shall be retained by the Department, up to five (5) years after closure, to ensure proper remediation and closure of a facility. ( )

c. Release of any amount of financial assurance shall not release the owner from any responsibility for meeting remediation or closure requirements. ( )

06. Owner Liability. Nothing in these rules shall relieve the owner of liability for remediation and closure costs. The use of all financial assurance shall not relieve the owner from responsibility and liability for remediation and closure costs. ( )

206. -- 209. (RESERVED)

210. EXISTING FACILITIES.

01. Registration Requirement. Existing facility owners shall register with the Department within three (3) months after the original effective date of these rules. Registration shall include the information in Subsection 200.04 except for Subsection 200.04.j. Nothing in Section 210 shall be construed to deny an existing facility the opportunity to apply for, and receive, a permit under these rules. ( )

02. Plan Requirement. Existing facilities shall submit a nutrient management plan and closure plan to the Director for approval within two (2) years of the original effective date of these rules in accordance with Subsections 200.07 and 200.08. An application fee shall not be required unless the facility is expanding. ( )

03. Expanding Facility. The owner of an existing facility shall not increase the one-time animal unit capacity of the facility by ten percent (10%) or more without first obtaining a permit for the expansion as required by these rules. The ten percent (10%) increase is measured cumulatively from the original effective date of these rules. ( )

211. -- 249. (RESERVED)

250. REQUIREMENTS FOR WATER QUALITY PROTECTION.
The following minimum design and performance standards are intended as a baseline for protection of public health and the waters of the state. These standards shall apply to all facilities and be reflected in the permit unless the Director approves, based on an applicant's site specific information, that compliance with a specific standard is not required to protect water quality and the public health. Other conditions, as determined by the Director to be necessary to protect water quality, may be included in a permit. ( )

01. Animal Waste Management System Design Criteria. A facility's animal waste management system shall be designed and constructed in accordance with the NRCS and the American Society of Agricultural Engineers standards, whichever is most stringent and shall: ( )

a. Contain the maximum expected operating water balance and the twenty-five (25) year twenty-four (24) hour rainfall event and the one (1) in five (5) year winter runoff. ( )

b. Provide capacity to store the peak volume of process wastewater that will be generated during a six (6) month period. ( )

c. Provide a one (1) foot freeboard in addition to the storage requirements, specified in Subsections 250.01.a. and 250.01.b. ( )

d. Impoundments, other than for emergency runoff, containing or designed to contain process wastewater shall be designed for efficient leak detection and shall not be located in the one-hundred (100) year floodplain. ( )

e. Seepage rates for impoundments shall be no greater than $1x10^{-7}$ cm/sec. ( )

02. Water Quality Monitoring. Ground water and/or leak detection monitoring shall be conducted for every facility with a liquid storage impoundment and shall be designed to give the earliest possible detection of an unauthorized discharge to ground water. ( )

03. Discharges. Facilities shall be constructed, operated and maintained to not cause unauthorized discharges. ( )

04. Spill Contingency Plan. Facilities shall prepare a discharge response strategy that describes procedures and methods to be implemented for the abatement and cleanup of any pollutant. ( )

05. Stockpile Areas. Animal waste stockpile areas, including compost areas, shall be constructed to ensure that all water and precipitation, which comes into contact with the stockpiles, does not enter waters of the state. ( )

251. -- 299. (RESERVED)

300. APPLICATION PROCESSING PROCEDURE.

01. Application Completeness. Within thirty (30) days of receipt of an application, the Director shall provide written notice to the applicant as to whether the application meets all the requirements of Section 200. The Department shall provide public notice of the receipt of a complete application. An application which does not, on its face, meet all the requirements of Section 200 of these rules shall be returned to the applicant by the Director with a written list of the deficiencies. The Director will not process an application until it is determined to be complete in accordance with these rules. ( )

02. Notice of Environmental Suitability of Facility Location. Within thirty (30) days of the Director's notice that the application is complete, the Director shall determine whether the facility is environmentally suitable for the selected location. In making this decision, the Director shall review the location of the facility relative to flood zones, dwellings, wells, surface and ground water and those other items the applicant must identify on the vicinity map. Written notice of the Director's determination will be sent to the applicant, with a copy sent to the appropriate county and city officials for the selected location, along with a Department analysis that includes the following: ( )

a. A brief description of the proposed facility, its animal waste management system and its nutrient management plan; ( )

b. A brief summary of the basis for the determination on environmental suitability including references to applicable requirements and supporting materials; ( )

c. A description of the schedule for issuing a permit; and ( )

d. The name and phone number of the Department staff to contact for additional information. ( )

03. Draft Permit. Within sixty (60) days of the Director's determination that a facility is environmentally suitable for its proposed location, the Director shall either issue a draft permit or a notice of denial of a permit to the applicant. The draft permit shall be in the same form as a final permit and shall specify conditions of construction, operation and closure. ( )

04. Public Comments. The Department shall provide notice to the public of its issuance of a draft permit. The public may provide written comments for a time period and in a manner specified in the Department's notice. The Department may, in its discretion, provide an opportunity for the public to provide oral comments. ( )

05. Permit Denial. The Director may deny a permit if: ( )

a. The owner of a facility is not in substantial compliance with a final agency order or any final order or judgement of a court secured by any state or federal agency relating to the operation of a swine facility; ( )

b. The application is inaccurate; ( )

c. The facility as proposed cannot meet the requirements set forth in these rules or cannot be constructed, operated and closed in a manner that protects human health and the environment; or ( )

d. The appropriate county or city does not approve the location of the facility. ( )

06. Final Permit. Within sixty (60) days of the issuance of a draft permit, the Director shall issue a final permit to the applicant, however, a permit shall not be issued by the Director until the applicant has received final approval from the appropriate county or city for the location of the facility and has received approval for a water right from the Department of Water Resources. The permit shall be effective for a fixed term of not more than five (5) years, and may be reissued upon receipt of an updated application and demonstration of compliance with the rules and permit requirements existing at the time of reissuance. ( )

07. Additional Information. At any time during the application process an applicant shall provide the Director with additional information the Director deems necessary to process a permit, within thirty (30) days of the Director's request. The time period within which the Director must act with regard to the permit shall be stayed until the information requested is provided. If an applicant fails to provide the information within this time period, unless a longer time period is allowed by the Director, the Director may cease the application process and require the applicant to submit a new application. ( )

301. -- 399. (RESERVED)

400. PERMIT CONDITIONS.
The following conditions shall apply to all permittees. ( )

01. Compliance Required. The permittee shall comply with all conditions of the permit. The permit shall not relieve the permittee of the responsibility to comply with all other applicable local, state, and federal laws. ( )

02. Financial Capability. Permittees shall have the financial capability to perform remedial actions and to meet the conditions of an approved closure plan for a facility. ( )

03. Construction and Operation of Facility. The permittee shall ensure that construction, operation and maintenance of the facility proceed according to the construction plans and specifications and the approved monitoring, nutrient management and closure plans, and comply with the following: ( )

a. Within thirty (30) days of completion of construction, submit as built plans. ( )

b. Apply appropriate management practices as approved by the Director. ( )

c. The facility or operations associated with the facility shall not create a public health hazard or nuisance conditions including odors. ( )

d. The facility shall not dispose of any material not approved for disposal under the permit into the animal waste management system including, but not limited to, human waste. ( )

e. The removal of animal waste from an impoundment or storage structure shall be performed in a manner to not damage the integrity of the liner. ( )

f. Dead animals shall be removed from the facility for rendering, cremation, burial, composting or other disposal in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." ( )

g. Nutrient management plans shall be amended if modifications to the facility operation, as outlined in the Nutrient Management Standard or other conditions, warrant the amendment. ( )

h. Soil tests shall be conducted on all land application sites owned or leased by the permittee every year to determine compliance with the nutrient management plan and Nutrient Management Standard. The Director may require more frequent soil tests if deemed necessary. ( )

04. Provide Information. The permittee shall furnish to the Director within a reasonable time, any information including copies of records required by the permit or other applicable rules, which the Director may reasonably require to determine whether cause exists for modifying or revoking the permit or to determine compliance with the permit or other applicable rules. ( )

05. Entry and Access. The permittee shall allow the Director, consistent with Title 39, Chapter 1, Idaho Code, and in compliance with the biosecurity and sanitary standards of a facility, so long as the standards and requirements do not inhibit reasonable access, to: ( )

a. Enter at reasonable times upon the premises of a permitted facility or where records are kept; ( )

b. Have access to and copy at reasonable times any records that must be kept under conditions of the permit; ( )

c. Inspect any facility or land application site; and ( )

d. Sample or monitor at reasonable times, substances or parameters directly related to compliance with the permit or these rules. ( )

06. **Reporting**. The permittee shall report to the Director under the circumstances and in the manner specified in Section 400: ( )

a. Orally, no later than twenty-four (24) hours from the time the permittee knows or should reasonably know of any noncompliance which may endanger the public health or the environment; and ( )

b. In writing, within five (5) working days from the time a permittee knows or should reasonably know of any event which has resulted or which may result in noncompliance with these rules. The report shall contain: ( )

i. A description of the event and its cause or if the cause is not known, steps taken to investigate and determine the cause; ( )

ii. The period of the event including, to the extent possible, times and dates; ( )

iii. Measures taken to mitigate the event or eliminate the event and protect the public health; and ( )

iv. Steps taken to prevent recurrence of the event. ( )

c. In writing, when the permittee knows or should reasonably know of material relevant facts not submitted or incorrect information submitted in a permit application or any report or notice to the Director. ( )

07. **Begin Construction**. If a permittee fails to begin construction or expansion of a facility within two (2) years of the effective date of a permit, the Director may void the permit and require a new application. ( )

08. **Permit Renewal**. If a permittee intends to continue operation of the permitted facility after expiration of an existing permit, the permittee shall apply for a new permit at least one hundred eighty (180) days prior to the expiration of any permit issued pursuant to these rules. ( )

401. -- 449. (RESERVED)

450. SPECIFIC PERMIT CONDITIONS.

01. **Basis for Specific Permit Conditions**. Conditions necessary for the protection of the environment and the public health may differ from facility to facility because of varying environmental conditions and animal waste compositions. The Director may establish, on a case-by-case basis, specific permit conditions. Specific conditions shall be established in consideration of characteristics specific to a facility and inherent hazards of those characteristics. Such characteristics include, but are not limited to, the following: ( )

a. Chemical, biological, physical and volumetric characteristics of the process wastewater; ( )

b. Geological and climatic nature of the facility site; ( )

c. Size of the site and its proximity to population centers and to ground and surface water; ( )

d. Legal considerations relative to land use and water rights; ( )

e. Techniques used in process wastewater distribution and the disposition of that vegetation exposed to process wastewaters; and ( )

f. The need for monitoring and record keeping to determine if the facility is being operated in conformance with its design and if its design is adequate to protect the environment and the public health. ( )

02. **Limitations to Operation**. Conditions of the permit may specify or limit: ( )

a. Process wastewater composition; ( )

b. Method, manner and frequency of process wastewater treatment; ( )

c. Physical, chemical and biological characteristics of a facility; ( )

d. An odor management plan; and ( )

e. Any other condition the Director finds necessary to protect public health or the environment. ( )

03. Compliance Schedules. The Director may establish a compliance schedule for facilities as part of the permit conditions including: ( )

a. Specific steps or actions to be taken by the permittee to achieve compliance with applicable requirements or permit conditions; and ( )

b. Dates by which those steps or actions are to be taken. ( )

04. Monitoring Requirements. Any facility may be subject to monitoring requirements including, but not limited to, the following: ( )

a. The type, installation, use and maintenance of monitoring equipment; ( )

b. Monitoring or sampling methodology, frequency and locations; ( )

c. Monitored substances or parameters; ( )

d. Testing and analytical procedures; and ( )

e. Reporting requirements including both frequency and form. ( )

451. -- 499. (RESERVED)

500. PERMIT MODIFICATION.

01. Minor Modifications. Minor modifications are those which do not have a potential affect to the environment or the public health. Such modifications shall be made by the Director. Minor modifications are generally limited to: ( )

a. The correction of typographical errors; ( )

b. Transfer of ownership or operational control in accordance with Section 550; or ( )

c. Certain minor changes in monitoring or operational conditions. ( )

02. Major Modifications. All modifications not considered minor shall be considered major modifications. The procedure for making major modifications shall be the same as that used for a new permit under these rules. ( )

501. -- 549. (RESERVED)

550. TRANSFER OF PERMITS.

01. Transfer Application. A new owner or operator of a facility shall submit a transfer application to the Director that includes at least the following: ( )

a. The relevant information required by Subsection 200.04; and ( )

b. Any change of conditions at the facility resulting from the transfer of ownership or operation. ( )

c. The Director shall review the transfer application and within sixty (60) days of its receipt either approve or deny the transfer. ( )

02. Transfer Approval. An approved permit transfer shall be a minor modification in accordance with Subsection 500.01 as long as there are no major changes of conditions at the facility. Major changes of conditions at a facility will be subject to the provisions of Subsection 500.02. ( )

03. Transfer Denial. A notification of a permit denial shall set forth the reasons for the denial, steps necessary to meet the requirements for a permit transfer and the opportunity for the applicant to request a hearing. ( )

04. Permit Obligations. The new permittee assumes all rights and responsibilities of the transferred permit. ( )

551. -- 599. (RESERVED)

600. VIOLATIONS.

01. Failure to Comply. Failure by a permittee to comply with the provisions of these rules or with any permit condition shall be deemed a violation of these rules. ( )

02. Falsification of Statements and Records. It shall be a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit. ( )

03. Discharges. Any unauthorized discharge from a facility shall be a violation of these rules. ( )

04. Penalties. Any person violating any provision of these rules or any permit or order issued thereunder shall be liable for a civil or criminal penalty in accordance with Title 39, Chapter 1, Idaho Code. ( )

05. Permit Revocation. The Director may revoke a permit for: ( )

a. A material violation of any condition of a permit; or ( )

b. If the permit was obtained by misrepresentation or failure to disclose all relevant facts. ( )

06. Revocation Hearing. Prior to revoking a permit, the Director shall issue a notice of intent which shall become final unless the permittee timely requests an administrative hearing in writing. Such hearing shall be conducted in accordance with Section 003 of these rules. ( )

601. -- 998. (RESERVED)

999. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, 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." ( )

000. LEGAL AUTHORITY.
The Idaho Legislature has given the Board of Environmental Quality authority to promulgate the Ground Water Quality Rule pursuant to Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code. The authority to formulate and adopt rules as are necessary and feasible to protect the environment and health of the citizens of the state is vested in the Director and Board pursuant to Sections 39-105 and 39-107, Idaho Code. Under Section 39-120, Idaho Code, the Board is authorized to adopt, by rule, ambient ground water quality standards. Under Section 39-126, Idaho Code, all state agencies shall incorporate the Ground Water Quality Plan, adopted by the legislature, in the administration of their programs and are granted authority to promulgate rules to protect ground water quality as necessary to administer such programs. ( )

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 58.01.11, Rules of the Department of Environmental Quality, IDAPA 58.01.11, "Ground Water Quality Rule." ( )

02. Scope. Under Section 39-120, Idaho Code, the Department of Environmental Quality is designated as the primary agency to coordinate and administer ground water quality protection programs for the state. This rule establishes minimum requirements for protection of ground water quality through standards and an aquifer categorization process. The requirements of this rule shall serve as a basis for the administration of programs which address ground water quality. This rule does not in and of itself create a permit program. ( )

002. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

003. WRITTEN INTERPRETATIONS.
The Department of Environmental Quality may have written statements which pertain to the interpretation of the rules of this chapter. If available, such written statements can be inspected and copied, at cost, at the Department of Environmental Quality, 1410 North Hilton, Boise, ID 83706-1255. ( )

004. -- 005. (RESERVED)

006. POLICIES.
It is the intent of the Department to implement, through this rule, the following policies from the Protection and Prevention Sections of the Idaho Ground Water Quality Plan, adopted by the legislature, 1992 Session Law, Chapter 310, Page 922. These policies are: ( )

01. Ground Water Quality Protection. It is the policy of the state of Idaho to maintain and protect the existing high quality of the state's ground water. ( )

02. Existing and Projected Future Beneficial Uses. The policy of the state of Idaho is that existing and projected future beneficial uses of ground water shall be maintained and protected, and degradation that would impair existing and projected future beneficial uses of ground water and interconnected surface water shall not be allowed. ( )

03. Categorization of Ground Water. The policy of the state of Idaho is to provide differential protection for the state's ground water resources. A ground water categorization system should be established for aquifers or portions of aquifers. The categorization system should be based on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing quality of the ground water, and social and economic considerations. ( )

04. Ground Water Quality Standards. The policy of the state of Idaho is to establish ground water quality standards for biological, radiological, and chemical constituents. ( )

05. Prevention of Ground Water Contamination. The policy of the state of Idaho is to prevent contamination of ground water from all regulated and nonregulated sources of contamination to the maximum extent practical. ( )

06. Mining. The policy of the state of Idaho is to protect ground water and allow for the extraction of minerals above and within ground water. ( )

007. DEFINITIONS.

01. Agricultural Chemical. Any pesticide, nutrient or fertilizer used for the benefit of agricultural production or pest management. ( )

02. Aquifer. A geological unit of permeable saturated material capable of yielding economically significant quantities of water to wells and springs. ( )

03. Beneficial Uses. Various uses of ground water in Idaho including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, aquacultural water supplies, and mining. A beneficial use is defined as actual current or projected future uses of ground water. ( )

04. Best Available Method. Any system, process, or method which is available to the public for commercial or private use to minimize the impact of point or nonpoint sources of contamination on ground water quality. ( )

05. Best Management Practice. A practice or combination of practices determined to be the most effective and practical means of preventing or reducing contamination to ground water and interconnected surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water. ( )

06. Best Practical Method. Any system, process, or method that is established and in routine use which could be used to minimize the impact of point or nonpoint sources of contamination on ground water quality. ( )

07. Board. The Idaho Board of Environmental Quality. ( )

08. Cleanup. The removal, treatment or isolation of a contaminant from ground water through the directed efforts of humans or the removal or treatment of a contaminant in ground water through management practice or the construction of barriers, trenches and other similar facilities for prevention of contamination, as well as the use of natural processes such as ground water recharge, natural decay and chemical or biological decomposition. ( )

09. Constituent. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance occurring in ground water. ( )

10. Contaminant. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration. ( )

11. Contamination. The direct or indirect introduction into ground water of any contaminant caused in whole or in part by human activities. ( )

12. Crop Root Zone. The zone that extends from the surface of the soil to the depth of the deepest crop root and is specific to a species of plant, group of plants, or crop. ( )

13. Degradation. The lowering of ground water quality as measured in a statistically significant and reproducible manner. ( )

14. Department. The Department of Environmental Quality. ( )

15. Extraction. Physical removal of ore or waste rock from mineral-bearing deposits. Extraction does not include processing, which is the removal of target minerals from ores by physical or chemical methods. ( )

16. Ground Water. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. ( )

17. Ground Water Quality Standard. Values, either numeric or narrative, assigned to any constituent for the purpose of establishing minimum levels of protection. ( )

18. Highly Vulnerable Ground Water. Ground water characterized by a relatively high potential for contaminants to enter and/or be transported within the flow system. Determinations of ground water vulnerability will include consideration of land use practices and aquifer characteristics. ( )

19. Irreplaceable Source. A ground water source serving a beneficial use(s) where the reliable delivery of comparable quality and quantity of water from an alternative source in the region would be economically infeasible or precluded by institutional constraints. ( )

20. Mine Operator. Any person authorized to engage in mining activities, including without limitation those authorized by law, lease, contract, permit, or plan of operation. It does not include a governmental agency that grants mineral leases or similar contracts or permits unless the agency is engaged in mining activities. ( )

21. Mining Activity. Recovery of a mineral from mineral-bearing deposits, which includes reclamation, extraction, excavation, overburden placement, disposal of tailings resulting from processing, and disposal of mineral extraction wastes, including tailings that are the result of extraction, waste rock, and other extraction wastes uniquely associated with mining. ( )

22. Mining Area. The area on or within which one (1) or more mining activities occur. The Department shall determine the boundaries of the mining area as provided in Section 401. Distinct mining activities may constitute separate mining areas. ( )

23. Natural Background Level. The level of any constituent in the ground water within a specified area as determined by representative measurements of the ground water quality unaffected by human activities. ( )

24. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity which is recognized by law as the subject of rights and duties. ( )

25. Point of Compliance. The vertical surface where the Department determines compliance with ground water quality standards as provided in Subsection 400.05 and Section 401. ( )

26. Practical Quantitation Level. The lowest concentration of a constituent that can be reliably quantified among laboratories within specified limits of precision and accuracy during routine laboratory operating conditions. Specified limits of precision and accuracy are the criteria listed in the calibration specifications or quality control specifications of an analytical method. ( )

27. Projected Future Beneficial Uses. Various uses of ground water, such as drinking water, aquaculture, industrial, mining or agriculture, that are practical and achievable in the future based on hydrogeologic conditions, water quality, future land use activities and social/economic considerations. ( )

28. Recharge Area. An area in which water infiltrates into the soil or geological formation from, including but not limited to precipitation, irrigation practices and seepage from creeks, streams, and lakes, and percolates to one (1) or more aquifers. ( )

29. Reclamation. The process of restoring an area affected by a mining activity to its original or another beneficial use, considering previous uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. ( )

30. Remediation. Any action taken (1) to control the source of contamination, (2) to reduce the level of contamination, (3) to mitigate the effects of contaminants, and/or (4) to minimize contaminant movement. Remediation includes providing alternate drinking water sources when needed. ( )

31. **Site Background Level**. The ground water quality at the hydraulically upgradient site boundary. ( )

008. -- 010. (RESERVED)

011. INCORPORATION BY REFERENCE.
Codes, standards and regulations may be incorporated by reference in this rule pursuant to Section 67-5229, Idaho Code. Such incorporation by reference shall constitute full adoption by reference, including any notes or appendices therein, unless expressly provided otherwise in this rule. Codes, standards or regulations adopted by reference throughout this rule are available in the following locations: ( )

01. **Department of Environmental Quality**. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. ( )

02. **Law Library**. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051. ( )

03. **U.S. Government Printing Office**. U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194 Federal Bldg., 915 Second Ave., Seattle, WA 98174. ( )

012. -- 149. (RESERVED)

150. IMPLEMENTATION.
This rule establishes minimum requirements to maintain and protect ground water quality. This rule applies to all activities with the potential to degrade ground water quality. ( )

01. **Ground Water Quality Standards**. The numerical and narrative standards in Sections 200 and 301 identify minimum levels of protection for ground water quality and shall be used as a basis for: ( )

a. Evaluating or comparing ground water quality when developing or modifying best available methods, best management practices, or best practical methods; ( )

b. Identifying permit conditions; ( )

c. Establishing cleanup levels; and ( )

d. Determining appropriate actions when ground water quality standards are exceeded. ( )

02. **Aquifer Categorization**. Aquifers of the state shall be categorized based on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing water quality, and social and economic considerations. There shall be three aquifer categories, Sensitive Resource, General Resource, and Other Resource, to provide different levels of protection. The level of protection required for each category and application of standards to these categories are shown in Table I.

Table 1. Level of Protection and Application of Standards to Aquifer Categories

Category	Level of Protection	Application of Standards
Sensitive Resource	Apply best management practices and best available methods. This category provides the highest level of ground water protection.	May apply stricter standards than in Section 200.
General Resource	Apply best management practices and best practical methods to the maximum extent practical.	Apply numerical and narrative standards in Section 200.

Table 1. Level of Protection and Application of Standards to Aquifer Categories		
Category	**Level of Protection**	**Application of Standards**
Other Resource	Apply best management practices and best practical methods to the maximum extent practical.	May apply less strict standards than in Section 200.

( )

a. All aquifers where there are activities with the potential to degrade ground water quality are categorized in Section 300. Those aquifers where no activities with the potential to degrade ground water quality are occurring will remain uncategorized until such activities are commenced. If no action is taken to categorize an aquifer when an activity(ies) with the potential to degrade ground water quality is initiated, the aquifer will automatically be categorized as General Resource. ( )

b. Categorization should be considered when an activity with the potential to degrade ground water quality is proposed over an aquifer or portion of an aquifer which presently has no such activities and, based on the criteria in Section 350, the aquifer may be most appropriately categorized as Sensitive Resource or Other Resource. ( )

c. Recategorization should be considered when information on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing quality of the ground water, and social and economic considerations, in conjunction with one or more of the criteria in Section 350, demonstrates that the aquifer or portion of an aquifer may be more appropriate in another category. ( )

03. Ground Water-Surface Water Interconnection. The beneficial uses of interconnected surface water shall be recognized when evaluating ground water quality protection. The implementation of water quality programs shall ensure that the quality of ground water that discharges to surface water does not impair the identified beneficial uses of the surface water and that surface water infiltration does not impair beneficial uses of ground water. ( )

04. Interagency Coordination. The Department will coordinate with other federal, state, and local agencies to pursue interagency agreements when necessary to ensure implementation of this rule for activities which have the potential to degrade ground water quality. ( )

151. -- 199. (RESERVED)

200. GROUND WATER QUALITY STANDARDS.
The following numerical and narrative standards apply to all ground water of the state and shall not be exceeded unless otherwise allowed in this rule. ( )

01. Numerical Ground Water Quality Standards. ( )

a. The Primary Constituent Standards are based on protection of human health and are identified in Table II.

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	**Constituent**	**Standard (mg/l unless otherwise specified)**
7440-36-0	Antimony	0.006
7440-38-2	Arsenic	0.05

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	**Constituent**	**Standard (mg/l unless otherwise specified)**
1332-21-4	Asbestos	7 million fibers/l longer than 10 um
7440-39-3	Barium	2
7440-41-7	Beryllium	0.004
7440-43-9	Cadmium	0.005
7440-47-3	Chromium	0.1
7440-50-8	Copper	1.3
57-12-5	Cyanide	0.2
16984-48-8	Fluoride	4
7439-92-1	Lead	0.015
7439-97-6	Mercury	0.002
*[1]	Nitrate (as N)	10
*[1]	Nitrite (as N)	1
*[1]	Nitrate and Nitrite (both as N)	10
7782-49-2	Selenium	0.05
7440-28-0	Thallium	0.002
15972-60-8	Alachlor	0.002
1912-24-9	Atrazine	0.003
71-43-2	Benzene	0.005
50-32-8	Benzo(a)pyrene (PAH)	0.0002
75-27-4	Bromodichloromethane (THM)	0.1
75-25-2	Bromoform (THM)	0.1
1563-66-2	Carbofuran	0.04
56-23-5	Carbon Tetrachloride	0.005
57-74-9	Chlordane	0.002
124-48-1	Chlorodibromomethane (THM)	0.1
67-66-3	Chloroform(THM)	0.002
94-75-7	2,4-D	0.07
75-99-0	Dalapon	0.2
103-23-1	Di(2-ethylhexyl) adipate	0.4
96-12-8	Dibromochloropropane	0.0002
541-73-1	Dichlorobenzene m-	0.6

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	**Constituent**	**Standard (mg/l unless otherwise specified)**
95-50-1	Dichlorobenzene o-	0.6
106-46-7	1,4(para)-Dichlorobenzene or Dichlorobenzene p-	0.075
107-06-2	1,2-Dichloroethane	0.005
75-35-4	1,1-Dichloroethylene	0.007
156-59-2	cis-1, 2-Dichloroethylene	0.07
156-60-5	trans-1, 2-Dichloroethylene	0.1
75-09-2	Dichloromethane	0.005
78-87-5	1,2-Dichloropropane	0.005
117-81-7	Di(2-ethylhexyl)phthalate	0.006
88-85-7	Dinoseb	0.007
85-00-7	Diquat	0.02
145-73-3	Endothall	0.1
72-20-8	Endrin	0.002
100-41-4	Ethylbenzene	0.7
106-93-4	Ethylene dibromide	0.00005
1071-83-6	Glyphosate	0.7
76-44-8	Heptachlor	0.0004
1024-57-3	Heptachlor epoxide	0.0002
118-74-1	Hexachlorobenzene	0.001
77-47-4	Hexachlorocyclopentadiene	0.05
58-89-9	Lindane	0.0002
72-43-5	Methoxychlor	0.04
108-90-7	Monochlorobenzene	0.1
23135-22-0	Oxamyl (Vydate)	0.2
87-86-5	Pentachlorophenol	0.001
1918-02-1	Picloram	0.5
1336-36-3	Polychlorinated biphenyls (PCBs)	0.0005
122-34-9	Simazine	0.004
100-42-5	Styrene	0.1
1746-01-6	2,3,7,8-TCDD (Dioxin)	3.0 x 10-8
127-18-4	Tetrachloroethylene	0.005

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	**Constituent**	**Standard (mg/l unless otherwise specified)**
108-88-3	Toluene	1
*[1]	Total Trihalomethanes [the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform), and trichloromethane (chloroform)]	0.1
8001-35-2	Toxaphene	0.003
93-72-1	2,4,5-TP (Silvex)	0.05
120-82-1	1,2,4-Trichlorobenzene	0.07
71-55-6	1,1,1-Trichloroethane	0.2
79-00-5	1,1,2-Trichloroethane	0.005
79-01-6	Trichloroethylene	0.005
75-01-4	Vinyl Chloride	0.002
1330-20-7	Xylenes (total)	10
*[1]	Gross alpha particle activity (including radium -226, but excluding radon and uranium)	15 pCi/l
*[1]	Combined beta/photon emitters	4 millirems/year effective dose equivalent
*[1]	Combined Radium - 226 and radium 228	5 pCi/l
*[1]	Strontium 90	8 pCi/l
*[1]	Tritium	20,000 pCi/l
*[1]	Total Coliform[2]	1 colony forming unit/100 ml
	Escherichia coliform (E. coli)	Less than 1 viable colony or colony forming unit/100 ml using any EPA approved method
	Fecal coliform	Less than 1 viable colony or colony forming unit/100 ml using any EPA approved method
Table Footnotes		
*[1]No Chemical Abstract Service Number exists for this constituent.		
[2] An exceedance of the primary ground water quality standard for total coliform is not a violation of these rules. If the primary ground water quality standard for total coliform is exceeded, additional analysis for fecal coliform or E. coli will be conducted. An exceedance of the primary ground water quality standards for either fecal coliform or E. coli is a violation of these rules.		

( )

b. The Secondary Constituent Standards are generally based on aesthetic qualities and are identified in Table III.

TABLE III - SECONDARY CONSTITUENT STANDARDS	
Constituent	**Standard (mg/l unless otherwise specified)**
Aluminum	0.2
Chloride	250
Color	15 Color Units
Foaming Agents	0.5
Iron	0.3
Manganese	0.05
Odor	3.0 Threshold Odor Number
pH	6.5 to 8.5 (no units apply)
Silver	0.1
Sulfate	250
Total Dissolved Solids	500
Zinc	5

( )

c. Sample preservation and analytical procedures to determine compliance with the standards identified in Subsection 200.01 shall be in accordance with the following, except that cyanide shall be analyzed as weak acid dissociable cyanide using a method approved by the Department: ( )

i. Environmental Protection Agency, Code of Federal Regulations, Title 40, Parts 141 and 143, revised as of July 2001; or ( )

ii. Another method approved by the Department. ( )

02. Narrative Ground Water Quality Standards. Contaminant concentrations, alone or in combination with other contaminants or properties, shall not cause the ground water to be hazardous, deleterious, carcinogenic, mutagenic, teratogenic, or toxic. Determinations of specific numerical levels when applying this standard shall be based on: ( )

a. Best scientific information currently available on adverse effects of the contaminant(s); ( )

b. Protection of a beneficial use; or ( )

c. Practical quantitation levels for the contaminant(s), if they exceed the levels identified in Subsection 200.02.a. or 200.02.b. ( )

03. Natural Background Level. If the natural background level of a constituent exceeds the standard in this section, the natural background level shall be used as the standard. ( )

201. -- 299. (RESERVED)

300. CATEGORIZED AQUIFERS OF THE STATE.
Aquifers or portions of aquifers in the state are categorized as follows: ( )

01. Sensitive Resource. ( )

a. Spokane Valley -- Rathdrum Prairie Aquifer. ( )

i. In addition to the ground water quality standards in Section 200, the following narrative standard applies: the aquifer shall not be degraded, as it relates to beneficial uses, as a result of point source or nonpoint source activity unless it is demonstrated by the person proposing the activity that such change is justifiable as a result of necessary economic or social development. ( )

02. General Resource. All aquifers or portions of aquifers where there are activities with the potential to degrade ground water quality of the aquifer, unless otherwise listed in Subsection 300.01 or 300.03. Once an activity with the potential to degrade the ground water quality of an uncategorized aquifer or portion of an aquifer is initiated, the uncategorized aquifer shall automatically become General Resource unless petitioned into the Sensitive Resource or Other Resource category. ( )

03. Other Resource. ( )

301. MANAGEMENT OF ACTIVITIES WITH THE POTENTIAL TO DEGRADE AQUIFERS.

01. Sensitive Resource Category Aquifers. ( )

a. Activities with the potential to degrade Sensitive Resource aquifers shall be managed in a manner which maintains or improves existing ground water quality through the use of best management practices and best available methods except when a point of compliance is set pursuant to Section 401. ( )

b. Numerical and narrative standards identified in Section 200 shall apply to aquifers or portions of aquifers categorized as Sensitive Resource. In addition, stricter numerical and narrative standards, for specified constituents, may be adopted pursuant to Section 350 on a case by case basis and listed in Section 300. ( )

02. General Resource Category Aquifers. ( )

a. Activities with the potential to degrade General Resource aquifers shall be managed in a manner which maintains or improves existing ground water quality through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401. ( )

b. Numerical and narrative standards identified in Section 200 shall apply to aquifers or portions of aquifers categorized as General Resource. ( )

03. Other Resource Category Aquifers. ( )

a. Activities with the potential to degrade Other Resource aquifers shall be managed in a manner which maintains existing ground water quality, except for those identified constituents which may have a less stringent standard, through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401. ( )

b. Numerical and narrative standards identified in Section 200 shall apply to aquifers or portions of aquifers categorized as Other Resource. In addition, less strict numerical and narrative standards, for specified constituents, may be adopted pursuant to Section 350 on a case by case basis and listed in Section 300. ( )

302. -- 349. (RESERVED)

350. PROCEDURES FOR CATEGORIZING OR RECATEGORIZING AN AQUIFER.
The following process shall be used for categorizing or recategorizing an aquifer. ( )

01. Criteria for Aquifer Categories. The following criteria shall be considered when a petition to categorize or recategorize aquifers or portions of aquifers is submitted to the Board: ( )

a. For Sensitive Resource aquifers: ( )

i. The ground water in an aquifer or portion of an aquifer is of a better quality than the ground water quality standards in Section 200 and maintenance of this quality is needed to protect an identified beneficial use(s); ( )

ii. The ground water in an aquifer or portion of an aquifer is considered highly vulnerable; ( )

iii. The ground water in an aquifer or portion of an aquifer represents an irreplaceable source for the identified beneficial use(s); ( )

iv. The ground water quality in an aquifer or portion of an aquifer has been degraded and there is a need for additional protection measures to maintain or improve the water quality or prevent impairment of a beneficial use; ( )

v. The ground water within an aquifer or portion of an aquifer is shown to be hydrologically interconnected with surface water and additional protection is needed to maintain the quality of either surface or ground water. Hydrologic interconnections can include either natural or induced ground water recharge or discharge areas; or ( )

vi. The ground water within an aquifer or portion of an aquifer demonstrates other criteria which justify the need for additional protection. ( )

b. For General Resource aquifers: ( )

i. An activity with the potential to degrade ground water quality is initiated over an aquifer or portion of an aquifer which presently has no such activities; ( )

ii. The ground water in an aquifer or portion of an aquifer is currently being used for drinking water or another beneficial use which requires similar protection; or ( )

iii. The ground water in an aquifer or portion of an aquifer has a projected future beneficial use of drinking water or another beneficial use which requires similar protection. ( )

c. For other resource aquifers: ( )

i. The ground water quality within an aquifer or portion of an aquifer does not meet one or more of the ground water quality standards in Section 200; and allowing the ground water quality to remain at this level does not impair existing or projected future beneficial uses within the aquifer or portion of an aquifer; ( )

ii. The projected ground water quality within an aquifer or portion of an aquifer will not meet one or more of the ground water quality standards in Section 200 as a result of activities over or within the aquifer or portion of an aquifer; and allowing the proposed degradation will not impair existing or projected future beneficial uses; ( )

iii. Human caused conditions or sources of contamination have resulted in ground water quality standards in Section 200 being exceeded, and the contamination cannot be remedied for economical or technical reasons, or remediation would cause more environmental damage to correct than to leave in place; or ( )

iv. The ground water within an aquifer or portion of an aquifer demonstrates other criteria which justify the need for categorization as an Other Resource. ( )

02. Petition Process. The Department or any other person may petition the Board to initiate

rulemaking to categorize or recategorize an aquifer or portion of an aquifer pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." In addition to the information required in a rulemaking Petition pursuant to IDAPA 58.01.23, the following information shall be submitted in writing by the Petitioner for the identified aquifer or portion of an aquifer: ( )

a. Current category, if applicable; ( )

b. Proposed category and an explanation of how one or more of the criteria in Subsection 350.01 are met; ( )

c. An explanation of why the categorization or recategorization is being proposed; ( )

d. Location, description and areal extent; ( )

e. General location and description of existing and projected future ground water beneficial uses; ( )

f. Documentation of the existing ground water quality; ( )

g. Documentation of aquifer characteristics, where available, including, but not limited to: ( )

i. Depth to ground water; ( )

ii. Thickness of the water bearing section; ( )

iii. Direction and rate of ground water flow; ( )

iv. Known recharge and discharge areas; and ( )

v. Geology of the area; ( )

h. Identification of any proposed standards, for specified constituents, which would be stricter or less strict than the ground water quality standards in Section 200, or any standards to be applied in addition to those in Section 200; and a rationale for the proposed standards. ( )

03. Preliminary Department Review. Prior to submission of a petition to the Board to categorize or recategorize an aquifer, any person may seek a preliminary review of the petition from the Department. The Department shall respond to the petitioner with comments within forty-five (45) days. ( )

351. -- 399. (RESERVED)

400. GROUND WATER CONTAMINATION.

01. Releases Degrading Ground Water Quality. No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that: ( )

a. Causes a ground water quality standard to be exceeded; ( )

b. Injures a beneficial use of ground water; or ( )

c. Is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method. ( )

02. Measures Taken in Response to Degradation. ( )

a. Except when a point of compliance is set pursuant to Section 401, when a numerical standard is not

exceeded, but degradation of ground water quality is detected and deemed significant by the Department, the Department shall take one (1) or more of the following actions: ( )

i. Require a modification of regulated activities to prevent continued degradation; ( )

ii. Coordinate with the appropriate agencies and responsible persons to develop and implement prevention measures for activities not regulated by the Department; ( )

iii. Allow limited degradation of ground water quality for the constituents identified in Subsection 200.01.a. if it can be demonstrated that: ( )

(1) Best management practices, best available methods or best practical methods, as appropriate for the aquifer category, are being applied; and ( )

(2) The degradation is justifiable based on necessary and widespread social and economic considerations; or ( )

iv. Allow degradation of ground water quality up to the standards in Subsection 200.01.b., if it can be demonstrated that: ( )

(1) Best management practices are being applied; and ( )

(2) The degradation will not adversely impact a beneficial use. ( )

b. The following criteria shall be considered when determining the significance of degradation: ( )

i. Site specific hydrogeologic conditions; ( )

ii. Water quality, including seasonal variations; ( )

iii. Existing and projected future beneficial uses; ( )

iv. Related public health issues; and ( )

v. Whether the degradation involves a primary or secondary constituent in Section 200. ( )

03. Contamination Exceeding a Ground Water Quality Standard. The discovery of any contamination exceeding a ground water standard that poses a threat to existing or projected future beneficial uses of ground water shall require appropriate actions, as determined by the Department, to prevent further contamination. These actions may consist of investigation and evaluation, or enforcement actions if necessary to stop further contamination or clean up existing contamination, as required under the Environmental Protection and Health Act, Section 39-108, Idaho Code. ( )

04. Agricultural Chemicals. Agricultural chemicals found in intermittently saturated soils within the crop root zone will not be considered ground water contaminants as long as the chemicals remain within the crop root zone, and have been applied in a manner consistent with all appropriate regulatory requirements. ( )

05. Site-Specific Ground Water Quality Levels or Points of Compliance. The Department may allow site-specific ground water quality levels, for any aquifer category, that vary from a standard(s) in Section 200 or Section 300, or may allow site-specific points of compliance, based on consideration of effects to human health and the environment, for: ( )

a. Remediation conducted under the Department's oversight; ( )

b. Permits issued by the Department; ( )

c. Situations where the site background level varies from the ground water quality standard; ( )

d. Dissolved concentrations of secondary constituents listed in Section 200 of this rule. The Department may allow the use of dissolved concentrations for secondary constituents if the requesting person demonstrates that doing so will not adversely affect human health and the environment; or ( )

e. Other situations authorized by the Department in writing. ( )

401. MINING.

01. Request for Setting Point(s) of Compliance and Standards Applicable to Mining Activities. At the request of a mine operator, pursuant to this section, the Department shall set a point of compliance, or points of compliance, at which the mine operator shall protect current and projected future beneficial uses of the ground water and meet the ground water quality standards as described in Section 200 or as allowed under Subsection 400.05. Degradation of ground water is allowed at a point of compliance if the mine operator implements the level of protection during mining activities appropriate for the aquifer category as specified in Table 1 of Subsection 150.02. If a request is not made, the mine operator must meet the ground water quality standards as described in Subsection 150.01 in ground water both within and beyond the mining area unless the Department establishes the point(s) of compliance consistent with Subsection 401.03. ( )

02. Application Process. ( )

a. If the mine operator requests a point of compliance, or points of compliance, the mine operator shall make written application to the Department. The application shall be accompanied by a fee of two thousand five hundred dollars ($2,500). The application shall include the following information in sufficient detail to allow the Department to establish point(s) of compliance: ( )

i. Name, location, and mailing address of the mining operation; ( )

ii. Name, mailing address, and phone number of the mine operator; ( )

iii. Land ownership status of the mining operation (federal, state, private or public); ( )

iv. The legal structure (corporation, partnership, etc.) and residence of the mine operator; ( )

v. The legal description, to the quarter-quarter section, of the location of the proposed mining operation; ( )

vi. Evidence the mine operator is authorized by the Secretary of State to conduct business in the state of Idaho; ( )

vii. A general description of the operational plans for the mining operation from construction through final reclamation. This description shall include any proposed phases for construction, operations, and reclamation and a map that identifies the location of all mining activities; ( )

viii. A preconstruction topographic site map or aerial photos extending at least one (1) mile beyond the outer limits of the mining area, identifying and showing the location and extent of the following features: ( )

(1) All wells, perennial and intermittent springs, adit discharges, wetlands, surface waters and irrigation ditches; ( )

(2) All public and private drinking water supply source(s) within one (1) mile of the mining area; ( )

(3) All service roads and public roads; ( )

(4) All buildings and structures within one (1) mile of the mining area; ( )

(5) All special resource waters within one (1) mile of the mining area; and ( )

(6) All Clean Water Act Section 303(d) listed streams, and their listed impairments, within one (1) mile of the mining area; ( )

ix. To the extent such information is available, a description and location of underground mine workings and adits and a description of the structural geology that may influence ground water flow and direction; ( )

x. Information regarding the relevant factors set forth in Subsection 401.03; and ( )

xi. A proposed point of compliance, or points of compliance. ( )

b. Within thirty (30) days of receipt of an application, the Department shall issue a written notice to the mine operator indicating: ( )

i. That the application is complete; or ( )

ii. That the Department is rejecting the application as incomplete. In such a case, the Department shall provide a list of deficiencies. Upon a determination that the application is incomplete, the Department shall refund one-half (1/2) of the application fee. ( )

c. The Department shall establish the point(s) of compliance within one hundred eighty (180) days after receipt of a complete application unless the Department determines that additional time is necessary due to unusual circumstances. ( )

03. Setting the Point(s) of Compliance. The point(s) of compliance shall be set as close as possible to the boundary of the mining area, taking into consideration the relevant factors set forth in Subsections 401.03.a. through 401.03.h., but in no event shall the point(s) of compliance be within the boundary of the mining area. The mining area boundary means the outermost perimeter of the mining area (projected in the horizontal plane) as it would exist at the completion of the mining activity. The point(s) of compliance shall be set so that, outside the mining area boundary, there is no injury to current or projected future beneficial uses of ground water and there is no violation of water quality standards applicable to any interconnected surface waters. The Department's determination regarding the point(s) of compliance shall be based on an analysis and consideration of all relevant factors including, but not limited to: ( )

a. The hydrogeological characteristics of the mining area and surrounding land, including any dilution characteristics of the aquifer and any natural attenuation supported by site-specific data; ( )

b. The concentration, volume, and physical and chemical characteristics of contaminants resulting from the mining activity, including the toxicity and persistence of the contaminants; ( )

c. The quantity, quality, and direction of flow of ground water underlying the mining area; ( )

d. The proximity and withdrawal rates of current ground water users; ( )

e. A prediction of projected future beneficial uses; ( )

f. The availability of alternative drinking water supplies; ( )

g. The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water; and ( )

h. Public health, safety, and welfare effects. ( )

04. Ground Water Monitoring and Reporting. The Department shall require ground water

monitoring and reporting whenever the Department sets the point(s) of compliance. The Department shall not require ground water monitoring that duplicates ground water monitoring required by other state or federal agencies as long as the mine operator provides the data to the Department. ( )

a. A ground water monitoring system required under Subsection 401.04 shall be designed to: ( )

i. Represent the quality of background ground water that has not been affected by the mining activity; and ( )

ii. Represent the quality of ground water passing the point(s) of compliance in order to determine compliance with ground water quality standards or effectiveness of best management practices. ( )

b. When practicable, indicator monitoring wells or other devices may be required. Such indicator wells and other devices shall not be used to determine compliance with the ground water quality standards, but instead may be used to evaluate modeling results, to predict the quality of ground water at the point(s) of compliance, or to determine the effectiveness of best management practices. ( )

c. All monitoring wells shall be constructed (well depth, well screen size, well screen interval, gravel pack, etc.) and developed so that ground water samples represent the quality of ground water that is relevant to current and future beneficial uses. ( )

05. Coordination with Other State or Federal Agencies/Public Notice. Before setting the point(s) of compliance or requiring ground water monitoring, the Department shall coordinate with and seek recommendations from other state or federal agencies that have regulatory authority over the mining activities. The Department may provide public notice and an opportunity for public comment prior to setting or changing the point(s) of compliance. The Department shall issue a public notice after it sets the point(s) of compliance. ( )

06. Limitations. Section 401 addresses only those contaminants that naturally occur in the mining area ground water or in the surrounding rock or soil and are present in concentrations above the natural background level as a result of mining activities. ( )

07. Application of Provisions. The provisions set out in Section 401 apply to new mining activities or to an expansion of existing mining activities commencing after July 1, 2009. All consent orders, compliance schedules, and other agreements adopted or issued by the Department prior to July 1, 2009 pertaining to ground water protection at mine sites shall remain in full force and effect. ( )

08. Change in Point(s) of Compliance/Ground Water Monitoring. ( )

a. A change in the point(s) of compliance may be requested by the mine operator when there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03. A change requested by the mine operator shall include an identification of the new proposed point(s) of compliance, a description of the cause for the change and any data supporting the change. The mine operator's request shall be handled as an application submitted pursuant to Subsection 401.02.a. and shall be subject to all other provisions of Section 401. ( )

b. The Department may initiate a change in the point(s) of compliance if there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03, and the Department determines that the change is necessary to ensure there is no injury to current or projected future beneficial uses of ground water and no violation of water quality standards applicable to any interconnected surface waters. The Department shall notify the mine operator in writing of the Department's intent to change the point(s) of compliance. The Department shall make its final decision to change the point(s) of compliance within sixty (60) days of the notice to the mine operator unless the Department and the mine operator agree more time is necessary to make the decision. ( )

c. The Department may require additional or new ground water monitoring or indicator wells when the Department changes the point(s) of compliance. The Department may also require additional or different ground water monitoring or indicator wells if the Department determines, based upon a change in or new information

regarding the mining activity or any of the factors listed in Subsection 401.03, that the monitoring no longer meets the requirements set forth in Subsection 401.04. The mine operator may also request a change in the monitoring.
( )

402. -- 999. (RESERVED)

58.01.12 – RULES FOR ADMINISTRATION OF WASTEWATER AND DRINKING WATER LOAN FUNDS

000. LEGAL AUTHORITY.
The Idaho Board of Environmental Quality, pursuant to authority granted in Chapters 1, 36, and 76, Title 39, Idaho Code, did adopt the following rules for the administration of the Wastewater and Drinking Water Loan Funds. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.12, "Rules for Administration of Wastewater and Drinking Water Loan Funds." ( )

02. Scope. The provisions of these rules will establish administrative procedures and requirements for establishing, implementing and administering two (2) state loan programs for providing financial assistance to eligible applicants of wastewater and drinking water projects. The U.S. Environmental Protection Agency provides annual capitalization grants to the state of Idaho for these programs. Financial assistance projects must be in conformance with the requirements of the Subchapter VI of the federal Clean Water Act (33 U.S.C. Sections 1381 et seq.) and the Safe Drinking Water Act (42 U.S.C. Section 300j et seq.). ( )

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

004. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIAL.

01. Incorporation by Reference. These rules do not contain documents incorporated by reference. ( )

02. Availability of Referenced Material. The "Clean Water State Revolving Fund Handbook" and the "Drinking Water Loan Account Handbook" (Handbooks) are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502, or DEQ website http://www.deq.idaho.gov. ( )

005. CONFIDENTIALITY.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, 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." ( )

006. POLICY.
It is the policy of the Idaho Board of Environmental Quality through the Idaho Department of Environmental Quality, to administer the Wastewater Loan Fund for the purpose of protecting and enhancing the quality and value of the water resources of the state of Idaho by financially assisting in the prevention, control and abatement of water pollution and the Drinking Water Loan Fund for the purpose of providing assistance to eligible public drinking water systems for the planning, design, and construction of facilities to ensure safe and adequate drinking water. It is also the intent of the Idaho Board of Environmental Quality to assign a priority rating to those projects that will most significantly improve the quality of the waters of the state and most adequately protect the public health. ( )

007. DEFINITIONS.
For the purpose of the rules contained in this chapter, the following definitions apply: ( )

01. Applicant.

a. When used in the context of wastewater loan fund, applicant is defined as a municipality or nonpoint source project sponsor that has the ability to establish and maintain a loan repayment source. Individuals and for-profit corporations are not eligible. ( )

b. When used in the context of drinking water loan fund, applicant is defined as any eligible system making application for drinking water loan funds. ( )

02. Best Management Practice. A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the most cost-effective and practicable means of preventing or reducing the amount of pollution

generated by nonpoint sources to a level compatible with water quality needs. ( )

03. **Board**. The Idaho Board of Environmental Quality. ( )

04. **Categorical Exclusion (CE)**. Category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental information document nor an environmental impact statement is required. ( )

05. **Close or Closing**. The date on which the loan recipient issues and physically delivers to the Department the bond or note evidencing the loan to the loan recipient, specifically determining the principal, interest and fee amounts that shall be repaid and the schedule for payment. ( )

06. **Collector Sewer**. That portion of the wastewater treatment facility whose primary purpose is to receive sewage from individual residences and other individual public or private structures and which is intended to convey wastewater to an interceptor sewer or a treatment plant. ( )

07. **Community Water System**. A public drinking water system that: ( )

a. Serves at least fifteen (15) service connections used by year round residents of the area served by the system; or ( )

b. Regularly serves at least twenty-five (25) year-round residents. ( )

08. **Construction**. The erection, building, acquisition, alteration, reconstruction, improvement or extension of wastewater treatment or drinking water facilities, including preliminary planning to determine the economic and engineering feasibility, the engineering, architectural, legal, fiscal and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of wastewater treatment or drinking water facilities; the inspection and supervision of the construction; and start-up of the associated facilities. ( )

09. **Contaminant**. Any physical, chemical, biological, or radiological substance or matter in water. ( )

10. **Department**. The Idaho Department of Environmental Quality. ( )

11. **Director**. The Director of the Idaho Department of Environmental Quality or his/her designee. ( )

12. **Disadvantaged Community**. The service area of a wastewater treatment facility or a public water system that meets affordability criteria established by the Department of Environmental Quality after public review and comment. ( )

13. **Disadvantaged Loans**. Loans made to a disadvantaged community. ( )

14. **Distribution System**. Any combination of pipes, tanks, pumps, and other equipment that delivers water from the source(s), treatment facility(ies), or a combination of source(s) and treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. ( )

15. **Eligible Costs**. Costs which are necessary for planning, designing and/or constructing drinking water or wastewater treatment facilities, or implementation of water pollution control projects. To be eligible, costs must be reasonable and not ineligible costs. The determination of eligible costs shall be made by the Department pursuant to Section 041. ( )

16. **Environmental Impact Statement (EIS)**. A document prepared by the applicant when the Department determines that the proposed construction project may significantly affect the environment. The major purpose of the EIS will be to describe fully the significant impacts of the project and how these impacts can be either avoided or mitigated. The environmental review procedures contained in Chapter 5 of the Handbooks may be used as

guidance when preparing the EIS. ( )

17. Environmental Information Document (EID). Any written environmental assessment prepared by the applicant describing the environmental impacts of a proposed wastewater or drinking water construction project. This document will be of sufficient scope to enable the Department to assess the environmental impacts of the proposed project and ultimately determine if an EIS is warranted. ( )

18. Financial Management System. Uniform method of recording, summarizing and analyzing financial information about the loan applicant. ( )

19. Finding of No Significant Impact (FONSI). A document prepared by the Department presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an EIS will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it. ( )

20. Handbook(s). The "Clean Water State Revolving Fund Handbook" and/or the "Drinking Water Loan Account Handbook." ( )

21. Implementation Plan. Completed project implementation plan or work plan provides detailed documentation of the proposed project including list of tasks, schedule of tasks, agency/contractor/entity responsible for implementation of the project tasks, adequate time schedules for completion of all budget tasks, and the anticipated results of the project. ( )

22. Ineligible Costs. Costs which are not eligible for funding pursuant to these rules. ( )

23. Interceptor Sewer. That portion of the wastewater treatment facility whose primary purpose is to transport domestic sewage or nondomestic wastewater from collector sewers to a treatment plant. ( )

24. Loan Recipient. An applicant who has been awarded a loan. ( )

25. Managerial Capability. The capability of the loan applicant to support the proper financial and technical operation of the system. ( )

26. Maximum Contaminant Level (MCL). The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. ( )

27. Noncommunity Water System. A public water system that is not a community water system. ( )

28. Nondomestic Wastewater. Wastewaters originating primarily from industrial or commercial processes which carry little or no pollutants of human origin. ( )

29. Nonpoint Source Pollution. Water pollution that enters the waters of the state from nonspecific and diffuse sources and is the result of runoff, precipitation, drainage, seepage, hydrological modification or land disturbing activities. ( )

30. Nonpoint Source Project Sponsor. Any applicant for wastewater loan funds to address nonpoint source pollution. ( )

31. Operation and Maintenance Manual. For wastewater or drinking water facilities, a guidance and training manual outlining the optimum operation and maintenance of the facilities and their components. For nonpoint source water pollution control projects, a plan that incorporates applicable sections of the Natural Resources Conservation Service Field Office Technical Guide, for implementation of best management practices. ( )

32. Planning Document. A document which describes the condition of a public wastewater or drinking water system and presents a cost effective and environmentally sound alternative to achieve or maintain regulatory compliance. Engineering reports and facility plans are examples of such planning documents. The

planning documents shall be prepared by or under the responsible charge of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Requirements for planning documents prepared using loan funds are provided in Section 030 of these rules and in the Handbooks. ( )

33. Plan of Operation. A schedule of specific actions and completion dates for construction, start-up and operation of the facility or for implementation of wastewater or drinking water projects. ( )

34. Point Source. Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be discharged to the waters of the state. This term as used in these rules does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. ( )

35. Pollutant. Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other beneficial uses. ( )

36. Priority List. An integrated list of proposed wastewater treatment facility and nonpoint source pollution control projects rated as described in Section 020; or a list of proposed drinking water projects rated by severity of risk to public health, the necessity to ensure compliance with IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems, and the Safe Drinking Water Act (42 U.S.C. Section 300j et seq.), population affected, and need on a household basis for protection of Idaho's public drinking water. ( )

37. Public Drinking Water System/Public Water System/Water System. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system." ( )

38. Readiness to Proceed. The progress which a loan applicant has made towards completion of time-consuming tasks necessary to complete a loan application (e.g. bond election, local improvement district formation, judicial confirmation towards debt authority, completion of facility plan). ( )

39. Reserve Capacity. That portion of the facility that is designed and incorporated in the constructed facilities to handle future demand upon the system. ( )

40. Sewer Use Ordinance/Sewer Use Resolution. An ordinance or resolution that requires new sewers and connections to be properly designed and constructed, prohibits extraneous sources of inflow and prohibits introduction of wastes into the sewer in an amount that endangers the public safety or the physical or operational integrity of the wastewater treatment facility. ( )

41. State. The state of Idaho. ( )

42. Supplemental Grants. A state funded grant awarded in conjunction with a loan from the water pollution control loan account. ( )

43. Suspension. An action by the Director to suspend a loan contract prior to project completion for a specified cause. Suspended contracts may be reinstated. ( )

44. Sustainability. Sustainability will include efforts for energy and water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement. ( )

45. **Termination**. An action by the Director to permanently terminate a loan contract prior to project completion for a specific cause. Terminated contracts will not be reinstated. ( )

46. **User Charge System**. A system of rates and service charges applicable to specific types of users, including any legal enforcement mechanism as may be required and which provides sufficient reserves and/or revenues for debt retirement, operation and maintenance, and replacement of the installed equipment or structures. ( )

47. **Wastewater**. A combination of the liquid and water-carried wastes from dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water and storm water that may be present; liquid and water that is physically, chemically, biologically, or rationally identifiable as containing excreta, urine, pollutants or domestic or commercial wastes; sewage. ( )

48. **Wastewater Treatment Facility**. Any facility, including land, equipment, furnishings and appurtenances thereof, used for the purpose of collecting, treating, neutralizing or stabilizing wastewater and removing pollutants from wastewater including the treatment plant, collectors, interceptors, outfall and outlet sewers, pumping stations, sludge treatment and handling systems, land disposal systems; a sewage treatment plant. ( )

49. **Water Pollution Control Project**. Any project that contributes to the removal, curtailment, or mitigation of pollution of the surface waters or groundwater of the state, or the restoration of the quality of said waters, and conforms to any applicable planning document which has been approved and/or adopted such as the State Water Quality Management Plan. This includes the planning, design, construction/implementation or any other distinct stage or phase of a project. ( )

50. **Water System Protection Ordinance**. An ordinance adopted pursuant to Chapter 32, Title 42, Idaho Code, or other applicable law that requires new connections to be properly designed and constructed, which prohibits cross-connections with non-potable water sources and in all ways protects the water system from injection of contaminants, and that provides for fees for service from users or classes of users. ( )

008. ELIGIBLE SYSTEMS.

01. **Basic Drinking Water Considerations**. Public and private community water systems and nonprofit noncommunity water systems. ( )

02. **Basic Wastewater Considerations**. Municipal or non-profit owned wastewater point source treatment facilities, lagoons, reuse facilities, and systems using nonpoint source methodologies of wastewater disposal. ( )

03. **Assistance to Ensure Compliance**. Public water systems not eligible for project loans may receive assistance if: ( )

a. The use of the assistance will ensure compliance; ( )

b. The owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures); ( )

c. The Department determines that the measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with state and federal drinking water requirements over the long term; and ( )

d. Prior to providing assistance under this section to a public water system that is in significant noncompliance with any requirement of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act (42 U.S.C. Section 300j et seq.), the Department conducts a review to determine whether this section applies to the system. ( )

009. INELIGIBLE SYSTEMS.

01. Basic Considerations. Systems not eligible for project loans are described in Subsection 009.02. ( )

02. Systems Not Eligible. The following systems will not be considered eligible for project loans: ( )

a. Wastewater systems that are owned by individuals or for-profits; ( )

b. Drinking water systems in significant noncompliance with any requirement of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act (42 U.S.C. Section 300j et seq.); ( )

c. Drinking water systems under disapproval designation as outlined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; or ( )

d. Systems delinquent in payment of fines, state revolving fund loans, penalties, or fee assessments due to DEQ. ( )

010. FINANCIAL AND MANAGEMENT CAPABILITY ANALYSIS.
No loans shall be awarded for projects unless the applicant has demonstrated and certified that it has the legal, technical, managerial, and financial capabilities as provided for in these rules to ensure construction, operation and maintenance, and to repay principal and interest which would be due on a loan. ( )

01. Information Needed. Before an application will be considered complete, the applicant must submit all necessary information on a form prescribed by the Department along with substantiating documentation. The information may include, but not be limited to, demographic information of the applicant, estimated construction or implementation costs, annual operating costs, and information regarding the financing of the project, including the legal debt limit of the applicant and the existence and amount of any outstanding bonds or other indebtedness which may affect the project. ( )

02. Incorporated Nonprofit Applicants. ( )

a. In addition to all other information required to be submitted by these rules, an incorporated nonprofit applicant must demonstrate to the satisfaction of the Department by its articles of incorporation and/or bylaws, that: ( )

i. The corporation is nonprofit and lawfully incorporated pursuant to Chapter 3, Title 30, Idaho Code; ( )

ii. The corporation is authorized to incur indebtedness to construct, improve or repair wastewater or drinking water facilities and/or implement water pollution control nonpoint source projects; ( )

iii. The corporation is authorized to secure indebtedness by pledging corporation assets, including any revenues raised through a user charge system; ( )

iv. The corporation exists either perpetually or for a period long enough to repay a project loan; and ( )

v. The corporation is capable of raising revenues sufficient to repay a loan. ( )

b. The Department may impose conditions on the making of a facility loan or water pollution control nonpoint source project to an incorporated nonprofit applicant which are necessary to carry out the provisions of these rules and the provisions of Chapter 36 or 76, Title 39, Idaho Code. ( )

03. Cost Allocation. An applicant proposing a wastewater, drinking water or nonpoint source project

designed to serve two (2) or more entities must show how the costs will be allocated among the participating entities. Such applicants must provide an executed intermunicipal service agreement which, at a minimum, incorporates the following information: ( )

a. The basis upon which the costs are allocated; ( )

b. The formula by which the costs are allocated; and ( )

c. The manner in which the cost allocation system will be implemented. ( )

04. Waivers. The requirement in Section 010 may be waived by the Department if the applicant can demonstrate: ( )

a. Such an agreement is already in place; ( )

b. There is documentation of a service relationship in the absence of a formal agreement; or ( )

c. An applicant exhibits sufficient financial strength to continue the project if one (1) or more of the applicants fails to participate. ( )

011. -- 019. (RESERVED)

020. PRIORITY RATING SYSTEM.
Projects are identified for placement on priority lists by surveying eligible entities directly on an annual basis. Limited loan funds are awarded to projects based on priority ratings and readiness to proceed. Projects are rated by the Department on a standard priority rating form using public health, sustainability, the condition of the existing system and water quality criteria. ( )

01. Purpose. A priority rating system shall be utilized by the Department to annually allot available funds to wastewater and drinking water projects determined eligible for funding assistance under these rules. ( )

02. Wastewater Priority Rating. The priority rating system shall be based on a numerical point system. Priority criteria shall contain the following points: ( )

a. Public health emergency or hazard certified by the Idaho Board of Environmental Quality, the Department, a District Health Department or by a District Board of Health – one hundred and fifty (150) points. ( )

b. Regulatory compliance issues (e.g., noncompliance and resulting legal actions relating to infrastructure deficiencies at a wastewater facility) -- up to one hundred (100) points. ( )

c. Watershed restoration (e.g., implementation of best management practices or initiation of construction at wastewater collection and treatment facilities as part of an approved total maximum daily load plan, implementation of nonpoint source management actions in protection of a threatened water, or is part of a special water quality effort) -- up to one hundred (100) points. ( )

d. Watershed protection from impacts (e.g., improvement of beneficial use(s) in a given water body, evidence of community support, or recognition of the special status of the affected water body) -- up to one hundred (100) points. ( )

e. Preventing impacts to uses (nonpoint source pollution projects) -- up to one hundred (100) points. ( )

f. Sustainability efforts (e.g., prospective efforts at energy conservation, water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement) -- up to fifty (50) points. ( )

g. Affordability (current system user charges exceed state affordability guidelines) -- ten (10) points. ( )

03. Drinking Water Priority Rating. The priority rating system shall be based on a numerical points system. Priority criteria shall contain the following points. ( )

a. Public Health Hazard. Any condition that creates, or may create, a danger to the consumer's health, which may include any one (1) or more of the following, may be awarded a maximum of one hundred (100) points: ( )

i. Documented unresolved violations of the primary drinking water standards including maximum contaminant levels, action levels, and treatment techniques (to include maximum contaminant levels for acute and chronic contaminates); ( )

ii. Documented unresolved violations of pressure requirements; ( )

iii. Documented reduction in source capacity that impacts the system's ability to reliably serve water; ( )

iv. Documented significant deficiencies (e.g., documented in a sanitary survey) in the physical system that are causing the system to not reliably serve safe drinking water; or ( )

v. Documented unregulated contaminants that have been shown by EPA to be a risk to public health. ( )

b. General Conditions of Existing Facilities. Points shall be given based on deficiencies, which would not constitute a public health hazard, for pumping, treating, and delivering drinking water - up to sixty (60) points. ( )

c. Sustainability Efforts (e.g., prospective efforts at energy conservation, water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement) - up to fifty (50) points. ( )

d. Consent Order, Compliance Agreement Schedule, or Court Order. Points shall be given if the system is operating under and in compliance with a Consent Order, Compliance Agreement Schedule, or Court Order and the proposed construction project will address the Consent Order, Compliance Agreement Schedule, or Court Order - up to thirty (30) points. ( )

e. Incentives. Bonus points shall be awarded to systems that promote source water protection, conservation, economy, proper operation maintenance, and monitoring - up to ten (10) points. ( )

f. Affordability. Points shall be given when current system user charges exceed state affordability guidelines - ten (10) points. ( )

04. Rating Forms. Rating criteria for Section 020 set forth in rating forms that are available in the Handbooks. ( )

05. Priority List. A list shall be developed from projects rated according to Section 020, submitted for public review and comment, and submitted to the Board for approval. ( )

a. Priority Reevaluation. Whenever significant changes occur, which in the Department's judgment would affect the design parameters or treatment requirements by either increasing or decreasing the need for or scope of any project, a reevaluation of that priority rating will be conducted. ( )

b. Project Bypass. A project that does not or will not meet the Department schedule that allows for timely utilization of loan funds may be bypassed, substituting in its place the next highest ranking project(s) that is

ready to proceed. An eligible applicant that is bypassed will be notified in writing of the reasons for being bypassed. ( )

06. Amendment of a Priority List. The Director may amend a Priority List as set forth in Section 995 of these rules. ( )

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: ( )

01. Qualifying for a Disadvantaged Loan. In order to qualify for a disadvantaged loan, a loan applicant must have a residential user rate for either drinking water or wastewater services that exceed 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. ( )

02. Adjustment of Loan Terms. DEQ will equally apportion funds available for principal forgiveness to all prospective disadvantaged loan recipients. For wastewater loan funding, the length of the repayment period is set at the borrower's discretion, up to the maximum repayment period of thirty (30) years. For drinking water loan funding, extensions of repayment term to thirty (30) years are only allowed for disadvantaged applicants. Consistent with achieving user rates as per the criteria set forth in Section 021, and where possible with available funds, loan terms may be adjusted in the following order: decreasing the interest rate and providing principal forgiveness. ( )

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 equaling the criteria set forth in Section 021. The interest rate may be reduced to as low as zero percent (0%). ( )

b. Principal Forgiveness. If even at zero percent (0%) interest, the annual user rate per residential user still exceeds the criteria set forth in Section 021, then the principal that causes the user charge to exceed the criteria set forth in Section 021 may be partially forgiven or reduced. The principal reduction cannot exceed fifty percent (50%) of the total loan, unless the user rate will exceed $100 per month (in which case the principal reduction may exceed fifty percent (50%). 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 the criteria set forth in Section 021. ( )

022. SUPPLEMENTAL GRANTS.
In conjunction with loans, the Department may award state funded supplemental grants, not to exceed ninety percent (90%) of total eligible costs, to loan recipients in the following manner: ( )

01. Projects Not Funded by Loans. Planning and design projects may receive grant assistance up to ninety percent (90%) funding of eligible costs not funded by a loan; and ( )

02. Costs in Excess of Financial Ability. ( )

a. Loan recipients may receive supplemental grant assistance for eligible costs that exceed the amount a loan recipient is able to pay. In order to qualify for a supplemental grant, a loan recipient must have the following: ( )

i. An annual user rate per household which exceeds one and one-half percent (1 1/2%) of the median household income from the most recent census data. If the loan recipient's service area is not within the boundaries of

a municipality, the loan recipient may use the census data for the county in which it is located or may use an income survey approved by the Department; and ( )

ii. The annual user rate includes all operating, maintenance, replacement and debt service costs, both for the existing system and for upgrades. ( )

b. If a loan recipient meets the requirement of Section 022, a supplemental grant may be made for the amount of the project that causes the annual user rate for wastewater service per household to exceed one and one-half percent (1 1/2%) of the median household income, subject to available funds. ( )

023. -- 029. (RESERVED)

030. PROJECT SCOPE AND FUNDING.
Loan funds awarded under this program may be used to prepare a facility planning document which identifies the cost effective and environmentally sound alternative to achieve or maintain compliance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," the Safe Drinking Water Act, 42 U.S.C., Sections 300j et seq., IDAPA 58.01.16, "Wastewater Rules," and the Clean Water Act, 33 U.S.C. Sections 1381 et seq., and which is approvable by the Department. Loan funds may also be used for design and construction of the chosen alternative. ( )

01. Nonpoint Source Implementation Funding. Eligible nonpoint source water pollution control projects may be funded when all of the following criteria are met: ( )

a. Consistent with and implements the Idaho Nonpoint Source Management Plan. ( )

b. Data is used to substantiate a nonpoint source pollutant problem or issue exists and is described or directly referenced. ( )

c. Completed project implementation plan or work plan. ( )

d. Project commitment documentation through demonstrated ability for loan repayment. ( )

e. The project includes documentation that the project owner(s), manager(s), or the sponsoring agency will maintain the project for the life of the project (e.g., Maintenance Agreement). ( )

f. The project provides adequate tracking and evaluation of the effectiveness of the water quality improvements being funded by either the project owner/manager or the sponsoring agency throughout the life of the project. ( )

g. The project demonstrates nexus/benefit to municipality through a letter of support from one (1) or more affected municipalities. ( )

02. Facility Funding. Projects may be funded in steps: ( )

a. Step 1. Planning document prepared in accordance with the Handbook. ( )

b. Step 2. Design which includes the preparation of the detailed engineering plans and specifications necessary for the bidding and construction of the project. ( )

c. Step 3. Construction, which includes bidding and actual construction of the project. ( )

d. Step 4. A combination of Step 2 and Step 3. ( )

e. Combination Step Funding. Projects may be funded in any combination of the steps with the approval of the Department. Separate loans may be awarded for Step 1 or Step 2 projects. If a Step 1 or Step 2 project proceeds to construction, either the Step 1 or Step 2 loan, or both, may be consolidated with the Step 3 loan. If a project does not proceed to construction, outstanding Step 1 and Step 2 loans will be amortized and a repayment schedule prepared by the Department. ( )

f. Cost Effective Requirement. Step 2, Step 3 or Step 4 loans shall not be awarded until a final cost effective and environmentally sound alternative has been selected by the Step 1 planning document and approved by the Department. If the planning document has not been completed pursuant to IDAPA 58.01.22, "Rules for Administration of Planning Grants for Drinking Water and Wastewater Facilities," then the loan recipient shall provide an opportunity for the public to comment on the draft planning document. The public comment period shall be held after alternatives have been developed and the Department has approved the draft planning document. The loan recipient shall provide written notice of the public comment period and hold at least one (1) public meeting within the jurisdiction of the loan recipient during the public comment period. At the public meeting, the draft planning document shall be presented by the loan recipient with an explanation of the alternatives identified. The cost effective and environmentally sound alternative selected shall consider public comments received from those affected by the proposed project. After the public meeting and public comment period, the final alternative will be selected and the Environmental Information Document will be prepared. ( )

g. Funding For Wastewater Reserve Capacity. Funding for reserve capacity of a treatment plant will not exceed a twenty (20) year population growth and funding for reserve capacity of an interceptor will not exceed a forty (40) year population growth as determined by the Department. ( )

h. Funding for Drinking Water Reserve Capacity. Funding for reserve capacity of a drinking water system shall not exceed a twenty (20) year population growth, except that distribution and transmission lines which may be planned for a forty (40) year useful life. ( )

031. LIMITATION OF PRELOAN ENGINEERING REVIEWS.
Preloan engineering documents prepared by consulting engineers will be reviewed by Department staff only when accompanied by a certificate that the consulting engineer carries professional liability insurance in accordance with Section 050. ( )

032. LOAN FEE.

01. Loan Fee. The Department may elect to impose a loan fee when necessary to offset the costs of administering the loan program, to provide planning assistance, or to otherwise facilitate the operation of the loan efforts. The loan fee shall not exceed one percent (1%) of the unpaid balance of the loan at the time each loan payment is due. ( )

02. Effect on Loan Interest Rate. The loan interest rate, as described in Section 050, will be reduced by the corresponding percentage of the loan fee. ( )

03. Payment of Loan Fee. The loan fee shall be due and payable concurrently with scheduled loan principal and interest repayments over the repayment period. ( )

033. -- 039. (RESERVED)

040. LOAN APPLICATION AND REVIEW.

01. Submission of Application. Those eligible systems that received high priority ranking and are ready to proceed shall be invited to submit an application. The applicant shall submit to the Department, a completed application on a form as prescribed by the Department. ( )

02. Application Requirements. Applications shall contain the following documentation, as applicable: ( )

a. A lawful resolution passed by the governing body authorizing an elected official or officer of the applicant to execute a loan contract and sign subsequent loan disbursement requests; ( )

b. Contracts for engineering or other technical services and the description of costs and tasks set forth therein shall be in sufficient detail for the Department to determine whether the costs associated with the tasks are eligible costs pursuant to Section 041; ( )

c. Justification for the engineering firm selected. An engineering firm selected by the applicant must at a minimum: ( )

i. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; ( )

ii. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and ( )

iii. Be covered by professional liability insurance in accordance with Section 050 of these rules. A certification of liability insurance shall be included in the application; ( )

d. A description of other costs, not included in the contracts for engineering or other technical services, for which the applicant seeks funding. The description of the costs and tasks for such costs must be in sufficient detail for the Department to determine whether the costs are eligible costs pursuant to Section 041; ( )

e. A demonstration that the obligation to pay the costs for which funding is requested is the result or will be the result of the applicant's compliance with applicable competitive bidding requirements for construction and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code; ( )

f. Step 1 -- Scope of work describing the work tasks to be performed in the preparation of the planning document if required in accordance with Section 030, a schedule for completion of the work tasks and an estimate of staff hours and costs to complete the work tasks; ( )

g. Step 2 -- Design, or Step 4 -- Design and Construction: ( )

i. Planning document, including a final environmental document and decision in accordance with Section 042; ( )

ii. Financial and management capability analysis as provided in Section 010; and ( )

iii. Intermunicipal service agreements between all entities within the scope of the project, if applicable; ( )

h. Step 3 -- Construction: ( )

i. Documented evidence of all necessary easements and land acquisition; ( )

ii. Biddable plans and specifications of the approved wastewater treatment facility alternative; ( )

iii. A plan of operation and project schedule; ( )

iv. A user charge system, sewer use or water system protection ordinance and financial management system; and ( )

v. A staffing plan and budget; ( )

i. Step 4 -- Design and Construction. Loan applicants must submit all documentation specified in Section 040 prior to advertising for bids on construction contracts; ( )

j. Nonpoint Source Implementation Funding: ( )

i. Information demonstrating that the project is consistent with and implements the Idaho Nonpoint Source Management Plan; ( )

ii. Data that substantiates a nonpoint source pollution problem or issue exists; ( )

iii. A project implementation plan or workplan; ( )

iv. Project commitment documentation that demonstrates the ability for loan repayment; ( )

v. Documentation that the project owner, manager or sponsoring agency will maintain the project for the life of the project; ( )

vi. A demonstration that there will be adequate tracking and evaluation of the effectiveness of the water quality improvements being funded by either the project owner/manager or the sponsoring agency throughout the life of the project; and ( )

vii. A description of the nexus/benefit to a municipality and a letter of support from one (1) or more affected municipalities. ( )

03. Determination of Completeness of Application. The Department will review the application to determine whether it includes all of the information required by Section 040. ( )

04. Notification of Incompleteness of Application. Written notification if an application is incomplete, including an explanation of missing documentation will be sent to the applicant. The applicant may provide the missing documentation. ( )

05. Reapplication for Loan. The action of disapproving, recalling or terminating a loan in no way precludes or limits the former applicant from reapplying for another loan when the project deficiencies are resolved and project readiness is secured. ( )

041. DETERMINATION OF ELIGIBILITY OF COSTS.
The Department will review the application, including any contracts required to be submitted with the application, to determine whether the costs are eligible costs for funding. ( )

01. Eligible Costs. Eligible costs are those determined by the Department to be: ( )

a. Necessary costs; ( )

b. Reasonable costs; and ( )

c. Costs that are not ineligible as described in Section 041. ( )

02. Necessary Costs. The Department will determine whether costs are necessary by comparing the tasks for which the costs will be incurred to the scope of the project as described in the plan of study for facility planning documents, the project implementation plan or work plan for nonpoint source projects, and any other relevant information in the application that describes the scope of the project to be funded. ( )

03. Reasonable Costs. Costs will be determined by the Department to be reasonable if the obligation to pay the costs is the result of or will be the result of the applicant's compliance with applicable competitive bidding requirements for construction and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. ( )

04. Examples of Costs That May Be Eligible. Examples of costs that may be eligible, if determined necessary, reasonable and not ineligible costs include: ( )

a. Costs of salaries, benefits, and expendable material the applicant incurs in the project except ordinary operating expenses of local government, such as salaries and expenses of mayors, city council members, attorneys, commissioners, board members, or managers; ( )

b. Costs under construction contracts bid and executed in compliance with state public works

construction laws; ( )

c. Professional and consulting services utilizing a lump sum contract, a negotiated hourly rate contract, a time and materials contract, or cost plus a fixed fee contract; ( )

d. Planning directly related to the projects; ( )

e. System evaluations; ( )

f. Financial and management capability analysis; ( )

g. Preparation of construction drawings, specifications, estimates, and construction contract documents; ( )

h. Landscaping; ( )

i. Removal and relocation or replacement of utilities for which the applicant is legally obligated to pay; ( )

j. Material acquired, consumed, or expended specifically for the project; ( )

k. A reasonable inventory of laboratory chemicals and supplies necessary to initiate plant operations; ( )

l. Preparation of an operation and maintenance manual; ( )

m. Preparation of a plan of operation; ( )

n. Start-up services; ( )

o. Project identification signs; ( )

p. Public participation for alternative selection; ( )

q. Development of user charge and financial management systems; ( )

r. Development of sewer use or water system protection ordinance; ( )

s. Staffing plans and budget development; ( )

t. Certain direct and other costs as determined eligible by the Department; ( )

u. Costs of complying with the Federal Water Pollution Control Act (P.L. 92-500) as amended, 33 USC Section 1251 et seq. and the Safe Drinking Water Act (42 U.S.C. Section 300j et seq, loan requirements applied to specific projects; and ( )

v. Site acquisition costs, including right of way, plant site, wastewater land application sites and sludge disposal areas. Land purchase shall be from a willing seller. ( )

05. Ineligible Project Costs. Costs which are ineligible for funding include, but are not limited to: ( )

a. Basin or area wide planning not directly related to the project; ( )

b. Bonus payments not legally required for completion of construction before a contractual completion date; ( )

c. Personal injury compensation or damages arising out of the project; ( )

d. Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; ( )

e. Costs outside the scope of the approved project; ( )

f. Ordinary operating expenses of local government, such as salaries and expenses of mayors, city council members, attorneys, commissioners, board members, or managers; ( )

g. Construction of privately owned wastewater treatment facilities; ( )

h. Cost of land in excess of that needed for the proposed project; ( )

i. Cost of refinancing existing indebtedness; ( )

j. Engineering costs incurred without professional liability insurance; ( )

k. Costs of condemnation; ( )

l. Reserve funds; and ( )

m. Costs incurred prior to acceptance of the loan unless specifically approved in writing as eligible pre-award costs by the Department. ( )

06. Notification Regarding Ineligible Costs. Prior to providing a loan offer, the Department will notify the applicant if certain costs are not eligible for funding and the reasons for the Department's determination. If such costs are included in the engineering contract, the Department will also provide notification to the engineer. The applicant may provide the Department additional information in response to the notice. ( )

07. Eligible Costs and the Loan Offer. The loan offer shall reflect those costs determined by the Department to be eligible costs. The loan offer, however, may include estimates of some eligible costs that have not yet been set, such as construction costs. Actual eligible costs may differ from such estimated costs set forth in the loan offer. In addition, loan disbursements may be increased or decreased if eligible costs are modified as provided in Section 060. ( )

042. ENVIRONMENTAL REVIEW.

01. Environmental Documentation. Guidance on how to complete an environmental review is found in Chapter 5 of the applicable Handbook. For eligible projects funded solely with non-federal funds (e.g. State Revolving Loan Fund repayments), see Section 042. For eligible projects, the loan recipient shall complete an environmental review as part of and in conjunction with a planning document. Projects funded exclusively as nonpoint or estuary management projects may not be required to complete an environmental review. The loan recipient shall consult with the Department at an early stage in the loan process to determine the required level of environmental review. Based on review of existing information, and assessment of environmental impacts, the loan recipient shall complete one (1) of the following per the Department's instruction: ( )

a. Submit a request for Categorical Exclusion (CE) with supporting backup documentation as specified by the Department; ( )

b. Prepare an Environmental Information Document (EID) in a format specified by the Department; or ( )

c. Prepare an Environmental Impact Statement (EIS) in a format specified by the Department. ( )

02. Categorical Exclusions. If the loan recipient requests a CE, the Department will review the request and, based upon the supporting documentation, take one (1) of the following actions: ( )

a. Determine if the action is consistent with categories eligible for exclusion whereupon the Department will issue a notice of CE from substantive environmental review. Once the CE is granted for the selected alternative, the Department will publish a notice of CE in a local newspaper in the geographical area of the proposed project to inform the public of this action, following which the planning document can be approved and the loan award can proceed; or ( )

b. Determine if the action is not consistent with categories eligible for exclusion and that issuance of a CE is not appropriate. If a CE is not issued, the Department will notify the loan recipient to prepare an EID. ( )

03. Environmental Information Document Requirements. When an EID is required, the loan recipient shall prepare the EID in accordance with the following Department procedures: ( )

a. Various laws and executive orders related to environmentally sensitive resources shall be considered as the EID is prepared. Appropriate state and federal agencies shall be consulted regarding these laws and executive orders; ( )

b. A full range of relevant impacts, both direct and indirect, of the proposed project shall be discussed in the EID, including measures to mitigate adverse impacts, cumulative impacts, and impacts that shall cause irreversible or irretrievable commitment of resources; and ( )

c. The Department will review the draft EID and either request additional information about one (1) or more potential impacts, or draft a "finding of no significant impact" (FONSI). ( )

04. Final Finding of No Significant Impact. The Department will publish the draft FONSI in a local newspaper in the geographical area of the proposed project and will allow a minimum thirty (30) day public comment period. Following the required period of public review and comment, and after any public concerns about project impacts are addressed, the FONSI will become final. The Department will assess the effectiveness and feasibility of the mitigation measures identified in the FONSI and EID prior to the issuance of the final FONSI and approval of the planning document. ( )

05. Environmental Impact Statement (EIS) Requirements. If an (EIS) is required, the loan recipient shall: ( )

a. Consult with all affected federal and state agencies, and other interested parties, to determine the required scope of the document; ( )

b. Prepare and submit a draft EIS to all interested agencies, and other interested parties, for review and comment; ( )

c. Conduct a public meeting which may be in conjunction with a planning document meeting; and ( )

d. Prepare and submit a final EIS incorporating all agency and public input for Department review and approval. ( )

06. Final EIS. Upon completion of the EIS by the loan recipient and approval by the Department of all requirements listed in Section 042, the Department will issue a record of decision, documenting the mitigation measures to be required of the loan recipient. The loan agreement can be completed once the final EIS has been approved by the Department. ( )

07. Partitioning the Environmental Review. Under certain circumstances, the building of a component/partition of a system may be justified in advance of all environment review requirements for the remainder of the system. The Department will approve partitioning the environment review in accordance with established procedures. ( )

08. Use of Environmental Reviews Conducted by Other Agencies. If environmental review for the

project has been conducted by another state, federal, or local agency, the Department may, at its discretion, issue its own determination by adopting the document and public participation process of the other agency. ( )

09. Validity of Review. Environmental reviews, once completed by the Department, are valid for five (5) years from the date of completion. If a loan application is received for a project with an environmental review which is more than five (5) years old, the Department will reevaluate the project, environmental conditions and public views and will: ( )

a. Reaffirm the earlier decision; or ( )

b. Require supplemental information to the earlier EIS, EID, or request for CE. Based upon a review of the updated document, the Department will issue and distribute a revised notice of CE, FONSI, or record of decision. ( )

10. Exemption From Review. Loan projects may be exempt from certain federal crosscutting authorities at the discretion of the Department as long as in any given year the annual amount of loans, equal to the most recent federal capitalization grant, complies with all of the federal crosscutting authorities. ( )

043. -- 049. (RESERVED)

050. LOAN OFFER AND ACCEPTANCE.

01. Loan Offer. Loan offers will be delivered to successful applicants by representatives of the Department or by registered mail. ( )

02. Acceptance of Loan Offer. Applicants have sixty (60) days in which to officially accept the loan offer on prescribed forms furnished by the Department. The sixty (60) day acceptance period commences from the date indicated on the loan offer notice. If the applicant does not accept the loan offer within the sixty (60) day period the loan funds may be offered to the next project of priority. ( )

03. Acceptance Executed as a Contract Agreement. Upon signature by the Director and upon signature by the authorized representative of the eligible applicant, the loan offer shall become a contract. Upon accepting a loan offer, an eligible applicant becomes a loan recipient. The disbursement of funds pursuant to a loan contract is subject to a finding by the Director that the loan recipient has complied with all loan contract conditions and has prudently managed the project. The Director may, as a condition of disbursement, require that a loan recipient vigorously pursue any claims it has against third parties who will be paid in whole or in part, directly or indirectly, with loan funds. No third party shall acquire any rights against the state or its employees from a loan contract. ( )

04. Estimate of Reasonable Cost. All loan contracts will include the eligible costs of the project. Some eligible costs may be estimated and disbursements may be increased or decreased as provided in Section 060. ( )

05. Terms of Loan Offers. The loan offer shall contain such terms as are prescribed by the Department including, but not limited to: ( )

a. Terms consistent with these rules, the project step to be funded under the loan offer, and Title 39, Chapter 36, Idaho Code; ( )

b. Special clauses as determined necessary by the Department for the successful investigation, design, construction and management of the project; ( )

c. Terms consistent with applicable state and federal laws pertaining to planning documents, design, and construction, including the Public Works Contractors License Act and the Public Contracts Bond Act, Chapter 19, Title 54, Idaho Code, and the federal Clean Water Act and Safe Drinking Water Act requirements for projects funded with loan moneys of federal origin; ( )

d. Requirement for the prime engineering firm(s) and their principals retained for engineering

services to carry professional liability insurance to protect the public from the engineer's negligent acts and errors and omissions of a professional nature. The total aggregate of the engineer's professional liability insurance shall be one hundred thousand dollars ($100,000) or twice the amount of the engineer's fee, whichever is greater. Professional liability insurance must cover all such services rendered for all project phases, whether or not such services or phases are state funded, until the certification of project performance is accepted by the Department; ( )

e. The project shall be bid, contracted and constructed according to the current edition of Idaho Standards for Public Works Construction unless the loan recipient has approved and adopted acceptable public works construction standards approved by the Department; ( )

f. The loan interest rate for loans made during the state fiscal year beginning July 1 will be established by the Director. The interest rate will be a fixed rate in effect for the life of the loan. The rate may equal but shall not exceed the current market rate; ( )

g. The loan fee pursuant to Section 032; ( )

h. All loans must be fully amortized within a period not to exceed thirty (30) years after project completion. The loan contract will be appended with a schedule of loan repayments stating the due dates and the amount due upon project completion. The loan recipient may elect for either a schedule of semi-annual or annual repayments at the time the loan is finalized; and ( )

i. Repayment default will occur when a scheduled loan repayment is thirty (30) days past due. If default occurs, the Department may invoke appropriate loan contract provisions and/or bond covenants. ( )

051. ACCOUNTING AND AUDITING PROCEDURES.
Loan recipients must maintain project accounts in accordance with generally accepted accounting principles. Projects may be audited on an annual basis according to government auditing standards issued by the U.S. Governmental Accountability Office. ( )

052. -- 059. (RESERVED)

060. DISBURSEMENTS.

01. Loan Disbursements. Requests to the Department for actual disbursement of loan proceeds will be made by the loan recipient on forms provided by the Department. ( )

02. Loan Increases. An increase in the loan amount as a result of an increase in eligible project costs will be considered, provided funds are available. Documentation supporting the need for an increase must be submitted to the Department for approval prior to incurring any costs above the eligible cost ceiling. ( )

03. Loan Decreases. If the actual eligible cost is determined by the Department to be lower than the estimated eligible cost the loan amount will be reduced proportionately. ( )

04. Project Review to Determine Final Eligible Costs. A project review by the Department or a Department designee will determine the final eligible costs. ( )

05. Final Disbursement. The final loan disbursement consisting of five percent (5%) of the total loan amount shall not be made until final inspection, final review, and a final loan repayment schedule have been completed. ( )

061. LOAN CONSOLIDATION.
If two (2) or more loans are consolidated into one (1) loan, the interest rate for the consolidated loan will be at the same rate as the loan being consolidated with the lowest interest rate. ( )

062. -- 079. (RESERVED)

080. SUSPENSION OR TERMINATION OF LOAN CONTRACTS.

01. **Causes**. The Director may suspend or terminate any loan contract prior to final disbursement for failure by the loan recipient or its agents, including engineering firm(s), contractor(s) or subcontractor(s) to perform. A loan contract may be suspended or terminated for good cause including, but not limited to, the following: ( )

a. Commission of fraud, embezzlement, theft, forgery, bribery, misrepresentation, conversion, malpractice, misconduct, malfeasance, misfeasance, falsification or unlawful destruction of records, or receipt of stolen property, or any form of tortious conduct; or ( )

b. Commission of any crime for which the maximum sentence includes the possibility of one (1) or more years' imprisonment or any crime involving or affecting the project; or ( )

c. Violation(s) of any term of the loan contract; or ( )

d. Any willful or serious failure to perform within the scope of the project, plan of operation and project schedule, terms of engineering subagreements, or contracts for construction; or ( )

e. Debarment of a contractor or subcontractor for good cause by any federal or state agency from working on public work projects funded by that agency. ( )

02. **Notice**. The Director will notify the loan recipient in writing and by certified mail of the intent to suspend or terminate the loan contract. The notice of intent shall state: ( )

a. Specific acts or omissions which form the basis for suspension or termination; and ( )

b. That the loan recipient may be entitled to appeal the suspension or termination pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

03. **Determination**. A determination will be made by the Board pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

04. **Reinstatement of Suspended Loan**. Upon written request by the loan recipient with evidence that the causes(s) for suspension no longer exists, the Director may, if funds are available reinstate the loan contract. If a suspended loan contract is not reinstated, the loan will be amortized and a repayment schedule prepared in accordance with provisions of the loan contract. ( )

05. **Reinstatement of Terminated Loan**. No terminated loan shall be reinstated. Terminated loans will be amortized and a repayment schedule prepared in accordance with provisions of the loan contract. ( )

081. -- 994. **(RESERVED)**

995. **WAIVER OF REQUIREMENTS AND AMENDMENT OF PRIORITY LIST.**
The Director may amend the Priority List and grant a waiver from the requirements of these rules on a case-by-case basis upon full demonstration by the loan recipient requesting the waiver that the following conditions exist. See also Section 020 of these rules. ( )

01. **Health Hazard**. A significant public health hazard exists; ( )

02. **Water Contamination**. A significant water contamination problem exists; ( )

03. **Pollution**. A significant point source of pollution exists causing a violation of Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards"; or ( )

04. **Affordability Criteria Exceeded**. The project will exceed affordability criteria adopted by the Department in the event the waiver is not granted. ( )

996. -- 999. **(RESERVED)**

000. LEGAL AUTHORITY.
Title 39, Chapter 1, Idaho Code, grants the authority to the Board of Environmental Quality to adopt rules, regulations and standards to protect the environment and the health of the State; grants authority to the Director to issue permits as prescribed by law and by the rules of the Board; and requires Department of Environmental Quality review and approval of plans and specifications for all new facilities, or for modifications or expansions to existing facilities, that process ore by cyanidation; and authorizes the Director to require reasonable fees for processing permit applications and for services rendered by the Department. ( )

001. TITLE, SCOPE AND INTENT.

01. Title. These rules are titled IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation." ( )

02. Scope and Intent.

a. These rules establish the procedures and requirements for the issuance and maintenance of a permit to construct, operate and close that portion of a cyanidation facility that is intended to contain, treat or dispose of process water or process-contaminated water containing cyanide. The provisions of these rules also establish requirements for water quality that address performance, construction, operation and closure of that portion of any cyanidation facility that is intended to contain, treat, or dispose of process water. These rules are intended to ensure that process water and process-contaminated water generated in ore processing operations that utilize cyanide as a primary leaching agent and pollutants associated with the cyanidation process are safely contained, controlled, and treated so that they do not interfere with the beneficial uses of waters and do not endanger public safety or the environment. ( )

b. Compliance with a permit issued under these rules does not release the permittee from liability for any unauthorized discharge to or any unauthorized degradation of waters caused by the facility. ( )

003. ADMINISTRATIVE PROVISIONS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

006. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 74, Chapter 1, 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." ( )

007. DEFINITIONS.
The terms "cyanidation," "cyanidation facility," "Department," "Director," "State," and "Waters" have the meaning provided for that term in Section 39-103, Idaho Code. The term "ground water" has the meaning provided in Section 39-121, Idaho Code. ( )

01. Beneficial Use. As defined in IDAPA 58.01.02, "Water Quality Standards," Section 010, as amended. ( )

02. Best Management Practices (BMPs). As defined in IDAPA 58.01.02, "Water Quality Standards," Section 010, as amended. ( )

03. Degradation. When referring to surface water, "degradation" has the meaning provided in IDAPA 58.01.02, "Water Quality Standards," Section 010. When referring to ground water, "degradation" has the meaning provided in IDAPA 58.01.11, "Ground Water Quality Rule," Section 007. ( )

04. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into waters. ( )

05. Idaho Pollutant Discharge Elimination System (IPDES) Permit. A permit issued by the Department for the purpose of regulating discharges into surface waters. ( )

06. Land Application. A process or activity involving application of liquids or slurries potentially containing cyanide from the cyanidation facility to the land surface for the purpose of treatment, neutralization, disposal, or ground water recharge. ( )

07. **Liner**. A continuous layer of natural or man-made materials beneath and, if applicable, on the sides of ponds, tailings impoundments, or leach pads that restricts the downward and lateral movement of liquids. ( )

08. **Material Modification or Material Expansion**. ( )

a. Any change to a permitted cyanidation facility, except as provided in Subsection 007.08.b., that the Department determines will: ( )

i. Cause or increase the potential to cause degradation of waters, such as a new cyanidation process or cyanidation facility component; ( )

ii. Change the capacity, location, or process of an existing cyanidation facility component; or ( )

iii. Change the site condition in a manner that is not adequately described in the original permit application. ( )

b. Reclamation and closure related activities at a cyanidation facility with an existing permit that did not actively add cyanide after January 1, 2005 is not material modification or material expansion of the cyanidation facility. ( )

09. **Material Stabilization**. Managing or treating spent ore, tailings or other solids and/or sludges resulting from the cyanidation process to minimize water or all other applied solutions from migrating through the material and transporting pollutants associated with the cyanidation facility to ensure that all discharges comply with all applicable standards and criteria. ( )

10. **Neutralization or Neutralized**. Treatment of process water such that discharge or final disposal of the process water does not, or will not, violate any applicable standards and criteria. ( )

11. **Outstanding Resource Water (ORW)**. A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in IDAPA 58.01.02, "Water Quality Standards." ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. ( )

12. **Permanent Closure**. Those activities that result in neutralization, material stabilization and decontamination of cyanidation facilities and the facilities' final reclamation. ( )

13. **Permanent Closure Plan**. A description of the procedures, methods, and schedule that will be implemented to treat and dispose of cyanide-containing materials including spent ore, tailings, and process water and in controlling and monitoring discharges and potential discharges for a reasonable period of time based on site-specific conditions in manner that meets the intent and purpose of Section 39-118A, Idaho Code; Chapter 15, Title 47, Idaho Code; and all applicable rules. ( )

14. **Permit**. When used without qualification, any written authorization by the Director, issued pursuant to the application, public participation and appeal procedures in these rules, governing location, operation and maintenance, monitoring, seasonal and permanent closure, discharge response, and design and construction of a new cyanidation facility or a material expansion or material modification to a cyanidation facility. ( )

15. **Permittee**. The person in whose name a permit is issued and who is to be the principal party responsible for compliance with these rules and the conditions of a permit. ( )

16. **Person**. An individual, corporation, partnership, association, state, municipality, commission, federal agency, special district or interstate body. ( )

17. **Pollutant**. Chemicals, chemical waste, process water, biological materials, radioactive materials, or other materials that, when discharged, cause or contribute adverse effects to any beneficial use, or for any other reason, may impact waters. ( )

18. **Pond**. A process component that stores, confines, or otherwise significantly impedes the horizontal and downward movement of process water. This term does not include tailings impoundments or non-earthen containers such as vats and tanks. ( )

19. **Post-Closure**. The period of time after completion of permanent closure when the permittee is monitoring the effectiveness of the closure activities. Post-closure lasts a minimum of twelve (12) months but may extend until the cyanidation facility is shown to be in compliance with the stated permanent closure objectives and requirements of Chapter 15, Title 47, Idaho Code, and all applicable rules. ( )

20. **Process Water**. Any liquid intentionally or unintentionally introduced into any portion of the cyanidation process. Such liquid may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. ( )

21. **Seasonal Closure**. Annual cessation of operations that is due to weather. ( )

22. **Sensitive Resource Aquifer**. Any aquifer or portion of an aquifer listed in IDAPA 58.01.11, Ground Water Quality Rule, Subsection 300.01. ( )

23. **Tailings Impoundment**. A process component that is the final depository for processed ore from the mining, milling, or chemical extraction process. ( )

24. **Temporary Closure**. Any cessation of operations exceeding thirty (30) days, other than seasonal or permanent. ( )

25. **Treatment or Treated**. Any method, technique or process, including neutralization, that changes the physical, chemical, or biological character or composition of a waste for the purpose of disposal, or the end result of such action. ( )

26. **Water Balance**. An inventory and accounting process, capable of being reconciled, that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water and other pollutants can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. ( )

27. **Water Management Plan**. A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters unless permitted or otherwise approved by the Department. ( )

28. **Weak Acid Dissociable (WAD) Cyanide**. The cyanide concentration as determined by Method C, Weak Acid Dissociable Cyanide, D2036 of American Society of Testing Materials Book of Standards, "Standard Methods for the Examination of Water and Wastewater," Method 4500-CN- I, or other methods accepted by the scientific community and deemed appropriate by the Department. ( )

008. -- 009. (RESERVED)

010. APPLICABILITY TO FACILITIES WITH EXISTING PERMITS.

A cyanidation facility with an existing permit approved by the Department prior to July 1, 2005 is subject to the applicable laws and rules for ore processing by cyanidation in effect on June 30, 2005. Material modifications or material expansions of such facilities are subject to Section 39-118A, Idaho Code. ( )

011. -- 049. (RESERVED)

050. PRE-APPLICATION PROCESS AND PRELIMINARY DESIGN.

01. **Pre-application Conference**. Any person who intends to apply for a permit or proposes to

construct or operate a facility that is intended to contain, treat, or dispose of process water and process-contaminated water generated in ore processing operations that utilize cyanide as a primary leaching agent should contact the Department during the initial stages of site characterization to schedule a pre-application conference. Prospective applicants are encouraged to begin meeting with agents of the Department at least one (1) year in advance of preliminary design submittal to discuss, at a minimum, the following. ( )

a. Environmental baseline data requirements; waste characterization requirements; siting requirements; operation and maintenance plans; emergency and spill response plans; quality assurance/quality control plans; required contents for permit applications; agency cyanidation facility visits. ( )

b. The proposed water quality monitoring and reporting required in Subsection 200.11 and the monitoring well siting and construction plans required in Subsection 200.12. The applicant is encouraged to submit a report describing the purpose, objectives, location and proposed construction of monitoring wells to the Department for review and comment during the initial stages of site characterization. ( )

c. The preliminary design report and alternative design proposals required prior to application submittal under Subsection 050.02. ( )

d. The permitting process, application procedures, public review and comment periods, and permit schedule. ( )

e. The timing of additional pre-application meetings. The pre-application conference may trigger a period of collaborative effort between the applicant, the Department, and the Idaho Department of Lands to develop an application that complies with rule requirements and ensures the facility will not interfere with the beneficial uses of waters and will not endanger public safety or the environment. ( )

f. The cost recovery agreement required under Subsection 100.04. ( )

02. Information Required for Preliminary Design Report. Submittal of a preliminary design report is mandatory. Upon submittal, the preliminary design report must include sufficient detail to determine the following: ( )

a. The general framework and design criteria for the project; ( )

b. How the project will address each applicable requirement in Subsection 100.03 and Sections 200 through 205, or why a specific requirement in Subsection 100.03 and Sections 200 through 205 is not applicable; ( )

c. How the design criteria were identified, or the approach the applicant will use to determine design criteria for which insufficient data is available at the time of the preliminary design; ( )

d. How the requirements of these rules will be met in the final permit application; and ( )

e. How design, construction, operation and closure will ensure the facility will not interfere with the beneficial uses of waters and will not endanger public safety or the environment. ( )

03. Notice of Preliminary Design Approval or Disapproval. Unless otherwise provided in this Subsection 050.03, the Director will notify the applicant in writing of the decision to approve or disapprove a preliminary design report within thirty (30) days after the Department receives all information required by Subsection 050.02. For alternative design proposals submitted under Section 205, the Director will notify the applicant in writing of the decision for alternative design approval or disapproval within ninety (90) days after the Department receives all information required by Section 205. The time required to review and, if appropriate, approve the preliminary design report is separate from and not included as part of the one hundred eighty (180) day period for issuing notice of rejection or notice of approval of the permit under Section 39-118A(2)(b), Idaho Code. Approval of the preliminary design report does not authorize the construction, modification, or operation of the cyanidation facility. ( )

051. -- 099. (RESERVED)

100. PERMIT AND PERMIT APPLICATION.

01. Permit Required. No person may construct a new cyanidation facility prior to obtaining a permit from the Director. No person may materially expand or materially modify a cyanidation facility prior to obtaining a modified permit for such expansion or modification pursuant to Section 750. ( )

02. Permit Application. The owner or proposed operator of a cyanidation facility or the owner's or operator's authorized representative must: ( )

a. Make application to the Director in writing and in a manner or form prescribed herein; and ( )

b. Provide five (5) paper copies of the application to the Director, unless otherwise agreed to by the Department and the applicant. ( )

03. Contents of Application. A permit application and its contents will be used to determine if an applicant can locate, construct, operate, maintain, close and monitor the proposed cyanidation facility in conformance with these and other applicable rules including, but not limited to, IDAPA 58.01.02, "Water Quality Standards"; IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; IDAPA 58.01.06, "Solid Waste Management Rules"; IDAPA 58.01.11, "Ground Water Quality Rule"; and IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program." The application must include all of the following information in sufficient detail to allow the Director to make necessary application review decisions concerning compliance with Sections 200 through 205 as applicable and protection of human health and the environment: ( )

a. Name, location, and mailing address of the cyanidation facility. ( )

b. Name, mailing address, and phone number of the applicant, and a registered agent. ( )

c. Land ownership status of the cyanidation facility (federal, state, private or public). ( )

d. Name, mailing address, and phone number of the applicant's construction and operations manager. ( )

e. The legal structure (corporation, partnership, etc.) and residence of the applicant. ( )

f. The legal description, to the quarter-quarter section, of the location of the proposed cyanidation facility. ( )

g. Evidence the applicant is authorized by the Secretary of State to conduct business in the State of Idaho. ( )

h. A general description of the operational plans for the cyanidation facility from construction through permanent closure. This description must include any proposed phases for construction, operations, and permanent closure. ( )

i. The design maximum daily throughput of ore through the cyanidation facility and the total projected volume of material to be processed during the life of the operation. ( )

j. Cyanidation facility layouts including water management systems designed to segregate storm water from process water. ( )

k. A geotechnical evaluation of all process water and process chemical containment systems within the proposed cyanidation facility. ( )

l. A preconstruction topographic site map or aerial photos extending at least one (1) mile beyond the outer limits of the cyanidation facility, identifying and showing the location and extent of the following features: ( )

i. All wells, perennial and intermittent springs, adit discharges, wetlands, surface waters and irrigation ditches that may be affected by the cyanidation facility; ( )

ii. All process water supply source(s); ( )

iii. All public and private drinking water supply source(s) within at least one (1) mile of the cyanidation facility; ( )

iv. Identified floodplain areas (shown on USGS sectional Quadrangle maps); ( )

v. All service roads and public roads; ( )

vi. All buildings and structures within a half (1/2) mile of the cyanidation facility; ( )

vii. All outstanding resource waters and sensitive resource aquifers within one (1) mile of the cyanidation facility; and ( )

viii. All Clean Water Act Section 303(d) listed streams, and their listed impairments, within ten (10) miles of the site boundary that may be affected by the cyanidation facility. ( )

m. To the extent such information is available, a description and location of underground mine workings and adits and a description of the structural geology that may influence ground water flow and direction. ( )

n. A description of the proposed land application site. The description must include a potentiometric map, surface and subsurface soil characteristics, geology, hydrogeology and ground water quality. The description of these characteristics must be sufficient to determine anticipated impacts to the affected soils, associated vadose zone as well as anticipated changes in geochemistry that may affect surface and ground water quality. ( )

o. Siting diagram for land application sites, monitoring wells, lysimeters, surface or ground water discharge sites, or surface water monitoring locations. ( )

p. A description of measures to protect wildlife that may be affected by the facility. ( )

q. Proposed post-construction topographic maps. ( )

r. Engineering plans and specifications for all portions of the cyanidation facility must be submitted to the Department for review and approval. Preliminary designs for future phases of the cyanidation facility may be submitted as part of the permit application, provided that, pursuant to Subsection 500.02, the Department review and approval of final plans and specifications is required before construction of those phases may begin. All cyanidation facility engineering plans and specifications must bear the imprint of an Idaho licensed professional engineer that is both signed and dated by the engineer. These plans and specifications must, at a minimum, include all of the following information applicable to the proposed facility. ( )

i. Designs meeting applicable criteria in Sections 200 through 204. ( )

ii. Any alternative design approved by the Department under Section 205. ( )

iii. The water balance, ore flow and processing calculations demonstrating the logic behind sizing of facilities. ( )

iv. The general ore processing overview and analyses of chemical compatibility of containment materials with process chemicals and wastes, including a chemical mass balance at inputs and outputs from the cyanidation facility. ( )

v. Geotechnical data and analyses demonstrating the logic for plans and specifications of foundation

materials and placement. ( )

vi. Requirements for site preparation. ( )

vii. Pumping and dewatering requirements. ( )

viii. Procedures for materials selection and placement for backfilling foundation areas. ( )

ix. Criteria for caps and covers used as source control measures. ( )

x. Criteria for ensuring stability of embankments for pads, ponds and tailings impoundments. ( )

xi. Procedures to classify and modify, if necessary, excavated fill, bedding and cover materials for buildings, pads, ponds, and tailings impoundments. ( )

xii. Plumbing and conveyance schematics and component specifications. ( )

xiii. Plan views and cross-section drawings of leach pad, permanent heaps, vats, process water storage ponds, tailings impoundments and spent ore disposal areas. ( )

xiv. Leak detection and collection system plans and specifications including, but not limited to, schematics and narratives describing liner and geotextile material specifications, sumping capacity and layout, location of monitoring port(s), monitoring port components, construction operation and maintenance procedures for monitoring ports and pumping systems, including backup system, triggers for containment repairs, replacement or other contingency mitigation, frequency of monitoring, and monitoring parameters. ( )

xv. Provisions to protect containment systems from heavy equipment, fires, earthquakes and other natural phenomena. ( )

xvi. Quality assurance/quality control procedures. ( )

xvii. The identity and qualifications of the person(s) directly responsible for supervising construction and quality assurance/quality control. ( )

s. Operation and maintenance plans that include all of the following. ( )

i. Maintenance plans, including routine service procedures for containment systems, process chemical storage, and disposal of contaminated water or soils, including petroleum-contaminated soils. ( )

ii. A water management plan that provides for handling and containment of process water including the methods to manage and/or treat all process water and pollutants, run-off or run-on water, emergency releases, and excess water due to flood, rain, snowmelt, or other similar events. The plan must include the basis for the designed containment volumes and estimations of the need for and operation of a land application site, injection wells, infiltration galleries or leach fields, or the need for an IPDES permit. The permittee will update the plan on a regular basis to reflect the reconciliation of the water balance changes in the project through construction, operation, maintenance, and permanent closure, including modifications to the cyanidation facility. ( )

iii. A proposed water quality monitoring plan. ( )

iv. An emergency and spill response plan that describes procedures and methods to be implemented for the abatement and clean up of any pollutant that may be discharged from the cyanidation facility during use, handling or disposal of processing chemicals, petrochemicals and/or fuels, and any other deleterious materials. ( )

v. A seasonal/temporary closure plan, if applicable, that describes the procedures, methods, and schedule to be implemented for the treatment and disposal of process water and pollutants, the control of drainage

from the cyanidation facility during the period of closure, the control of drainage from the surrounding area, and the secure storage of process chemicals. ( )

t. The permanent closure plan must be the same as the plan submitted to the Idaho Department of Lands pursuant to the Idaho Mind Land Reclamation Act, Chapter 15, Title 47, Idaho Code, and the rules promulgated thereunder. ( )

u. Characterization of pollutants contained in or released from the cyanidation facility, including the potential for the pollutants to cause degradation of waters. ( )

04. Cost Recovery Agreement. Prior to submittal of the preliminary design report, an applicant must enter into an agreement with the Department for actual costs incurred to review the preliminary design report, process the permit application or any permit modification requests, issue a final permit or permit modification, and review final facility designs prior to construction if such designs were not included in the permit application. The cost recovery agreement may provide for actual costs incurred by the Department for any other service rendered pursuant to these rules or a permit so long as agreed to in advance by the applicant. ( )

101. -- 199. (RESERVED)

200. REQUIREMENTS FOR WATER QUALITY PROTECTION.
The following design and performance standards are intended as the minimum criteria for protection of public health and waters. These standards apply to all facilities unless the Department determines that other site-specific criteria, including an alternative design approved under Section 205, are appropriate to protect water quality and the public health. ( )

01. Professional Engineer. Plans and specifications for construction, alteration or expansion of any cyanidation facility must be prepared by or under the supervision of an Idaho licensed professional engineer and bear the imprint of the engineer's seal. Construction must be observed by an Idaho licensed professional engineer or a person under the supervision of an Idaho licensed professional engineer. ( )

02. Plans and Specifications. Final plans and specifications for the construction of a cyanidation facility must be submitted to and approved by the Department before construction may begin. All construction must be in compliance with the plans and specifications approved by the Department. Within thirty (30) days of the completion of such construction, modification or expansion, complete and accurate plans and specifications depicting that actual construction, modification or expansion does not deviate from the original approved plans and specifications must be submitted to the Department. ( )

03. Manufacturer's Specifications. Manufacturer's specifications for materials and equipment necessary to meet the requirements of Subsection 100.03.r. and Sections 200 through 205 for containment of process water must be submitted to the Department with the plans and specifications required in Subsection 200.02 before construction may begin. ( )

04. Siting and Preparation. All cyanidation facilities including, but not limited to, the process building, laboratories, process chemical storage and containment facilities, plumbing fixtures that support process water, untreated or treated process water ponds, tailings impoundments, ore stock piles, and spent ore disposal areas must be appropriately sited and prepared for construction. Siting criteria must ensure that, at a minimum, the facilities are structurally sound and that containment systems can be adequately protected against factors such as wild fires, floods, land slides, storm water run-on, erosion, migrating stream channels, high ground water table, equipment operation, subsidence of underground workings, public access and public activities. All sites must be properly prepared prior to construction of foundations and facilities. Vegetation, roots, brush, large woody debris and other deleterious materials, top soil, historic foundations and plumbing, or other materials that may adversely affect appropriate construction and long term stability, must be removed from the footprint of the cyanidation facility unless approved by the Department. ( )

05. Process Water Storage Sizing Criteria. All aspects of the cyanidation facility that entrain, utilize, treat, discharge, pump, convey, or otherwise contain process water, treated process water, or run-off water from any portion of the cyanidation facility must be included in the water balance. Each pond, tailings impoundment, and ditch

containing process water must be designed to maintain a minimum two (2) foot freeboard during storage or conveyance of the design climatic events plus maximum expected normal operating levels. Leach pad design must provide containment of the maximum expected operating flows plus storm flows from the design climatic event. At a minimum, a cyanidation facility must be designed to contain the maximum expected normal operating water balance and the volume of run-on and run-off water associated with a climatic event that has a one percent (1%) annual exceedance probability. Snowmelt events will be considered in determining the maximum flow volume during the design climatic event. Contingency plans for managing excesses of all water included as a part of the water balance must be described in the water management strategy. Each structure that impounds process water or process contaminated water must include a means of passing excess water unless otherwise approved by the Department. ( )

06. Minimum Plans and Specifications. Unless the Department approves an alternative design under Section 205, the plans and specifications for any portion of a cyanidation facility that will contain process water must satisfy the applicable general design criteria in Subsection 200.06 and the design criteria in Sections 201 through 204 for the type of facility receiving process water. These provisions establish minimum pollutant control technologies and define the site and operating conditions that must be evaluated. ( )

a. Cyanidation facility design must: ( )

i. Minimize releases of pollutants into ground water or subsurface migration pathways so that any release will not cause unauthorized degradation of waters. ( )

ii. Preclude any differential movement or shifting of the subgrade, soil layer, liner or contained material that endangers containment integrity as a result of the proposed range of operating conditions for each component and the history of seismic events at the site. ( )

iii. Include additional containment of process water, as requested by the Department, in areas where ground water is considered to be near the surface. Ground water is considered to be near the surface if: ( )

(1). The depth from the surface to ground water is less than one hundred (100) feet and the top one hundred (100) feet of the existing formation has a hydraulic conductivity greater than 10^{-5} cm/sec; ( )

(2). Open fractured or faulted geologic conditions exist in the bedrock from the surface to the ground water; or ( )

(3). There is an inability to document that all borings beneath the cyanidation facility have been adequately abandoned. ( )

iv. Not locate new process component containing process water within one thousand (1,000) feet of any dwelling that is occupied at least part of the year and not owned by the permittee. This does not apply to modifications at a facility that predates such a dwelling. ( )

v. Include measures for preventing wildlife contact with process water having a WAD cyanide concentration in liquid fraction exceeding fifty (50) mg/L. The Department may require additional measures if wildlife mortality is observed. ( )

vi. Implement measures to protect birds, other wildlife and livestock from adverse effects of cyanide process water and other pollutants. ( )

vii. Include a quality assurance/quality control plan for the construction of containment systems that provides a process for documenting owner acceptance of all underlying components of the containment system prior to construction of the overlying components. ( )

b. Liner systems must: ( )

i. Have a structurally stable subgrade for the overlying components and contained material. The subgrade should be constructed to resist consolidation, excessive differential settlement that compromises liner

performance, and uplift resulting from pressures inside or outside the containment unit to prevent distortion of overlying components. ( )

ii. Have a smooth rolled and compacted soil layer, or equivalent layer approved by the Department, in intimate contact with the overlying geomembrane liner with the following characteristics: ( )

(1). A minimum thickness of twenty-four (24) inches compacted to ninety-five percent (95%) of maximum dry density according to Standard Proctor Test ASTM D698 or Modified Proctor Test ASTM D1557; ( )

(2.) Soil placed in a minimum of four (4) lifts that each have a compacted thickness of six (6) inches and a hydraulic conductivity less than or equal to 10^{-6} cm/sec; ( )

(3). An uppermost lift of soil that does not contain particles in excess of point seven five (0.75) inches (nineteen (19) mm) in largest dimension unless larger particles are consistent with the manufacturer's specifications for the overlying liner and approved by the Department; ( )

(4). No putrescible, frozen or other deleterious materials. ( )

(5). No angular, sharp material regardless of diameter; and ( )

(6). Soil placed within two percent (2%) of optimum moisture content to achieve the specified compaction and hydraulic conductivity. ( )

iii. Include the following if an equivalent layer replacing the soil layer described in Subsection 200.06.b.ii is proposed: ( )

(1). A layer that is not a geomembrane and has a liquid flow rate no greater than that of twenty-four (24) inches of compact soil with a hydraulic conductivity less than or equal to 10^{-6} cm/sec; ( )

(2). Materials with appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste, process water, or process contaminated water to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation; ( )

(3). Materials that provide appropriate shear resistance of the upper and lower component interface to prevent sliding of the upper component including on slopes; ( )

(4). Certification from an Idaho licensed professional engineer that the liquid flow rate per unit area through the equivalent layer is no greater than the liquid flow rate through two (2) feet of compacted soil with a hydraulic conductivity less than or equal to 10^{-6} cm/sec, considering the maximum hydraulic head anticipated on the liner system and the thickness of the equivalent layer replacing the two (2) feet of compacted soil; and ( )

(5). Plans and specifications for an equivalent layer that substantially reflect the manufacturer's specifications and standards for construction, operation and maintenance unless otherwise approved by the Department. ( )

iv. Include geomembrane liners consisting of high density polyethylene, linear low-density polyethylene, or equivalent, rated as having a resistance to the passage of process water equal to or less than a hydraulic conductivity of 10^{-11} cm/sec. Each geomembrane liner will be constructed of materials with appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation and permanent closure. ( )

v. Be constructed according to manufacturer's standards, or Department-approved design standards, and protect against damage from cracking, sun exposure, ice, frost penetration or heaving, wildlife, wildfires, and

damage that may be caused by personnel or equipment operating in or around these facilities. ( )

vi. Have an appropriate coefficient of friction against sliding plus a factor of safety for each interface constructed on a slope. ( )

vii. Have minimum factors of safety, and the logic behind their selection, for the stability of the earthworks and the lining systems. ( )

viii. Include redundant systems for failures in primary power or pumping systems. ( )

ix. Have liner material that meets the manufacturer's quality assurance/quality control performance specifications. ( )

07. Process Buildings, Process Chemical Storage Containment Areas and General Facility Criteria. Storage, handling and use of all process chemicals, process wastes, process water and pollutants associated with the cyanidation facility must be conducted within a clean, safe and secure work space to prevent unauthorized discharges to soils, ground water or surface water. The plans and specifications must contain sufficient detail, including pump capacity and plumbing for evacuation of collection sumps, triggering systems for sump evacuation, and monitoring and reporting requirements and, where appropriate, provide for: ( )

a. Structural integrity of the foundation, walls and roof for process and process chemical storage buildings; ( )

b. Restriction of public access; ( )

c. Protection of wildlife; ( )

d. Internal sumps and spill cleanup plans; ( )

e. Grouted and sealed concrete stemmed walls and floors in the process buildings and process chemical storage and containment facilities; ( )

f. Vapor barriers and frost protection; ( )

g. Segregation of process chemicals according to compatibility; ( )

h. Communication systems; ( )

i. Fire suppression systems, internal and external; and ( )

j. Quality assurance/quality control for construction activities and construction materials. ( )

08. Cap and Cover Criteria. Caps and covers used as source control measures for facilities must be designed and constructed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes containing pollutants that are likely to be mobilized and discharged to waters. Caps and covers designed for permanent closure must demonstrate permanence applicable to the permittee's designed and approved permanent closure plan. ( )

09. Plumbing and Conveyance Criteria. Plumbing and conveyance systems must: ( )

a. Be structurally sound and chemically compatible with the materials being conveyed; ( )

b. Provide adequate primary and secondary containment; and ( )

c. Be protected against heat, cold, mechanical failures, impacts, fires, and other factors that may cause breakage and result in unauthorized discharges. ( )

10. Operation and Maintenance Plans. Operation and maintenance plans must be submitted to the Department for review and approval. Operation and maintenance plans must include, but are not limited to: ( )

a. An overall plan that includes techniques for evaluating the integrity and performance of all containment systems; ( )

b. Schedule for inspections of all containment systems; ( )

c. Schedule for inspections on piping and conveyance systems that carry process water; ( )

d. Response plans that detail specific actions that will result in mitigation of compromised or damaged containment systems; and ( )

e. Response plans that detail specific thresholds identified under Subsection 200.11, the locations and frequency at which the thresholds will be monitored, and actions that will result in mitigation of an exceedance of any threshold. ( )

11. Water Quality Monitoring and Reporting. The water quality monitoring plan submitted with the application must be reviewed and, if appropriate, approved by the Department. The approved water quality monitoring plan must: ( )

a. Provide for physical, chemical and biological monitoring, including measurements of surface water flow, wildlife and bird mortality, and aquatic indicator species in potentially affected surface and ground water, as appropriate; ( )

b. Provide for sampling locations and frequency; ( )

c. Provide an assessment of the existing surface and ground water conditions prior to construction of the proposed cyanidation facility; ( )

d. Be site specific and dependent on location, design and operation of the cyanidation facilities included in the overall operating plan; ( )

e. Specify compliance points and associated water quality compliance criteria; ( )

f. Specify monitoring points and threshold concentrations that provide for early detection of discharges of pollutants; ( )

g. Provide analytical methods and method detection limits for chemical analysis used in the determination of water quality; ( )

h. Provide a quality assurance quality control plan for data collection and analysis; ( )

i. Provide for appropriate and timely analytical data analyses including evaluations of water quality and quantity trends; ( )

j. Provide an annual environmental monitoring and data analysis report of water quality and quantity trends; ( )

k. Provide for the reporting and re-sampling of monitoring locations where detectable and statistically significant changes in water quality are found. The permittee must propose a statistical method to determine the significance of the changes in water quality; and ( )

l. Provide for anticipated changes or modifications to monitoring plans, which may be the result of a phased approach to cyanidation facility construction, operations and permanent closure. ( )

12. Monitoring Wells Siting and Construction Plans. The applicant is encouraged to submit a report

describing the purpose, objectives, location and proposed construction of monitoring wells to the Department for review and comment during the initial stages of site characterization. A monitoring well siting and construction plan must be provided upon submittal of the preliminary design report under Subsection 050.02. ( )

a. Monitoring well siting and construction plans must provide for the following. ( )

i. A quality assurance/quality control plan for well construction. ( )

ii. A minimum of three (3) monitoring wells with one (1) located up gradient and two (2) located down gradient of primary components of the cyanidation facility to determine ground water flow direction. ( )

b. Siting and planning for additional wells or replacement wells may be required in the permit application and final permit. Specifically, additional wells may be required for: ( )

i. Large areas with multiple potential sources for pollutants; ( )

ii. Areas with complex geology, fractured bedrock; and ( )

iii. Areas with insufficient background hydrogeology. ( )

c. All monitoring well construction must also conform to the well construction rules listed in IDAPA 37.03.09, "Well Construction Standards Rules." ( )

d. Record diagrams including well construction details, well elevation and a detailed geologic log must be provided to the Department for each monitoring well. ( )

13. Land Application. Plans and specifications must include: ( )

a. An operation and maintenance plan including: ( )

i. Water balance for the land application site; ( )

ii. Pretreatment requirements and procedures; ( )

iii. Operating season for land application; ( )

iv. Seasonal closeout procedures; ( )

v. Special soils or vegetative amendments; ( )

vi. Storm water run-on/run-off controls; ( )

vii. Best management practices for all areas impacted by the land application system; and ( )

viii. A topographic map of the land application site and adjacent affected areas, of sufficient scale to facilitate site-specific analysis of soils, vegetation, surface water and ground water; ( )

b. Chemical, physical, and volumetric characteristics of the material to be land applied; ( )

c. A complete description of the chemical and physical characteristics of the soils and applicable geology of the land application site; ( )

d. Methods of process water treatment, distribution and disposal; ( )

e. Hydraulic loading capacity of the soils; ( )

f. Constituent loading capacity of the site; ( )

g. Attenuation capacity of the vegetative covers and soils; ( )

h. Evapotranspiration capacity of the site; ( )

i. Testing and analytical procedures for water quality and soils samples prior to, during, and following the land application process; ( )

j. Trend analysis of the constituent loading in the affected soils, vegetation and water quality of the affected surface or ground water systems; ( )

k. Reporting requirements including both frequency and form; and ( )

l. Standby power and pumps sufficient to maintain all treatment and distribution works. ( )

14. Temporary or Seasonal Closure. Temporary and seasonal closure plans for the entire cyanidation facility must be submitted by an applicant to the Department for review and approval prior to issuance of a final permit. Temporary and seasonal closure plans may, subject to Department approval pursuant to Section 750, be modified to provide for changes in operating conditions of the facilities and must incorporate a water management plan for the period of inactivity as well as during shut down and reactivation. ( )

a. Prior to seasonal closure, process buildings, process chemical storage, process water ponds, tailings impoundments, spent ore disposal areas and other ancillary facilities must be stabilized and/or conditioned to prevent any emergency or unauthorized discharges to surface or ground water. ( )

b. Subsequent to seasonal closure, process buildings, process chemical storage, process water ponds, tailings impoundments, spent ore disposal areas and other ancillary facilities must be maintained to prevent any emergency or unauthorized discharges to surface or ground water. Cyanidation facilities must be conditioned and maintained to provide: ( )

i. Material stabilization for all solids affected by process waters; ( )

ii. Optimum freeboard in all ponds, as dictated by the water management plan; ( )

iii. Fully functional power and pumping systems that are ready for use; both power and pumps are to incorporate redundant systems to allow for failure of either power or a pumping system. A failed power supply or pump is not an acceptable reason for an unauthorized discharge; ( )

iv. Protection of all containment; and ( )

v. Sufficient availability of qualified staff to restrict public access, fully implement the water quality monitoring plan, and initiate the emergency and spill response plan. ( )

15. Employee Education Program. Operators and staff of facilities must be properly oriented and trained to operate, maintain and protect containment systems; waste disposal and discharge systems; and to implement monitoring and emergency and spill response plans. An applicant must submit an employee orientation and continuing training plan to the Department for review prior to issuance of a final permit. The plan must provide the format and contents for training, the general qualifications of the person(s) responsible for training and testing, and the person(s) or positions who must receive such training. ( )

201. DESIGN CRITERIA FOR LEACH PADS AND OTHER NONIMPOUNDING SURFACES THAT CONTAIN AND PROMOTE HORIZONTAL FLOW OF PROCESS WATER.
Plans and specification for leach pads and other nonimpounding surfaces that temporarily contain, not impound, process water and promote the horizontal flow of process water must provide for all of the following. ( )

01. Minimal Hydraulic Head. Process water is limited to twelve (12) inches or less hydraulic head pressure on the liner systems. ( )

02. Engineered Liner System. In addition to meeting the general liner requirements in Subsection 200.06.b., the engineered liner system plans and specifications are to provide for geomembrane liners with a minimum thickness of eighty (80) milli-inches (2.0 mm) or equivalent liners approved by the Department. ( )

a. If leach pads or other non-impounding surfaces are located above areas where ground water is considered near the surface pursuant to Subsection 200.06.a.iii., the Department may require a liner system with a higher level of engineered containment. ( )

b. When a material or system that provides hydraulic relief is installed, beneath a single liner, including, but not limited to, sand, French drains and geotextiles, regardless of the intent of its design, it is to function as a leak detection system and include a means for recovering process water. ( )

c. Depending on the methods and materials used for their construction, the Department may require all open channels that routinely transport process water to be traced by a leak detection system. ( )

03. Ore Loading Procedures. Procedures for loading ore onto the leach pads that minimize tensile stresses in the containment liners that may result in failure of the liners. ( )

04. Monitoring. Monitoring points that will provide for early detection of any discharge. ( )

05. Process Water Containment. Where appropriate, process water containment calculations at the leach pad perimeter should include the potential for drainage constrictions, including constrictions due to talus or washouts at the ore pile toe. Ore pile setbacks from the leach pad perimeter should be calculated based on local climatic conditions, ore properties, and site specific operating conditions. Solution collection ditches in which the liner is contiguous with the leach pad may be used to satisfy perimeter containment requirements. ( )

202. DESIGN CRITERIA FOR PROCESS PONDS.

01. Engineered Liner System. In addition to meeting the general liner requirements in Section 200.06.b., the engineered liner system plans and specifications must provide for all of the following. ( )

a. Lower geomembrane liners with a minimum thickness of eighty (80) milli-inches (2.0 mm) or equivalent liners approved by the Department. ( )

b. Leak detection and collection system that provides material between the lower geomembrane liner and the upper liner system to collect, transport and remove all process water that passes through the upper liner at such a rate as to prevent hydraulic head from developing on the lower geomembrane liner to the level at which it may be reasonably expected to result in leaks through the lower liner system. ( )

c. Upper geomembrane liners with a minimum thickness of eighty (80) milli-inches (two (2.0) mm) or equivalent liners approved by the Department. ( )

d. Routines and schedules for the evaluation of the efficiency and effectiveness of the removal of process water from the leak collection system. The properly working system will continually relieve head pressures on the lower geomembrane liner. ( )

e. Monitoring points that will provide for early detection of any discharge. ( )

f. Specific triggers for maintenance routines to address inadequate performance of liner systems. ( )

g. Specific operation and maintenance procedures to address inadequate performance of containment or leak detection and collection systems. ( )

02. Temporary Containment. Ponds for temporary containment of excess quantities of process water as a result of storm events may be constructed with a single liner if approved by the Department. ( )

203. DESIGN CRITERIA FOR CONTAINERS THAT CONFINE PROCESS WATER.
Vats, tanks, or other containers that are partially buried and cannot be visually inspected must have a system providing secondary containment and leak detection. If visual inspection is possible and an area for secondary containment equal to one hundred ten percent (110%) of the largest container is provided, a double liner in not required. ( )

204. DESIGN CRITERIA FOR TAILINGS IMPOUNDMENTS.

01. Engineered Liner System. In addition to meeting the general liner requirements in Subsection 200.06.b., the engineered liner system plans and specifications must provide for the following. ( )

a. Geomembrane liners with a minimum thickness of sixty (60) milli-inches (1.5 mm) or equivalent liners approved by the Department. ( )

b. A system to limit hydraulic head over the geomembrane liner that preserves the integrity and long-term performance of the liner system and includes the following: ( )

i. A system to reduce excess pore pressure within the tailings; and ( )

ii. A plan for managing the depth, area, and volume of process water occurring above the tailings surface and in direct contact with the liner, including thresholds and contingency measures to manage excess accumulation of process water in the facility. ( )

c. Monitoring points that will provide for early detection of discharges of pollutants. ( )

02. Enhanced Containment Criteria. An enhanced level of containment may be required by the Department for all of the tailings impoundment or for a portion thereof after considering the following factors: ( )

a. The anticipated characteristics of the material to be deposited; ( )

b. The characteristics of the soil and geology of the site; ( )

c. The methods employed and degree to which the hydraulic head on the liner is minimized; ( )

d. The extent of and methods used for material stabilization and recycling or neutralization of process water; ( )

e. Area and volume of process water; ( )

f. The depth from the surface to all ground water; ( )

g. The methods employed in depositing the impounded material; and ( )

h. The proximity to surface water and the ground water interactions with surface water. ( )

03. Tailings Treatment. Tailings impoundments are restricted to a maximum of fifty (50) mg/L WAD cyanide concentration in the liquid fraction unless otherwise approved by the Department. ( )

205. ALTERNATIVE PLANS AND SPECIFICATIONS FOR FACILITIES THAT CONTAIN PROCESS WATER.
An applicant may propose an alternative to the requirements identified in Sections 200.06, 201, 202, 203, or 204 based on site-specific conditions and best management practices to protect water quality and human health. All other requirements in Section 200 apply to alternative design proposals. ( )

01. Alternative Design Proposal. The applicant must demonstrate that the alternative design will

protect water quality and human health by confirming that the alternative to the minimum design criteria is appropriate based on the WAD cyanide concentration and chemical characteristics of materials contained; the physical characteristics of the materials contained; site-specific soil, geology, hydrology, and hydrogeology characteristics; degree to which hydraulic head on the liner is minimized; area and volume of the facility; depth to ground water; methods employed in depositing the impounded material; potential for leaks and impacts to water quality; and risk to human health and the environment. The alternative design must provide an evaluation based on site-specific data, supported by best available science, and consistent with best management practices demonstrating that process water and process-contaminated water are contained and controlled or treated as necessary to protect public safety and the environment, prevent unauthorized degradation of waters, and achieve all applicable water quality and ground water quality standards. The alternative design must include all applicable elements listed below. ( )

a. A hydrogeology assessment of site characteristics including depth to ground water; distance to surface water; hydrogeology and stratigraphy of the site; ground water and surface water interaction; and the quality, characteristics and existing and future beneficial uses of ground water and surface water that may be potentially affected by the facility. ( )

b. An engineering assessment detailing the design of each component of the containment system, including type and thickness of each component of the liner system; types of materials to be used and methods of placement of those materials; structures, devices and techniques for controlling drainage and minimizing solution loss; and method to control internal hydraulic head.. ( )

c. A water quality assessment providing an analysis of potential for the facility to cause degradation of waters including the effect of ground water and surface water interactions, the potential for process water to reach waters, and the potential impact of process water on waters. ( )

02. Preliminary Design Submittal. Alternative design proposals must be provided to the Department upon submittal of the preliminary design report required in Section 050. ( )

03. Department Review. In evaluating alternative design proposals, the Department will consider the WAD cyanide concentration and other materials contained in facilities receiving process water, site hydrogeology, advances in liner technology, alternative designs implemented at other facilities receiving process water, and other site-specific factors in determining if an alternative is appropriate to protect water quality and the public health. ( )

04. Cost Recovery Agreement. As provided in Subsection 100.04, the applicant must enter into an agreement with the Department for actual costs incurred to process an alternative design proposal under this subsection. The Department may utilize a third-party to support Department review of the alternative design proposal. ( )

206. -- 299. (RESERVED)

300. APPLICATION PROCESSING PROCEDURE.

01. Completeness Review. Within thirty (30) days of receipt of an application, the Director will issue a written notice to the applicant and the Idaho Department of Lands, indicating: ( )

a. The application is complete; or ( )

b. The application is incomplete, specific deficiencies, and additional required information. ( )

02. Accuracy and Protectiveness Review. Within ninety (90) days of receipt of an application and upon determination by the Department that the application is complete, the Department will review the application for accuracy and protectiveness based on these and other applicable rules including, but not limited to, IDAPA 58.01.02, "Water Quality Standards," and IDAPA 58.01.11, "Ground Water Quality Rule." ( )

03. Permit Application Rejection. ( )

a. If the Director decides to reject an application under subsection 300.03.b., the Director will provide public notice within ninety (90) days after receipt of the application. Such notice will be in writing, explain the basis for the rejection, and constitute a notice of rejection in accordance with Section 39-118A(2)(b), Idaho Code. ( )

b. A complete permit application will be rejected if: ( )

i. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure so as to comply with applicable state law; or ( )

ii. Any payment required by the cost recovery agreement under Subsection 100.04 is due and unpaid. ( )

04. Draft Permit and Fact Sheet.

a. If the Director decides to prepare a draft permit or draft major permit modification, the draft will contain the following information: ( )

i. All conditions based on Sections 200 through 204; ( )

ii All conditions for an approved alternative under Section 205; ( )

iii. All conditions under Section 500; ( )

iv. Any information incorporated into the draft permit by reference; and ( )

v. Any other condition the Director finds appropriate to protect water quality and public health. ( )

b. A fact sheet will accompany the draft permit. The fact sheet will briefly state the principal facts and the significant legal and policy questions considered in the draft permit. The fact sheet will include, when applicable: ( )

i. A brief description of the proposed cyanidation facility and the operating plan described in the application or permit modification request. ( )

ii. A brief summary of the basis for the conditions on the draft permit, including references to applicable statutes or regulations and appropriate supporting references to the administrative record; and. ( )

iii. The name and phone number of the agency representative to contact for additional information. ( )

301. -- 399. (RESERVED)

400. PUBLIC NOTICE AND COMMENT.

01. Public Notice. No public notice is required when a request for a permit modification is denied. The Director will give public notice of: ( )

a. Receipt of an application for a permit; ( )

b. A scheduled public meeting; ( )

c. Issuance of a draft permit and fact sheet or a decision to reject an application for a permit; and ( )

d. An appeal that has been filed. ( )

02. Public Notice Information. A public notice issued under this section will contain at least the following information:

a. Contact information for the Department and applicant; ( )

b. Description of public involvement procedures and how to obtain additional public information available; ( )

c. General description of the facility location; ( )

d. Comment period; and ( )

e. Public meeting location and time conducted under subsection 400.06 ( )

03. Serving the Public Notice. Public notice of permit actions will be given by the following methods: ( )

a. By mail to: ( )

i. The applicant; ( )

ii. Persons on the public notice mailing list developed under Subsection 400.04; and ( )

iii. Other appropriate federal, tribal, state, or local government entities. ( )

b. Publication in a daily or weekly major newspaper of general circulation in the area of the proposed cyanidation facility; and ( )

c. Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected. ( )

04. Mailing List. The Department will develop a mailing list for public notices issued under this section by recording those who request in writing to be on the list, publishing notice of the opportunity to be on the mailing list on the Department's website, and periodically publishing in the local press and in regional and state-funded newsletters, environmental bulletins, state law journals or similar publications. The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed and may delete from the list the name of any person who fails to respond to the Department's request. ( )

05. Participation by Idaho Department of Lands. The Department will request that the Idaho Department of Lands participate in the public meeting with respect to performance criteria for permanent closure. ( )

06. Public Comment Period. The Director will allow public comment on a draft permit for a period of sixty (60) days beginning on the date of the public notice for the draft permit. All written comments received during this public comment period will be considered by the Director. ( )

07. Public Meeting. Within thirty (30) days after the date of the public notice for draft permit or draft major permit modification, the Department will hold a public meeting. Oral or written comments may be submitted by any person at the public meeting. The meeting will be conducted by an official designated by the Director. In order for the Department to address public comments in its Response to Public Comments pursuant to Subsection 450.02, comments must be submitted in writing during the public comment period under subsection 400.06. ( )

401. -- 449. (RESERVED)

450. FINAL PERMIT DECISION.

01. Notification of the Decision. The Director will provide notice of the final permit decision to each person or entity given notice under Subsection 400.03. This notice will include reference to the procedures for administrative appeal under Section 003. For the purpose of this section, a final permit decision means a final decision to issue, deny, or modify a permit. ( )

02. Response to Public Comments. The Director will prepare and make available to the public a response to relevant written comments received during the public comment period under Subsection 400.06. This response will: ( )

a. Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and ( )

b. Briefly describe and respond to all relevant written comments on the draft permit. ( )

03. Basis for Permit Denial. The Director will deny a permit if: ( )

a. The application is incomplete or inaccurate; ( )

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure so as to comply with applicable state law; or ( )

c. The Idaho Department of Lands has determined that the permanent closure plan does not meet the requirements of Chapter 15, Title 47, Idaho Code, or the rules promulgated thereunder. ( )

04. Immediate Effect of the Permit. A valid permit authorizes the construction and operation of a cyanidation facility in accordance with the terms of the permit. ( )

451. -- 499. (RESERVED)

500. PERMIT CONDITIONS.
The following conditions apply to and must be specified in all permits: ( )

01. Compliance Required. The applicant or permittee must comply with all conditions of the permit. Issuance or possession of a permit issued according to these rules does not relieve the applicant or permittee of the responsibility to comply with all other applicable local, state, and federal laws. ( )

02. Construction. Construction of individual components of a cyanidation facility may commence upon approval by the Department of the final plans and specifications for that component. ( )

03. Record Plans and Specifications. An Idaho licensed professional engineer must confirm in writing that all record drawings and specifications are complete and accurate. These record plans and specifications must be submitted by the permittee to the Director within thirty (30) days after the completion of the construction of each critical phase of facility development as approved by the Department. The record plans and specifications must be accompanied by a final construction report. If the construction does not deviate from the approved plans and specifications, a statement to the effect must be submitted by the engineer. The Department will review the final construction report, including record plans and specifications and results of quality control and quality assurance testing, to verify that the facility was constructed in compliance with and does not deviate from the approved plans and specifications. If the Department determines that the facility was not constructed in compliance with or deviates from the approved plans and specifications, the Department will provide the permittee written notice of necessary corrective actions within thirty (30) days of receipt of all submittals required by this subsection. In the event the Department provides such written notice, operation of the facility may not begin until the Department inspects and provides written approval of the corrective actions. Operation of the facility may begin if the Department does not deliver to the permittee such written notice within thirty (30) days of receipt of all submittals required by this subsection. ( )

04. Duty to Provide Information. The permittee must furnish to the Director, within a reasonable or specified time, any information, including copies of records required by the permit or other applicable rules, that the

Director may request to determine whether cause exists for modifying or revoking the permit or to determine compliance with the permit or other applicable rules. ( )

05. **Notifications**. After initial construction and seasonal and/or temporary closure, the permittee must, within thirty (30) days, provide written notice to the Director of the permittee's intentions to commence or restart operations. At least thirty (30) days prior to completion of operations, and/or temporary or seasonal operations, the permittee must notify the Director of the permittee's intentions to temporarily, seasonally or permanently close operations. Notification must provide sufficient time for the Director to provide pre-operational or post-operational inspections, as necessary. ( )

06. **Entry and Access**. The permittee must allow the Director, or a designee obligated by agreement with the Director to comply with the confidentiality provisions of Section 39-111, Idaho Code, to: ( )

a. Enter at reasonable times upon the premises of a permitted cyanidation facility or where records required by a permit are kept; ( )

b. Have access to and copy at reasonable times any records that must be kept under the conditions of the permit; ( )

c. Inspect at reasonable times any cyanidation facility, equipment, practice, or operation permitted or required by the permit; and ( )

d. Sample or monitor at reasonable times, substance(s) or parameter(s) directly related to permit or regulation compliance. ( )

07. **Reporting**. It is the permittee's responsibility to report to the Director: ( )

a. Orally, as soon as possible but no later than twenty-four (24) hours from the time the permittee knows or should reasonably know of any noncompliance that may endanger the public health or the environment. ( )

b. In writing, within five (5) working days from the time a permittee knows or should reasonably know of any event that may be or that may result in a violation of these rules, or IDAPA 58.01.02, "Water Quality Standards," or IDAPA 58.01.11, "Ground Water Quality Rule." This report must contain: ( )

i. A description of the event and its cause; if the cause is not known, steps taken to investigate and determine the cause; ( )

ii. The period of the event including, to the extent possible, the individual(s) involved in the incident(s) and the time(s) and date(s) of the incidents; ( )

iii. Measures taken to mitigate or eliminate the event and protect the public health; and ( )

iv. Steps taken to prevent recurrence of the event; ( )

c. In writing, confirmation of any conditions that may result in violation of any permit condition; and ( )

d. In writing, when the permittee knows or should reasonably know of relevant facts not submitted or incorrect information submitted in a permit application or any report or notice to the Director or the Department. Those facts or the correct information must be included as a part of this report. ( )

08. **Discharge Response**. If an unauthorized discharge occurs the permittee must implement the Department approved emergency and spill response plan. ( )

09. **Temporary or Seasonal Closure Plans**. Prior to temporary or seasonal closure, the permittee must submit a temporary or seasonal closure plan to the Director for approval. The plan must describe the procedures,

methods, and schedule to be implemented for the treatment and disposal of process water and pollutants, the control of drainage from the cyanidation facility, the control of drainage from the surrounding area, and the secure storage of chemicals during the period of closure. Within thirty (30) days of receiving the plan, the Director will approve and/or suggest modifications necessary to protect waters. The permittee must ensure that closure complies with an approved plan. The approved plan must be implemented before the permittee completes temporary or seasonal closure. Facilities may not be temporarily or seasonally closed for a period longer than two (2) years unless approved by the Director. ( )

10. Begin Construction. If the permittee fails to begin construction of a cyanidation facility within one (1) year of the effective date of the permit, the permit will be deemed void. ( )

11. Permanent Closure. The permanent closure plan, as approved by the Idaho Department of Lands, will be incorporated by reference into the Department-issued permit as a permit condition and will be enforceable as such. ( )

501. COMPLETION OF PERMANENT CLOSURE.

01. Implementation of a Permanent Closure Plan. Unless otherwise specified in the approved permanent closure plan, the permittee must begin implementation of the approved permanent closure plan: ( )

a. Within two (2) years of the final addition of cyanide to the ore processing circuit; or ( )

b. If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. ( )

02. Submittal of a Permanent Closure Report. The permittee must submit a permanent closure report to the Department for review and approval. A permanent closure report must be of sufficient detail for the directors of the Department and the Idaho Department of Lands to issue a determination that permanent closure, as defined in Section 007, has been achieved. The permanent closure report must address: ( )

a. The effectiveness of material stabilization; ( )

b. The effectiveness of the water management plan and adequacy of the monitoring plan; ( )

c. The final configuration of the cyanidation facility and its operational/closure status; ( )

d. The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities; ( )

e. The operational/closure status of any land application site of the cyanidation facility; ( )

f. Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short and long term discharge of pollutants from the cyanidation facility, unless otherwise permitted; ( )

g. The short and long term water quality trends in surface and ground water through the statistical analyses of the existing monitoring data collected pursuant to the ore processing by cyanidation permit; ( )

h. Ownership and responsibility for the cyanidation facility during the defined post-closure period; ( )

i. The future beneficial uses of the land, surface and ground waters in and adjacent to the closed facilities; and ( )

j. How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. ( )

502. DECISION TO APPROVE OR DISAPPROVE OF A PERMANENT CLOSURE REPORT.

01. Cost Recovery. Final closure of the cyanidation facility will not be approved if any payment required by the cost recovery agreement under Subsection 100.04 is due and unpaid. ( )

02. Issuance of Director's Determination. Within sixty (60) days of receipt of a permanent closure report, the Director will issue to the permittee a Director's determination of approval or disapproval of the permanent closure report. The Director's determination will be based on applicable statutes or rules administered by the Department. The Department will coordinate the evaluation of the permanent closure report with the Idaho Department of Lands. ( )

03. Director's Determination to Disapprove a Permanent Closure Report. A Director's determination to disapprove a permanent closure report will specifically identify and discuss those reasons for disapproval, any administrative actions being considered by the Director, and the permittee's options and procedures for administrative appeal. The Director's determination to disapprove a permanent closure report must include: ( )

a. Identification of errors or inaccuracies in the permanent closure report; ( )

b. Issues or details that require additional clarification; ( )

c. Failures to fully implement the approved permanent closure plans; ( )

d. Outstanding violations or other noncompliance issues; and ( )

e. Other issues supporting the Department's disagreement with the contents, final conclusions or recommendations of the permanent closure report. ( )

503. -- 549. (RESERVED)

550. VALIDITY AND DURATION OF PERMITS.
A permit remains valid until the Director determines that permanent closure is completed or the Director revokes or modifies the permit. ( )

551. -- 649. (RESERVED)

650. FINANCIAL ASSURANCE.

01. Financial Assurance Required. The permittee is required to provide financial assurance pursuant to the Idaho Mined Land Reclamation Act, Chapter 15, Title 47, Idaho Code, and the rules promulgated thereunder. The Department will not issue a permit under these rules to a cyanidation facility unless a permanent closure plan for the cyanidation facility has been submitted for approval under Chapter 15, Title 47, Idaho Code. Any permit issued under these rules will prohibit construction and operation of the cyanidation facility until the permittee submits proof acceptable to the Department that financial assurance for the cyanidation facility permanent closure plan has been provided as required by Chapter 15, Title 47, Idaho Code. ( )

02. Insufficiency. In the event the financial assurance is forfeited as described in the Idaho Mined Land Reclamation Act, Chapter 15, Title 47, Idaho Code, the Department may seek to recover the amount necessary to implement permanent closure under the Department-issued permit and these rules as provided by law. ( )

651. -- 749. (RESERVED)

750. PERMIT MODIFICATION.

01. Cause for Permit Modification. Causes for permit modification are: ( )

a. A material modification or material expansion in the cyanidation facility operation, design or closure plan; or ( )

b. Natural phenomena substantially different from those anticipated in the original permit. ( )

02. Modification at Request of Permittee. Requests for modification from the permittee must include: ( )

a. A written description of the modification(s); ( )

b. Data supporting the modification request; and ( )

c. Causes and anticipated effects of the modification. ( )

03. Modification at Request of Director. Pursuant to Subsection 750.01, if the Director determines that cause exists for permit modification, the Director will notify the permittee in writing and request information necessary for the Director to modify the permit. ( )

04. Modification Procedure. The Director will evaluate the request for a permit modification, based on the information provided in Subsection 750.02 or otherwise obtained by the Department, and determine if the modification requires a major permit modification or a minor permit modification. ( )

a. Major permit modifications are subject to the provisions of Sections 100, 200 through 205, 300, 400, and 450. ( )

b. Minor permit modifications are not subject to the provisions of Sections 100, 300 and 400. The permittee must notify and receive approval from the Department prior to making minor modifications. ( )

05. Major Permit Modifications. Changes that require a major permit modification include but are not limited to: ( )

a. Material modifications or material expansions to a cyanidation facility as defined by these rules; ( )

b. A significant increase or decrease in the time the cyanidation facility is expected to be in operation; or ( )

c. Requests to modify or change water quality compliance criteria and/or water quality compliance monitoring points. ( )

06. Minor Permit Modifications. Minor permit modifications are those that, if granted, would not result in any increased hazard to the environment or to the public health. Within thirty (30) days of receipt of a written request for a minor modification, the Department will complete an evaluation of the request and either approve or deny the request in writing. Minor modifications may include but are not limited to: ( )

a. The correction of typographical errors in an approved permit; ( )

b. Legal transfer of ownership or operational control; ( )

c. A change in the requirements for monitoring or reporting frequency of the quality or quantity of the project air, water or waste generated; ( )

d. A change in the cost estimates submitted by a permittee to the Idaho Department of Lands to complete permanent closure; and ( )

e. A change or modification that is required by a state or federal requirement that supersedes the authorities of these rules. ( )

751. -- 799. (RESERVED)

800. TRANSFER OF PERMITS.

01. Transfer of Permits Allowed. A permit may be transferred to a new permittee if such permittee provides written notice to the Director containing: ( )

a. A specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees; ( )

b. Demonstration that the new permittee has established appropriate financial assurance for permanent closure of the facility; and ( )

c. The information required in Subsections 100.03.b., 100.03.d., 100.03.e. and 100.03.g. ( )

02. Decision. The Director will either approve of or deny the transfer of the permit within thirty (30) days of receipt of notice that the current permittee wishes to transfer the permit to a new permittee. ( )

03. Basis for Transfer Denial. The Director will deny the request for the permit transfer if the new permittee has not provided the information required in Subsection 800.01. ( )

801. -- 849. (RESERVED)

850. PERMIT REVOCATION.

01. Cause for Revocation. A material violation of a permit or these rules may be grounds for the Director to revoke a permit. A violation that is shown to have occurred as the result of an unforeseeable act of God despite a permittee's reasonable efforts to comply with all applicable legal requirements will not be considered grounds for revocation. ( )

02. Preliminary Decision. The Director will provide the permittee written notice of a preliminary decision to revoke a permit, including a statement of the reasons for the preliminary decision and reference to the procedure for requesting a revocation hearing under Subsection 850.03. ( )

03. Revocation Hearing. A preliminary decision to revoke a permit becomes final thirty-five (35) days after the date of the written notice of the preliminary decision unless the permittee requests in writing an administrative hearing before the preliminary decision becomes final. A request for an administrative hearing must be in the form of and will be considered as a petition to initiate a contested case under IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

851. -- 899. (RESERVED)

900. VIOLATIONS.

01. Failure to Comply. Failure by a permittee to comply with the provisions of these rules or with any permit condition is a violation of these rules. ( )

02. Falsification of Statements and Records. It is a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, registration, report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit. ( )

03. Discharges. Any unauthorized discharge is a violation of these rules. ( )

901. -- 999. (RESERVED)

58.01.14 – RULES GOVERNING FEES FOR ENVIRONMENTAL OPERATING PERMITS, LICENSES, AND INSPECTION SERVICES

000. LEGAL AUTHORITY.
Pursuant to Sections 39-105, 39-107 and 39-119, Idaho Code, the Board of Environmental Quality is authorized to promulgate rules establishing reasonable fees to be charged and collected for any service rendered by the Department of Environmental Quality. ( )

001. TITLE AND SCOPE.

01. Title. The rules are titled IDAPA 58.01.14, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services." ( )

02. Scope. These rules establish reasonable fees for environmental operating permits, licenses, inspection services and waiver application processing rendered by the Department of Environmental Quality or its designees. ( )

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), any written statements pertaining to the interpretation of these rules will be available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. ( )

003. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure before the Board of Environmental Quality." ( )

004. INCORPORATION BY REFERENCE.
These rules do not contain documents incorporated by reference. ( )

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. ( )

006. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, 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." ( )

007. DEFINITIONS.

01. Board. The Idaho Board of Environmental Quality. ( )

02. Department. The Idaho Department of Environmental Quality or its designee. ( )

03. Director. The Director of the Idaho Department of Environmental Quality or his designee. ( )

008. -- 099. (RESERVED)

100. ENVIRONMENTAL FEES.
The fees specified in Sections 101 through 199 shall be charged for the following environmental services rendered by the Department or its designees. Fees for services rendered by designees that are equivalent or greater than the fees listed in Sections 101 through 199 may be adopted by the district health departments or local government. The fees are to be paid by the party receiving the services to the Department or designee performing the service, in the time, place and manner specified by the performing entity. ( )

101. -- 109. (RESERVED)

110. INDIVIDUAL AND SUBSURFACE SEWAGE DISPOSAL SYSTEM PERMIT.
For those services rendered in the process of issuing installation permits for individual and subsurface sewage disposal systems (see IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks"), the following fees apply: ( )

01. Individual Households or Buildings. For individual households or buildings, if the individual and subsurface sewage disposal system is a new installation or a replacement or expansion of an existing system, the fee shall be ninety dollars ($90). ( )

02. Multiple Households or Buildings. For individual and subsurface sewage disposal systems serving more than one (1) household or building in any combination, the fee shall be ninety dollars ($90) plus ten dollars ($10) per each household or per each two hundred fifty (250) gallons of flow from buildings. ( )

111. -- 114. (RESERVED)

115. INDIVIDUAL AND SUBSURFACE SEWAGE DISPOSAL SYSTEM PUMPER PERMIT.
For those services rendered in the process of issuing permits to persons operating individual and subsurface sewage disposal system pumping equipment (see IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks"), the fee shall be forty dollars ($40) plus ten dollars ($10) for each tank truck or tank per annum. ( )

116. -- 119. (RESERVED)

120. SUBSURFACE SEWAGE DISPOSAL SYSTEM INSTALLER'S REGISTRATION PERMIT.
For those services rendered in the process of issuing Installer's Registration Permits (see IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks"), the fee shall be fifty dollars ($50) per annum for a standard and basic alternative system installer's registration permit and one hundred dollars ($100) per annum for a standard, basic and complex alternative system installer's registration permit. ( )

121. -- 149. (RESERVED)

150. PARCEL SURVEY.
For those services rendered in evaluating existing water supply or sewage disposal systems when such evaluation is a condition for the sale of real property, the fee shall be sixty dollars ($60) excluding laboratory services. ( )

151. -- 159. (RESERVED)

160. SANITARY RESTRICTION ADMINISTRATION.
For those services rendered in the administration of sanitary restrictions, pursuant to Section 50-1326, Idaho Code, the following fees apply: ( )

01. Subdivisions or Plats Proposing Individual and Subsurface Sewage Disposal System Discharge to Subsurface. For subdivisions or plats for which sewage treatment and disposal systems are designed to discharge to the subsurface, the fee shall be one hundred dollars ($100) plus twenty dollars ($20) per lot. ( )

02. Subdivisions or Plats Proposing Other Than Individual and Subsurface Sewage Disposal System Discharge to Subsurface. For subdivisions or plats for which sewage treatment and disposal systems are not designed to discharge to the subsurface, the fee shall be twenty-five dollars ($25). ( )

161. -- 899. (RESERVED)

900. WAIVER OF FEES.
Upon written application to the Director of the Department of Environmental Quality, a waiver of a specific fee may be granted to an applicant who is required by these rules to pay such a fee. ( )

01. Determination of Good Cause. Good cause for such a waiver must be shown before it shall be granted by the Director. Good cause may include hardship or extenuating circumstances, as determined by the Director. ( )

02. Duration of Waiver. If the fee sought to be waived becomes due periodically, the fee may be waived for a designated period of time. ( )

03. Limitations. Granting of a waiver shall not be considered as precedent or be given any force or effect in any other proceeding. ( )

901. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Pursuant to the provisions of Sections 39-105, 39-107, 39-4405, 39-7210, Idaho Code, the Department of Environmental Quality has the authority to promulgate and adopt rules to carry out the purposes of the Idaho Land Remediation Act, Sections 39-7201 to 39-7210, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title and Scope. These rules are titled IDAPA 58.01.18, "Idaho Land Remediation Rules," and shall be applicable to eligible persons who wish to enter into a voluntary remediation agreement with the state to minimize risk of harm to public health and the environment and to restore the economic viability of contaminated real property. ( )

02. Intent. The Idaho Land Remediation rules have been adopted with the purpose of fostering the remediation, transfer, reuse, or redevelopment of sites or groups of sites based on risk to human health and the environment where releases or threatened release of hazardous substances or petroleum exists. It is also the intent of these rules to establish a voluntary program for the remediation of hazardous substance or petroleum contaminated sites that will encourage innovation and cooperation between the state, local communities, and interested persons and will promote the economic revitalization of property. It is intended that this program will provide for an expedited remediation process by eliminating the need for many adversarial enforcement actions and delays in response action plan approvals. ( )

002. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of the rules of this chapter. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. ( )

003. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

004. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.
For the purpose of the rules contained in IDAPA 58.01.18, the following definitions and abbreviations apply. ( )

01. Act. Idaho Land Remediation Act, Title 39, Chapter 72, Idaho Code. ( )

02. Applicant. A person who submits an application to participate in the voluntary remediation program under the Idaho Land Remediation Act, Title 39, Chapter 72, Idaho Code. ( )

03. Board. The Idaho Board of Environmental Quality. ( )

04. Department. The Idaho Department of Environmental Quality. ( )

05. Director. The Director of Idaho Department of Environmental Quality or his authorized agent. ( )

06. Hazardous Substance. Has the meaning set forth in Section 101(14) of the Comprehensive Environmental, Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 (14), as amended. ( )

07. Natural Background Level. The level of any constituent in the affected media within a specified area as determined by representative measurements of the quality of that media unaffected by human activities. ( )

08. Person. Any individual, association, partnership, firm, joint stock company, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties. ( )

09. Petroleum. Includes petroleum asphalt and crude oil or any part of petroleum asphalt or crude oil that is liquid at standard conditions of temperature and pressure (sixty (60) degrees Fahrenheit and fourteen and

seven-tenths (14.7) pounds per square inch absolute). ( )

10. **Release**. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, or other closed receptacles containing any hazardous substance or petroleum. ( )

11. **Remediation**. Remediation means any of the following: ( )

a. Actions necessary to prevent, minimize, or mitigate damages to the public health or welfare or to the environment, which may otherwise result from a release or threat of a release; or ( )

b. Actions consistent with a permanent remedy taken instead of, or in addition to, removal actions in the event of a release or threatened release of a hazardous substance or petroleum into the environment to eliminate the release of hazardous substances or petroleum so that the hazardous substances or petroleum do not migrate to cause substantial danger to present or future public health or welfare or the environment; or ( )

c. The cleanup or removal of released hazardous substances or petroleum from the environment. ( )

12. **Site**. A parcel of real estate for which an application has been submitted under Section 39-7204, Idaho Code. ( )

011. -- 019. (RESERVED)

020. APPLICATION TO PARTICIPATE.

01. **Application Required**. In order to participate in the voluntary remediation program as established by the Idaho Land Remediation Act and these rules, a person shall submit an application to the Department. ( )

02. **Contents of Application**. The application shall be on a form provided by the Department and include, or be accompanied by, the following: ( )

a. Identification of the applicant and the applicant's relationship to the site; ( )

b. Identification of the owner or operator of the site, if different than Subsection 020.02.a. of these rules; ( )

c. General information pertaining to the site, including the assessors's parcel number(s), site name, and location; ( )

d. An environmental assessment that conforms to ASTM Standard Practice E 1527, Environmental Site Assessments: Phase I Environmental Site Assessment Process, as amended, or equivalent; ( )

e. An application fee in the amount of two hundred and fifty dollars ($250); and ( )

f. Other background information as requested on the application form provided by the Department as necessary to determine eligibility to participate in the voluntary remediation program. ( )

03. **Application Processing Procedure**. ( )

a. Not more than thirty (30) days after receiving an application the Department shall determine if the applicant is eligible to participate in the voluntary remediation program and notify the applicant of the Department's decision. If the Department fails to comply with this subsection, the applicant shall be considered eligible for the purposes of these rules. ( )

b. As specifically set forth in the Department's application form, an application may be rejected for the reasons set forth in Section 39-7204(4), Idaho Code. ( )

c. Rejection of an application for any of the reasons set forth in Section 39-7204(4)(a), Idaho Code, or Section 39-7204(4)(b), Idaho Code, is a final agency action. ( )

021. VOLUNTARY REMEDIATION AGREEMENTS.

01. Negotiation of Voluntary Remediation Agreement. If the Department accepts an application pursuant to Section 39-7204, Idaho Code, the applicant may enter into a voluntary remediation agreement with the Department. The Department shall not evaluate a voluntary remediation work plan until the voluntary remediation agreement is signed by the applicant and the Director. ( )

02. Contents of Agreement. The voluntary remediation agreement shall include the following: ( )

a. A provision for the Department's oversight including access to site and pertinent site records; ( )

b. A timetable for the Department to do the following: ( )

i. Reasonably review and evaluate the adequacy of the work plan; ( )

ii. Make a determination concerning the approval or rejection of the work plan; ( )

iii. Identify, to the extent possible, permits or approvals required to initiate and complete a voluntary remediation work plan. ( )

c. A provision to modify the voluntary remediation agreement and voluntary remediation work plan based upon unanticipated site conditions; ( )

d. An estimation of costs the Department may incur associated with performing all of the tasks, duties and services related to the relevant application or voluntary remediation program activities, as specified in Subsection 021.04 of these rules; ( )

e. A mechanism and schedule for the payment of all actual reasonable costs incurred by the Department in the review and oversight of the work plan; ( )

f. A requirement that the applicant shall comply with any applicable zoning authorities or other local, state, or federal law, in implementing the voluntary remediation work plan; ( )

g. Any other conditions considered necessary by the Department or the applicant concerning the effective and efficient implementation of these rules. ( )

03. Reimbursement of Costs Included in Agreement. ( )

a. The voluntary remediation agreement shall include a provision for the payment and accounting of reasonable oversight costs incurred by the Department in connection with the person's application and participation in the voluntary remediation program. ( )

b. Costs incurred by the Department for oversight of voluntary remediation actions will be reimbursed in the following manner, which shall be specified in the voluntary remediation agreement. ( )

i. The applicant shall deposit two thousand five hundred dollars ($2,500) with the Department. ( )

ii. The unused portion of the deposit will be returned to the applicant within sixty (60) days of Department issuance of a certificate of completion. ( )

iii. Should funding be required for costs incurred in excess of the initial two thousand five hundred dollars ($2,500) deposit, the Department will, in advance, notify the applicant of required successive deposits in the

amount of two thousand five hundred dollars ($2,500). ( )

04. **Oversight Costs**. Oversight costs shall include the following: ( )

a. The review, processing and negotiation of the voluntary remediation agreement; ( )

b. The review, processing and negotiation of the voluntary remediation work plan; ( )

c. Conducting public hearing and dissemination of public notices; ( )

d. Oversight of work performed in accordance with the voluntary remediation work plan; ( )

e. Issuance of the certificate of completion; ( )

f. Issuance of a covenant not to sue; ( )

g. Administrative expenses associated with cost recovery activities. ( )

05. **Enforceability of Agreement**. Upon signing of the voluntary remediation agreement by the Department and the applicant, the voluntary remediation agreement shall constitute a contract between the Department and the applicant enforceable in accordance with its terms, subject to: ( )

a. The Department's right to rescind the voluntary remediation agreement as provided in Section 39-7208, Idaho Code; and ( )

b. The applicant's right to terminate the voluntary remediation agreement under Subsection 021.06 of these rules. ( )

06. **Reasons for Which a Person May Terminate a Voluntary Remediation Agreement**. An applicant may terminate the voluntary remediation agreement for any of the following reasons: ( )

a. The applicant decides to terminate the voluntary remediation agreement rather than submit additional or corrected information to the Department as provided in Section 39-7206(2)(b), Idaho Code; or ( )

b. The voluntary remediation work plan is modified or rejected as provided in Section 39-7206(5), Idaho Code. ( )

07. **Effect of Termination of Agreement**. The termination of a voluntary remediation agreement as provided in Section 39-7206, Idaho Code, shall not relieve the applicant from the obligation to comply with any applicable authorities regarding the contamination at the site, and the Department may initiate administrative or judicial action under applicable authorities. ( )

022. VOLUNTARY REMEDIATION WORK PLAN.

01. **Submittal of Proposed Voluntary Remediation Work Plan**. An applicant whose application has been accepted by the Department may submit a proposed voluntary remediation work plan to the Department. The Department will evaluate the work plan according to the terms and conditions of a voluntary remediation agreement signed by the Department and the applicant. ( )

02. **Contents of Voluntary Remediation Work Plan**. The voluntary remediation work plan shall include the following: ( )

a. The current and reasonably anticipated future use of on-site ground and surface water; ( )

b. The current and reasonably anticipated future uses of the site and immediately adjacent properties; ( )

c. If a risk-based concentration is proposed as a remediation standard, the voluntary remediation work plan shall include an estimate of the human and environmental risk from releases or threatened releases of hazardous substances or petroleum at the site based upon the current use of the site and adjacent properties and reasonably anticipated future uses of the site; ( )

d. Proposed remediation standards developed in accordance with Section 023 of these rules; ( )

e. A proposed statement of work; ( )

f. A schedule to accomplish the proposed statement of work. ( )

03. Information Supporting the Voluntary Remediation Work Plan. Sufficient information to support the voluntary remediation work plan shall be submitted and may include the following: ( )

a. Site assessment information including: ( )

i. A legal description of the site and a map identifying the location and size of facilities and relevant features, such as property boundaries, surface topography, surface and subsurface structures, and utility lines; ( )

ii. The physical characteristics of site facilities and contiguous areas, including the location of any surface water bodies and ground water aquifers; ( )

iii. The location of any wells located on the site or on areas within one-half mile radius of the site and a description of the use of those wells; ( )

iv. The operational history of the facility, including ownership, and the current use of the facility; ( )

v. Information on the methods and results of investigations concerning the nature and extent of any releases or threatened releases of hazardous substances or petroleum that have occurred at the site and a map showing general areas of concentrations of these hazardous substances or petroleum; ( )

vi. A site investigation sampling and analysis plan, and quality assurance project plan; ( )

vii. Any sampling results or other data that characterizes the soil, air, ground water, surface water, or sediments on the site; and ( )

viii. Available information on the environmental regulatory and compliance history of the site, including all applicable environmental permits. ( )

b. Risk evaluation information including: ( )

i. An evaluation of the data collected during the site investigation including identification of chemicals of potential concern; ( )

ii. An exposure assessment of all potential pathways of exposure; ( )

iii. A toxicity assessment estimating the toxicity of both carcinogens and non-carcinogens; ( )

iv. Identify site conditions which may affect or limit migration of the contamination; and ( )

v. A risk characterization that evaluates the uncertainties associated with the site investigation, the likelihood of exposures, and the toxicity of the contaminants. ( )

04. Review and Evaluation of Work Plan. The Department shall review and evaluate the voluntary remediation work plan, provide public notice, accept public comments and may make the determination whether to hold public hearings in accordance with Section 39-7206, Idaho Code, and the voluntary remediation agreement.

( )

a. For purposes of determining whether to hold a public hearing in accordance with Section 39-7206, Idaho Code, the Department will consider the following a significant number of requests for a public hearing: ( )

i. Twenty-five (25) written requests from potentially affected persons; or ( )

ii. One (1) or more written requests from an organization representing twenty-five (25) or more potentially affected members. ( )

b. The Department shall provide for a public comment period of at least thirty (30) days following publication of a public notice under Section 39-7206(3)(d), Idaho Code. ( )

c. Pursuant to Section 39-7206, Idaho Code, the Department may approve, modify and approve, or reject a voluntary remediation work plan. ( )

d. The Department may reject or approve with modification any voluntary remediation work plan that does not achieve the remediation standards developed and approved by the Department pursuant to Section 023 of these rules. ( )

e. If the Department rejects a voluntary remediation work plan, the Department shall: ( )

i. Notify the applicant and specify the reasons for rejection; ( )

ii. Provide the applicant an opportunity according to the schedule in the voluntary remediation agreement to amend the work plan; and ( )

iii. The applicant may appeal the Department's decision to reject the work plan as provided in Section 39-7206, Idaho Code. ( )

f. If an applicant determines not to amend a rejected work plan to the satisfaction of the Department, the voluntary remediation agreement shall be terminated as provided in Subsection 021.06 of these rules. ( )

05. Modification to an Approved Voluntary Remediation Work Plan That Requires Additional Public Notice and Comment. After the close of the public comment period and the Department's approval of the voluntary remediation work plan, situations may arise that result in modification of an approved voluntary remediation work plan. Depending upon the significance of the modification, another opportunity for public notice and comment may be appropriate. ( )

a. The Department need not provide for an additional public notice and comment period if the proposed modifications to the voluntary remediation work plan are limited to minor changes. A minor change to the voluntary remediation work plan is a change that does not fundamentally alter the overall remedial approach. ( )

b. The Department shall provide for an additional public notice and comment period if the proposed modifications to the voluntary remediation work plan are fundamental. A fundamental change is a change that requires reconsideration of the remediation proposed in the approved voluntary remediation work plan. ( )

023. REMEDIATION STANDARDS.

01. Voluntary Remediation Work Plan Must Achieve Health-Based and Environmental Remediation Standards. All hazardous substance or petroleum concentrations in media which exceed the health-based and environmental remediation standards shall be addressed through appropriate remediation and in accordance with the appropriate technical standards based upon the following: ( )

a. Site characteristics; ( )

b. Hazardous substances or petroleum; and ( )

c. Technical guidance approved by the Department. ( )

02. Establishment of Remediation Standards. The remediation standards utilized in these rules shall be no more stringent than applicable or relevant and appropriate federal and state standards and are consistent with 42 U.S.C. 9621, taking into consideration site specific conditions. An applicant who submits a voluntary remediation work plan for approval by the Department shall select and attain compliance with one (1) or more of the following remediation standards when implementing a voluntary remediation work plan: ( )

a. Attainment of a natural background level demonstrated by the collection and analysis of representative samples from environmental media of concern where contamination occurs. Evaluation of representative samples shall be conducted through the application of statistical tests specified in a voluntary remediation work plan. ( )

b. An established state or federal generic numerical health standard which achieves an appropriate health-based level so that any substantial present or probable future risk to human health or the environment is eliminated or reduced to protective levels based upon present and reasonably anticipated future uses of the site. ( )

c. Risk-based concentrations calculated for the hazardous substance or petroleum using site-specific risk assessment procedures. ( )

d. An applicant may use a combination of standards from Subsections 023.02.a. through 023.02.c. to implement a voluntary remediation work plan. ( )

024. IMPLEMENTATION OF VOLUNTARY REMEDIATION WORK PLAN.

01. Implementation. An approved voluntary remediation work plan shall be fully implemented by the applicant according to the terms and conditions of the voluntary remediation agreement, these rules and the Idaho Land Remediation Act. ( )

02. Permits or Approvals Necessary for Implementation. The Department shall assist in the timely issuance of Department permits or approvals required to initiate and complete a voluntary remediation work plan. ( )

03. Progress Reports. An applicant implementing a voluntary remediation work plan shall submit periodic progress reports to the Department according to the terms and conditions of the voluntary remediation agreement. ( )

04. Voluntary Remediation Work Plan Completion Report. When the applicant believes the objectives of the voluntary remediation work plan have been achieved and successfully implemented, the applicant shall submit to the Department a voluntary remediation work plan completion report together with a request that the Department issue a certificate of completion. ( )

a. The voluntary remediation work plan completion report shall contain information sufficient for the Department to determine whether the voluntary remediation work plan objectives were achieved and the voluntary remediation work plan was successfully implemented. ( )

b. The Department shall, within thirty (30) days of the receipt of a voluntary remediation work plan completion report and a request for a certificate of completion, notify the applicant whether the voluntary remediation work plan has been successfully implemented. ( )

c. If the Department notifies the applicant that the voluntary remediation work plan has not been successfully implemented, the applicant shall do the following: ( )

i. Implement the voluntary remediation work plan to the satisfaction of the Department; and ( )

ii. Resubmit the voluntary remediation work plan completion report. ( )

d. If a voluntary remediation work plan completion report demonstrates that the voluntary remediation work plan has been successfully implemented, the Department shall certify such facts by issuing the applicant a certificate of completion. The applicant shall record the certificate of completion with the deed for the site on which the remediation took place. ( )

e. The Department may provide a certificate of completion conditioned upon continued monitoring, recordation or maintenance of institutional or engineering controls, or other continuing actions by the applicant. ( )

f. Decisions by the Department involving the voluntary remediation work plan completion reports required under this section are considered final agency actions. ( )

025. COVENANT NOT TO SUE.

01. Negotiation and Provision of Covenant. Within thirty (30) days of receipt of the Department's certificate of completion, the applicant may request the Department negotiate and provide a covenant not to sue as provided in Section 39-7207, Idaho Code. Any such covenant not to sue may be conditioned upon continuing monitoring, recordation or maintenance of institutional or engineering controls, or other continuing actions required of the applicant pursuant to an approved voluntary remediation work plan. ( )

02. Rescission of Covenant. The Department may rescind a covenant not to sue in accordance with Section 39-7208, Idaho Code. If the Department rescinds a covenant not to sue, it may initiate administrative or judicial action as provided in Sections 39-7207 and 39-7208, Idaho Code. The Department shall also notify the county in which the site exists of rescission of the covenant not to sue for purposes of determining ad valorem exemptions provided under Section 63-105II, Idaho Code. ( )

03. Continuing Compliance. During the implementation of an approved voluntary remediation work plan, the Department shall not bring an action, including an administrative or judicial action for any liability for remediation relating to the release or threatened release of a hazardous substance or petroleum that is the subject of the voluntary remediation work plan, against a person who entered into a voluntary remediation agreement and who is implementing the voluntary remediation work plan in accordance with such agreement implementing the voluntary remediation work plan. ( )

026. LENDER LIABILITY.

01. General Statement. Pursuant to Section 39-7209, Idaho Code, a person who maintains indicia of ownership primarily to protect a security interest in a site, as defined in Subsection 010.12 of these rules, and who does not participate in the management of the site, shall not be considered an owner or operator of that site, nor liable under any pollution control or other environmental protection law, rule or regulation, or otherwise responsible for any environmental contamination or response activity costs consistent with United States environmental protection agency policy, 60 Federal Register 63517, dated December 11, 1995, as amended. This Section 026 sets out the rules of the Board regarding lender liability pursuant to Sections 39-7209 and 39-7210(6), Idaho Code. ( )

02. Definitions and Operative Provisions. ( )

a. "Indicia of ownership" means evidence of a security interest, evidence of an interest in a security interest, or evidence of an interest in real or personal property securing a loan or other obligation, including any legal or equitable title or deed to real or personal property acquired through or incident to foreclosure or its equivalents. Evidence of such interests include, but are not limited to, mortgages, deeds of trust, liens, surety bonds and guaranties of obligations, title held pursuant to a lease financing transaction in which the lessor does not select initially the leased property (hereinafter "lease financing transaction"), legal or equitable title obtained pursuant to foreclosure, and their equivalents. Evidence of such interests also includes assignments, pledges or other rights to or other forms of encumbrance against property that are held primarily to protect a security interest. A person is not required to hold title or a security interest in order to maintain indicia of ownership. ( )

i. A "holder" is a person who maintains indicia of ownership primarily to protect a security interest in a site. A holder includes the initial holder (such as a loan originator); any subsequent holder (such as a successor-in-interest or subsequent purchaser of the security interest on the secondary market); a guarantor of an obligation, surety, or any person who holds ownership indicia primarily to protect a security interest; or a receiver or other person who acts on behalf or for the benefit of a holder. ( )

ii. A "borrower," "debtor," or "obligor" is a person who owns, leases, occupies or operates a site encumbered by a security interest. ( )

b. "Primarily to protect a security interest" means that the holder's indicia of ownership are held primarily for the purpose of securing payment or performance of an obligation. ( )

i. "Security interest" means an interest in a site, created or established for the purpose of securing a loan or other obligation. Security interests include, but are not limited to, mortgages, deeds of trust, liens, security interests under Article 9 of the Uniform Commercial Code, and title pursuant to lease financing transactions. ( )

ii. "Primarily to protect a security interest" does not include indicia of ownership held primarily for investment purposes, nor ownership indicia held primarily for purposes other than as protection for a security interest. A holder may have other, secondary reasons for maintaining indicia of ownership, but the primary reason why any ownership indicia are held must be as protection for a security interest. ( )

c. Participation in management defined. The term "participating in the management of a site" means that the holder is engaging in acts of site management, as defined herein. ( )

i. Actions that are participation in management. Participating in the management of a site means actual participation by the holder in the management or operational affairs of the site by the holder, and does not include the mere capacity or ability to influence, or the unexercised right to control, site operations. A holder is participating in management, while the borrower is still in possession of the site encumbered by the security interest, only if the holder either: ( )

(1) Exercises decision making control over the borrower's environmental compliance, such that the holder has undertaken responsibility for the borrower's hazardous substance or petroleum handling or disposal practices; or ( )

(2) Exercises control at a level comparable to that of a manager of the borrower's enterprise, such that the holder has assumed or manifested responsibility for the overall management of the enterprise encompassing the day-to-day decision making of the enterprise with respect to (1) environmental compliance or (2) all, or substantially all, of the operational (as opposed to financial or administrative) aspects of the enterprise other than environmental compliance. ( )

ii. Actions that are not participation in management. ( )

(1) Actions at the inception of the loan or other transaction. No act or omission prior to the time that indicia of ownership are held primarily to protect a security interest constitutes evidence of participation in management. A prospective holder who undertakes or requires an environmental inspection of the site or to comply or come into compliance (whether prior or subsequent to the time that indicia of ownership are held primarily to protect a security interest) with any applicable law or regulation, is not by such action considered to be participating in the site's management. Neither Section 39-7209, Idaho Code, or these rules require a holder to conduct or require an inspection to qualify for the exemption, and the liability of a holder cannot be based on or affected by the holder not conducting or not requiring an inspection. ( )

(2) Loan policing and workout. Actions that are consistent with holding ownership indicia primarily to protect a security interest do not constitute participation in management. The authority for the holder to take such actions may, but need not, be contained in contractual or other documents specifying requirements for financial, environmental and other warranties, covenants, conditions, representations or promises from the borrower. Loan policing and workout activities cover and include all activities up to foreclosure and its equivalents. ( )

(a) Policing the security interest or loan. A holder who engages in policing activities prior to foreclosure will remain within the exemption provided that the holder does not by such actions participate in the management of the site. Such actions include, but are not limited to, requiring the borrower to clean up the site during the term of the security interest; requiring the borrower to comply or come into compliance with applicable federal, state and local environmental and other laws, rules and regulations during the term of the security interest; securing or exercising authority to monitor or inspect the site (including on-site inspections) in which indicia of ownership are maintained, or the borrower's business or financial condition during the term of the security interest; or taking other actions to adequately police the loan or security interest (such as requiring a borrower to comply with any warranties, covenants, conditions, representations or promises from the borrower). ( )

(b) Policing activities also include any activities taken by the holder to require a borrower to comply with a voluntary remediation work plan, or by agreement with the Department, to complete a voluntary remediation work plan, provided that the holder does not otherwise participate in the management of the site. ( )

(c) Loan workout. A holder who engages in workout activities prior to foreclosure and its equivalents will remain within the exemption provided that the holder does not by such action participate in the management of the site. For purposes of this rule, "workout" refers to those actions by which a holder, at any time prior to foreclosure and its equivalents, seeks to prevent, cure or mitigate a default by the borrower or obligor, or to preserve, or prevent the diminution of, the value of the security. ( )

d. Foreclosure on a site and post-foreclosure activities. ( )

i. Foreclosure. Indicia of ownership that are held primarily to protect a security interest include legal or equitable title or deed to real or personal property acquired through or incident to foreclosure and its equivalents. "Foreclosure and its equivalents" includes purchase at foreclosure sale; acquisition or assignment of title in lieu of foreclosure; termination of a lease or other repossession; acquisition to a right to title or possession; an agreement in satisfaction of the obligation; or any other formal or informal manner (whether pursuant to law or under warranties, covenants, conditions, representations or promises from the borrower) by which the holder acquires title to or possession of the secured property. The indicia of ownership held after foreclosure continue to be maintained primarily as protection for a security interest, provided that the holder undertakes to sell, re-lease or otherwise divest itself of the site, in a reasonably expeditious manner, using whatever commercially-reasonable means are relevant or appropriate with respect to the site, taking all facts and circumstances into consideration, and provided that the holder did not participate in management prior to foreclosure. ( )

ii. Holding foreclosed property for disposition and liquidation. A holder, who did not participate in management prior to foreclosure and its equivalents, may sell, re-lease, liquidate, maintain business activities, wind up operations, undertake any response action under federal, state or local environmental laws, rules or regulations, undertake completion of an approved voluntary remediation work plan by agreement with the Department, and take measures to preserve, protect or prepare the secured asset prior to sale or other disposition, without voiding the exemption provided by Section 39-7209, Idaho Code, and these rules. ( )

027. INSTITUTIONAL CONTROLS.

01. Purpose. ( )

a. Institutional controls may be proposed by the applicant or the Department as an element of the voluntary remediation work plan. Institutional controls are measures undertaken to limit or prohibit activities that may interfere with the integrity of a cleanup action or result in exposure to hazardous substances or petroleum at a site. Such measures may be used to assure both the continued protection of human health and the environment and the integrity of a cleanup action in at least the following circumstances: ( )

b. Where a cleanup action results in residual concentrations of hazardous substances or petroleum which exceed risk-based health standards; or ( )

c. When the Department determines such controls are required to assure the continued protection of human health and the environment or the integrity of the cleanup action. ( )

02. Prohibition of Use. Institutional controls should not be used as a substitute for cleanup actions that would otherwise be technically possible. ( )

03. Institutional Controls. For the purposes of this section, institutional controls may include: ( )

a. Physical measures, such as fences and signs, to limit activities that may interfere with the cleanup action or result in exposure to hazardous substances at the site; and ( )

b. Legal and administrative controls, such as zoning restrictions, restrictive covenants, or equitable servitudes used to ensure such measures are maintained. ( )

04. Legal Use Restrictions. Institutional controls may be described in an equitable servitude, restrictive covenant, or similar legal mechanism executed by the property owner and recorded in the county in which the site is located. The use of such legal use restrictions may be addressed in the voluntary remediation agreement, the certificate of completion, or the covenant not to sue. ( )

05. Legal Use Restriction Requirements. Where appropriate, the legal use restriction requirement should: ( )

a. Prohibit activities on the site that may interfere with a cleanup action, operation and maintenance, monitoring, or other measures necessary to assure the integrity of the cleanup action and continued protection of human health and the environment; ( )

b. Prohibit activities that may result in the release of a hazardous substance or petroleum which was contained as a part of the remediation; ( )

c. Require notice to the Department of the owner's intent to convey any interest in the site. Conveyance of title, easement, lease, or other interest in the property may be conditioned upon easement, lease, or other interest in the property for the continued operation, maintenance and monitoring of the cleanup action, and for continued compliance with this subsection; ( )

d. Require notice and approval by the Department of any proposal to use the site in a manner which is inconsistent with the legal use restriction. ( )

e. Grant the Department and its designated representatives the right to enter the property at reasonable times for the purpose of evaluating compliance with the voluntary remediation work plan and other required plans, including the right to take samples, inspect any remedial actions taken at the site, and to inspect records. ( )

f. Contain other restrictions appropriate under the circumstances. ( )

06. Compliance With Other Laws. It shall be the applicant's responsibility to comply with any applicable zoning authorities or other local, state, or federal law, in implementing the voluntary remediation work plan. ( )

07. Financial Assurances. The Department may require the applicant to provide financial assurances, through a trust fund or other appropriate financial mechanism approved by the Department sufficient to cover all costs for ensuring the effectiveness of institutional controls or of operation and maintenance, including compliance monitoring and undertaking appropriate measures to ensure the integrity of institutional controls. ( )

08. Removal of Restrictions. If the residual hazardous substances or petroleum remaining at the site are subsequently reduced in concentration such that risk-based health standards are met, then the owner may request the restrictive covenant or other restrictions be voided. The restrictive covenant or other restrictions may be removed, if the Department, after public notice and opportunity for comment, concurs. ( )

028. -- 999. (RESERVED)

58.01.25 – RULES REGULATING THE IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM

000. LEGAL AUTHORITY.

The Department and the Board are authorized to formulate and adopt rules as are necessary to obtain approval of the IPDES program by EPA pursuant to Section 39-175C, Idaho Code. The Department is authorized to implement and enforce the rules in this chapter pursuant to the Sections 39-175A-C and the provisions of the Environmental Protection and Health Act, Sections 39-101 et seq., Idaho Code. The rules in this chapter are not effective until the requirements in Section 39-175C, Idaho Code, have been met and the United States EPA has approved, under 33 U.S.C. 1342(b), Idaho's administration of the IPDES program. ( )

001. TITLE AND SCOPE.

01. Title. The rules are titled IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program." ( )

02. Scope. These rules establish the procedures and requirements for the issuance and maintenance of permits for facilities or activities for which a person is required by Idaho Code and the Clean Water Act to obtain authorization to discharge pollutants to waters of the United States. These permits are referred to in these rules as "IPDES permits" or "permits." ( )

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 1, Title 74, 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 74-101 through 74-119, Idaho Code, any information submitted to the Department pursuant to these rules may be claimed as confidential by the submitter. It is 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 has the burden of demonstrating that the information is confidential. ( )

02. Denial of Confidential Claims. In accordance with Section 74-114, Idaho Code, a claim of confidentiality, including but not limited to a claim as to information claimed confidential as a trade secret, will be denied and any person may inspect and copy: ( )

a. The name and address of any IPDES applicant or permittee; ( )

b. The content of any IPDES permit; ( )

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 ( )

d. Effluent data as defined in 40 CFR 2.302. ( )

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: ( )

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

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

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

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 constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules: ( )

a. 40 CFR 122.21(r), revised as of July 1, 2020 (Application Requirements for Facilities with Cooling Water Intake Structures); ( )

b. 40 CFR 122.23, revised as of July 1, 2020 (Concentrated Animal Feeding Operations); ( )

c. 40 CFR 122.24, revised as of July 1, 2020 (Concentrated Aquatic Animal Production Facilities); ( )

d. 40 CFR 122.25, revised as of July 1, 2020 (Aquaculture Projects); ( )

e. 40 CFR 122.26(a) through (b) and 40 CFR 122.26(e) through (g), revised as of July 1, 2020 (Storm Water Discharges); ( )

f. 40 CFR 122.27, revised as of July 1, 2020 (Silvicultural Activities); ( )

g. 40 CFR 122.29(d), revised as of July 1, 2020 (Effect of Compliance with New Source Performance Standards); ( )

h. 40 CFR 122.30 and 40 CFR 122.32 through 40 CFR 122.37, revised as of July 1, 2020 (Requirements and Guidance for Small Municipal Separate Storm Sewer Systems); ( )

i. 40 CFR 122.42(e), revised as of July 1, 2020 (Additional Conditions Applicable to NPDES Permits for Concentrated Animal Feeding Operations); ( )

j. Appendix A to 40 CFR 122, revised as of July 1, 2020 (NPDES Primary Industry Categories); ( )

k. Appendix C to 40 CFR 122, revised as of July 1, 2020 (Criteria for Determining a Concentrated Aquatic Animal Production Facility); ( )

l. Appendix D to 40 CFR 122, revised as of July 1, 2020 (NPDES Permit Application Testing Requirements); ( )

m. Appendix J to 40 CFR 122, revised as of July 1, 2020 (NPDES Permit Testing Requirements for Publicly Owned Treatment Works); ( )

n. 40 CFR 125.1 through 40 CFR 125.3 (Subpart A), revised as of July 1, 2020 (Criteria and Standards for Imposing Technology-Based Treatment Requirements Under Sections 301(b) and 402 of the Clean Water Act); ( )

o. 40 CFR 125.10 through 40 CFR 125.11 (Subpart B), revised as of July 1, 2020 (Criteria for Issuance of Permits to Aquaculture Projects); ( )

p. 40 CFR 125.30 through 40 CFR 125.32 (Subpart D), revised as of July 1, 2020 (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); ( )

q. 40 CFR 125.70 through 40 CFR 125.73 (Subpart H), revised as of July 1, 2020 (Criteria for Determining Alternative Effluent Limitations Under Section 316(a) of the Clean Water Act); ( )

r. 40 CFR 125.80 through 40 CFR 125.89 (Subpart I), revised as of July 1, 2020 (Requirements Applicable to Cooling Water Intake Structures for New Facilities Under Section 316(b) of the Clean Water Act); ( )

s. 40 CFR 125.90 through 40 CFR 125.99 (Subpart J), revised as of July 1, 2020 (Requirements Applicable to Cooling Water Intake Structures for Phase II Existing Facilities Under Section 316(b) of the Clean Water Act); ( )

t. 40 CFR 127.11 through 40 CFR 127.16 (Subpart B), revised as of July 1, 2020 (Electronic reporting of NPDES Information from NPDES-Regulated Facilities); ( )

u. 40 CFR 129.1 through 40 CFR 129.105 (Subpart A), revised as of July 1, 2020 (Toxic Pollutant Effluent Standards and Prohibitions); ( )

v. 40 CFR 133.100 through 40 CFR 133.105, revised as of July 1, 2020 (Secondary Treatment Regulation); ( )

w. 40 CFR Part 136, revised as of July 1, 2020 (Guidelines Establishing Test Procedures for the Analysis of Pollutants, including Appendices A, B, C, and D); ( )

x. 40 CFR Part 401, revised as of July 1, 2020 (General Provisions); ( )

y. 40 CFR 403.1 through 40 CFR 403.3; 40 CFR 403.5 through 40 CFR 403.18, revised as of July 1, 2020 (General Pretreatment Regulations for Existing and New Sources of Pollution, including Appendices D, E, and G); ( )

z. 40 CFR Part 405 through 40 CFR Part 471, revised as of July 1, 2020 (Effluent Limitations and Guidelines); and ( )

aa. 40 CFR 503.2 through 40 CFR 503.48, revised as of July 1, 2020 (Sewage Sludge, including Appendices A and B). ( )

bb. The term "Waters of the United States or waters of the U.S.," as defined in 40 CFR 122.2, revised as of June 22, 2020, by 85 Federal Register 22250-22342 (April 21, 2020), 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 December 23, 2019. ( )

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: ( )

a. The term Administrator or Regional Administrator means the EPA Region 10 Administrator; ( )

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; ( )

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; ( )

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

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. ( )

004. ADMINISTRATIVE PROVISIONS.
Persons may be entitled to appeal final IPDES permit decisions pursuant to Section 204 (Appeals Process) of these

rules. ( )

005. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. ( )

006. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality is located at 1410 N. Hilton, Boise, Idaho 83706, (208) 373-0502, www.deq.idaho.gov. The office hours are 8 a.m. to 5 p.m. Monday through Friday. ( )

007. -- 009. (RESERVED)

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 have the meaning provided by IDAPA 58.01.02, Section 010, "Water Quality Standards," or IDAPA 58.01.16, Section 010, "Wastewater Rules." ( )

01. Animal Feeding Operation. A lot or facility (other than an aquatic animal production facility) where the following conditions are met: ( )

a. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12)-month period; and ( )

b. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. ( )

02. Applicable Standards and Limitations. All state, interstate, and federal standards and limitations to which a discharge, a sewage sludge use or disposal practice, or a related activity is subject under the Clean Water Act, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, pretreatment standards, and standards for sewage sludge use or disposal under the Clean Water Act sections 301, 302, 303, 304, 306, 307, 308, 402 and 405. ( )

03. Application. The IPDES forms for applying for a permit or the EPA equivalent standard national forms when deemed acceptable by the Department, including any additions, revisions or modifications to the forms. ( )

04. Approved Program or Approved State. A state or interstate program which has been approved or authorized by EPA under 40 CFR Part 123. ( )

05. Aquaculture Project. A defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals. ( )

06. Average Monthly Discharge Limitation. The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. ( )

07. Average Weekly Discharge Limitation. The highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week. ( )

08. Background. The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the Department will determine where background conditions should be measured. ( )

09. Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. ( )

10. Biochemical Oxygen Demand (BOD). The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. ( )

11. Biological Monitoring or Biomonitoring. The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. ( )

12. Bypass. The intentional diversion of wastewater from any portion of a treatment facility. ( )

13. Chemical Oxygen Demand (COD). A bulk parameter that measures the oxygen-consuming capacity of organic and inorganic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. ( )

14. Class I Sludge Management Facility. Any POTW identified under 40 CFR 403.8(a) as being required to have an approved pretreatment program (including such POTWs where the Department has elected to assume local program responsibilities pursuant to 40 CFR 403.10(e)) and any other treatment works treating domestic sewage (TWTDS) classified as a Class I sludge management facility by the Department, because of the potential for its sludge use or disposal practices to adversely affect public health and the environment. ( )

15. Clean Water Act. Formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972. Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483 and Public Law 97-117, 33 U.S.C. 1251 et seq. ( )

16. Clean Water Act and Regulations. The Clean Water Act and applicable regulations promulgated thereunder. In the case of an approved IPDES program, it includes Department program requirements. ( )

17. Compliance Schedule or Schedule of Compliance. A schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the Clean Water Act and these rules. ( )

18. Concentrated Animal Feeding Operation (CAFO). Animal feeding operation that is defined as a Large CAFO in accordance with 40 CFR 122.23(b)(4), as a Medium CAFO in accordance with 40 CFR 122.23(b)(6), or that is designated as a CAFO in accordance with 40 CFR 122.23(c). Two (2) or more animal feeding operations under common ownership are considered to be a single animal feeding operation for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes. ( )

19. Concentrated Aquatic Animal Production (CAAP). A hatchery, fish farm, or other facility which meets the criteria in Appendix C of 40 CFR Part 122, or which the Department designates under 40 CFR 122.24(c). ( )

20. Continuous Discharge. A discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities. ( )

21. Daily Discharge. The discharge of a pollutant measured during a calendar day or any twenty-four (24)-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day. ( )

22. **Department**. The Idaho Department of Environmental Quality. ( )

23. **Design Flow**. The average or maximum point source discharge volume per unit time that a facility or system is constructed to accommodate. ( )

24. **Direct Discharge**. The discharge of a pollutant to waters of the United States. ( )

25. **Director**. The Director of the Idaho Department of Environmental Quality or authorized agent. ( )

26. **Discharge Monitoring Report (DMR)**. The facility or activity report containing monitoring and discharge quality and quantity information and data required to be submitted periodically, as defined in the discharge permit. These reports must be submitted to the Department on a Department-approved format. ( )

27. **Discharge**. When used without qualification means the discharge of a pollutant. ( )

28. **Discharge of a Pollutant**. Any addition of any pollutant or combination of pollutants to waters of the United States from any point source. This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger. ( )

29. **Draft Permit**. A document prepared under these rules indicating the Department's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit, as discussed in Subsections 107.01 and 203.02, are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination, as discussed in Subsection 201.01, is not a draft permit. A proposed permit is not a draft permit. ( )

30. **Effluent**. Any discharge of treated or untreated pollutants into waters of the United States. ( )

31. **Effluent Limitation**. Any restriction imposed by the Department on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the United States, in accordance with these rules and the Clean Water Act. ( )

32. **Effluent Limitations Guidelines**. A regulation published by the EPA under the Clean Water Act section 304(b) to adopt or revise effluent limitations. ( )

33. **Electronic Signature**. Information in digital form that is included in or associated with an electronic document for the purpose of expressing the same meaning and intention as would a handwritten signature. ( )

34. **Environmental Protection Agency (EPA)**. The United States Environmental Protection Agency. ( )

35. **Equivalent Dwelling Unit (EDU)**. A measure where one (1) EDU is equivalent to wastewater generated from one (1) single-family residence. For the purposes of assessing fees associated with publicly or privately owned domestic sewage treatment, the number of EDUs is calculated as the population served divided by the average household size 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). For fees associated with industrial wastewater treatment owned by a municipality, EDUs are calculated in accordance with the definition of EDU in IDAPA 58.01.16, Section 010, "Wastewater Rules." ( )

36. **Existing Source**. Any source which is not a new source or a new discharger. ( )

37. **Facilities or Equipment**. Buildings, structures, process or production equipment or machinery

which form a permanent part of the new source and which will be used in its operation, if these facilities or equipment are of such value as to represent a substantial commitment to construct. It excludes facilities or equipment used in connection with feasibility, engineering, and design studies regarding the source or water pollution treatment for the source. ( )

38. Facility or Activity. Any point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the IPDES program. ( )

39. Fundamentally Different Factors. The factors relating to a discharger's facilities, equipment, processes or other factors related to the discharger are fundamentally different from the factors considered by EPA in development of the national effluent limits. ( )

40. General Permit. An IPDES permit issued under Section 130 (General Permits) authorizing a category of discharges within a geographical area. ( )

41. Hazardous Substance. Any substance designated under 40 CFR Part 116 pursuant to the Clean Water Act section 311. ( )

42. Idaho Pollutant Discharge Elimination System (IPDES). Idaho's program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under these rules and the Clean Water Act sections 307, 402, 318, and 405. ( )

43. Indian Country. ( )

a. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; ( )

b. All dependent Indian communities within the borders of the United States, whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of the state; and ( )

c. All Indian allotments, the Indian titles to which have not been extinguished including rights-of-way running through the same. ( )

44. Indian Tribe. Any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a federal Indian reservation. ( )

45. Indirect Discharger. A nondomestic discharger introducing pollutants to a privately or publicly owned treatment works. ( )

46. Industrial Wastewater. Any waste, together with such water as is present that is the by-product of industrial processes including, but not limited to, food processing or food washing wastewater (see Process Wastewater). ( )

47. Infiltration. Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. ( )

48. Inflow. Water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration. ( )

49. Interstate Agency. An agency of two (2) or more states established by or under an agreement or compact, or any other agency of two (2) or more states having substantial powers or duties pertaining to the control of

pollution. ( )

50. **Load Allocation (LA)**. The portion of a receiving water body's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. ( )

51. **Major Facility**. A facility or activity that is: ( )

a. A publicly or privately owned treatment works with a design flow equal to or greater than one million gallons per day (1 MGD), or serves a population of ten thousand (10,000) or more, or causes significant water quality impacts; or ( )

b. A non-municipal facility that equals or exceeds the eighty (80) point accumulation as described in the Score Summary of the NPDES Non-Municipal Permit Rating Work Sheet (June 27, 1990) or the Department equivalent guidance document. ( )

52. **Maximum Daily Discharge Limitation**. The highest allowable daily discharge. ( )

53. **Maximum Daily Flow**. The largest volume of flow to be discharged during a continuous twenty-four-hour period expressed as a volume per unit time. ( )

54. **Mixing Zone**. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. ( )

55. **Municipality**. A city, town, county, district, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under the Clean Water Act section 208. ( )

56. **National Pollutant Discharge Elimination System (NPDES)**. The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under the Clean Water Act sections 307, 402, 318, and 405. ( )

57. **New Discharger**. Any building, structure, facility, or installation: ( )

a. From which there is or may be a discharge of pollutants; ( )

b. That did not commence the discharge of pollutants at a particular site prior to August 13, 1979; ( )

c. Which is not a new source; and ( )

d. Which has never received a finally effective NPDES or IPDES permit for discharges at that site. ( )

e. This definition includes an indirect discharger which commences discharging into waters of the United States after August 13, 1979. It also includes any existing mobile point source such as an aggregate plant, that begins discharging at a site for which it does not have a permit; ( )

58. **New Source**. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced: ( )

a. After promulgation of standards of performance under the Clean Water Act section 306 which are applicable to such source; or ( )

b. After proposal of standards of performance in accordance with the Clean Water Act section 306

which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within one hundred twenty (120) days of their proposal. ( )

59. **Notice of Intent to Deny**. A type of draft permit that shall convey to a permit applicant or permittee, the Department's intent to not issue or renew an IPDES permit. ( )

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: ( )

a. Storm Water Construction General Permit (CGP); ( )

b. Multi-Sector General Permit (MSGP) for Industrial Storm Water Requirements; ( )

c. Municipal Separate Storm Sewer System (MS4) General Permit; ( )

d. Concentrated Animal Feeding Operation (CAFO) General Permit; ( )

e. Concentrated Aquatic Animal Production (CAAP) Facility General Permit; ( )

f. Ground Water Remediation General Permit; ( )

g. Suction Dredge General Permit; or ( )

h. Pesticide General Permit (PGP). ( )

61. **Notice of Intent to Terminate**. A notice of intent to terminate shall: ( )

a. Convey to a permittee the Department's intent to terminate an existing IPDES permit for cause; or ( )

b. Convey to the Department a permittee's intent to terminate coverage for an activity under an Individual or General Permit. A construction general permit holder is obligated to submit a notice of intent to terminate upon completion of construction activities and, in the case of storm water control, that final stabilization has been achieved. ( )

62. **Owner or Operator**. The person, company, corporation, district, association, or other organizational entity that is an owner or operator of any facility or activity subject to regulation under the IPDES program. ( )

63. **Pesticide Discharges**. The discharges that result from the application of biological pesticides, and the application of chemical pesticides that leave a residue, from point sources to waters of the United States. In the context of this definition of pesticide discharges, this does not include agricultural storm water discharges and return flows from irrigated agriculture, which are excluded by law (33 U.S.C. 1342(l); 33 U.S.C. 1362(14)). ( )

64. **Pesticide Residue**. For the purpose of determining whether an IPDES permit is needed for discharges to waters of the United States from pesticide application, means that portion of a pesticide application that is discharged from a point source to waters of the United States and no longer provides pesticidal benefits. It also includes any degradates of the pesticide. ( )

65. **Permit**. The authorization, license, or equivalent control document issued by the Department to implement the requirements of these rules. This does not include any permit which has not yet been the subject of final Department action, such as a draft permit or a proposed permit. ( )

66. **Person**. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, or an agent or employee

thereof, which is recognized by law as the subject of rights and duties. ( )

67. Point Source. Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff. ( )

68. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean: ( )

a. Sewage from vessels; or ( )

b. Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located, and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources.
NOTE: Radioactive materials covered by the Atomic Energy Act are those encompassed in its definition of source, byproduct, or special nuclear materials. Examples of materials not covered include radium and accelerator-produced isotopes. See Train v. Colorado Public Interest Research Group, Inc., 426 U.S. 1 (1976). ( )

69. Potable Water. Water which is free from impurities in such amounts that it is safe for human consumption without treatment. ( )

70. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e). ( )

71. Primary Industry Category. Any industry category listed in Appendix A of 40 CFR Part 122. ( )

72. Privately Owned Treatment Works. Any device or system which is used to treat wastes and is not a Publicly Owned Treatment Works (POTW). ( )

73. Process Wastewater. Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product (see Industrial Wastewater definition). ( )

74. Proposed Permit. An IPDES permit prepared after the close of the public comment period (and, when applicable, any public meeting and administrative appeals) which is sent to EPA for review before final issuance by the Department. A proposed permit is not a draft permit. ( )

75. Proposed Settlement of a State Enforcement Action. A Department consent order or compliance agreement schedule issued in response to a notice of violation that is to be signed by the Director. This does not include amendments or extensions of consent orders or compliance agreement schedules. ( )

76. Publicly Owned Treatment Works (POTW). A treatment works as defined by the Clean Water Act section 212, which is owned by a state or municipality, as defined by the Clean Water Act section 502(4). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal

sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in the Clean Water Act section 502(4), which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. ( )

77. **Receiving Waters**. Those waters of the United States to which there is a discharge of pollutants. ( )

78. **Recommencing Discharger**. A source which renews discharges after terminating operations. ( )

79. **Regional Administrator**. The Region 10 Administrator of the Environmental Protection Agency or the authorized representative of the Regional Administrator. ( )

80. **Secondary Industry Category**. Any industry category which is not a primary industry category. ( )

81. **Secondary Treatment**. Technology-based requirements for direct discharging POTWs, based on the expected performance of a combination of physical and biological processes typical for the treatment of pollutants in municipal sewage. Standards are expressed as a minimum level of effluent quality in terms of: BOD5, total suspended solids (TSS), and pH (except as provided by treatment equivalent to secondary treatment and other special considerations). ( )

82. **Secretary**. The Secretary of the Army, acting through the Chief of Engineers. ( )

83. **Septage**. The liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained. ( )

84. **Severe Property Damage**. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. ( )

85. **Sewage**. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. ( )

86. **Sewage from Vessels**. Human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes that are discharged from vessels and regulated under the Clean Water Act section 312. ( )

87. **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. ( )

88. **Sewage Sludge Use or Disposal Practice**. The collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge. ( )

89. **Significant Industrial User**. ( )

a. All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Parts 400 through 471; and ( )

b. Any other industrial user that: ( )

i. Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); ( )

ii. Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or ( )

iii. Is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)). ( )

90. Silvicultural Point Source. Any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United States. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a Clean Water Act section 404 permit. ( )

91. Site. The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity. ( )

92. Sludge. The semi-liquid mass produced and removed by the wastewater treatment process. ( )

93. Sludge-Only Facility. Any TWTDS whose methods of sewage sludge use or disposal are subject to regulations promulgated pursuant to the Clean Water Act section 405(d) and is required to obtain an IPDES permit. ( )

94. Source. Any building, structure, facility, or installation from which there is or may be discharge of pollutants. ( )

95. 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. ( )

96. State. The state of Idaho. ( )

97. State/EPA Agreement. An agreement between the EPA Regional Administrator and the state of Idaho which coordinates EPA and Department activities, responsibilities and programs including those under the Clean Water Act programs. ( )

98. Storm Water. Storm water runoff, snow melt runoff, and surface runoff and drainage. ( )

99. Technology-Based Effluent Limitation (TBEL). Treatment requirements under the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under section 402 of the Clean Water Act. ( )

100. Total Dissolved Solids. The total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136. ( )

101. Toxic Pollutant. Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the United States and upon exposure, ingestion, inhalation, or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic pollutants include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA

pursuant to the Clean Water Act section 307(a), or in the case of sewage sludge use or disposal practices, any pollutant identified in regulations implementing the Clean Water Act section 405(d). ( )

102. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. ( )

103. Treatment Facility. Any physical facility or land area for the purpose of collecting, treating, neutralizing, or stabilizing pollutants including treatment plants; the necessary collecting, intercepting, outfall and outlet sewers; pumping stations integral to such plants or sewers; disposal or reuse facilities; equipment and furnishing thereof; and their appurtenances. For the purpose of these rules, a treatment facility may also be known as a treatment system, a wastewater system, wastewater treatment system, wastewater treatment facility, wastewater treatment plant, or privately or publicly owned treatment works. ( )

104. Treatment Works Treating Domestic Sewage (TWTDS). A POTW or any other sewage sludge or waste water treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, domestic sewage includes waste and waste water from humans or household operations that are discharged to or otherwise enter a treatment works. ( )

105. Upset. An exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. ( )

106. User. Any person served by a wastewater system. ( )

107. Variance. Any mechanism or provision under the Clean Water Act section 301 or 316 or under 40 CFR Part 125, or in the applicable effluent limitations guidelines allowing modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of the Clean Water Act. This includes provisions which allow the establishment of alternative limitations based on fundamentally different factors or on Clean Water Act sections 301(c), 301(g), 301(h), 301(i), or 316(a). ( )

108. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one (1) of its existing or future point sources of pollution. ( )

109. Wastewater. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. ( )

110. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the United States, or the discharge of any pollutant into the waters of the United States, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. ( )

111. Water Quality-Based Effluent Limitation (WQBEL). An effluent limitation determined by selecting the most stringent of the effluent limits calculated using all applicable water quality criteria (e.g., aquatic life, human health, wildlife, translation of narrative criteria) for a specific point source to a specific receiving water. ( )

112. Water Transfer. An activity that conveys or connects waters of the United States without subjecting the transferred water to intervening industrial, municipal, or commercial use. ( )

113. Wetlands. Areas inundated or saturated by surface or ground water at a frequency and duration

sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. ( )

114. Whole Effluent Toxicity. The aggregate toxic effect of an effluent measured directly by a toxicity test. ( )

011. -- 049. (RESERVED)

050. COMPUTATION OF TIME.

01. Computing Time. In computing any period of time scheduled to begin after or before the occurrence of an act or event, the date of the act or event is not included. The last day of the period is included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is neither a Saturday, a Sunday, nor holiday. The section does not apply to submission deadlines for twenty-four (24) hour reporting, permit applications, or notices of intent for coverage under a general permit ( )

02. Notice by Mail. Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper and the notice or paper is served upon him or her by mail, three (3) days will be added to the prescribed time. ( )

051. -- 089. (RESERVED)

090. SIGNATURE REQUIREMENTS.

01. Permit Applications and Notices of Intent. All IPDES permit applications and notices of intent must be signed by a certifying official as follows: ( )

a. For a corporation, a responsible corporate officer shall sign the application or notice of intent. In this subsection, a responsible corporate officer means: ( )

i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or ( )

ii. The manager of one (1) or more manufacturing, production, or operating facilities, if: ( )

(1) The manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental statutes and regulations; ( )

(2) The manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for IPDES permit application requirements; and ( )

(3) Authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; ( )

b. For a partnership or sole proprietorship, the general partner or the proprietor, respectively, shall sign the application; and ( )

c. For a municipality, state, or other public agency, either a principal executive officer or ranking elected official shall sign the application. In this subsection, a principal executive officer of an agency means: ( )

i. The chief executive officer of the agency; or ( )

ii. A senior executive officer having responsibility for the overall operations of a principal geographic

unit or division of the agency. ( )

02. Reports and Other Information Submitted. Any report or information required by an IPDES permit, notice of intent, monitoring and reporting provisions, and any other information requested by the Department, must be signed by a person described in Subsection 090.01, or by a duly authorized representative of that person. A person is a duly authorized representative only if: ( )

a. The authorization is made in writing by a person described in Subsection 090.01; ( )

b. The authorization specifies either: ( )

i. An individual or a position having responsibility for the overall operation of the regulated facility or activity, including the position of manager, operator, superintendent or position of equivalent responsibility; or ( )

ii. An individual or position having overall responsibility for environmental matters for the company; and ( )

c. The written authorization is submitted to the Department. ( )

03. New Authorization. If an authorization is no longer accurate due to a change in staffing or personnel for the overall operation of the facility, a new authorization satisfying the requirements of Subsection 090.01 must be submitted to the Department before or together with any report, information, or application to be signed by an authorized representative. ( )

04. Certification. Any person signing a document under Subsections 090.01 or 090.02 shall certify as follows: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." ( )

05. Electronic Signatures. The Department may require any signed, certified, or authorized information required under these rules to be submitted electronically, with an electronic signature approved by the Department. ( )

06. Electronic Reporting. When documents described in Subsection 090.01 or 090.02 of this rule 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. ( )

091. -- 099. (RESERVED)

100. EFFECT OF A PERMIT.

01. Rights. The issuance of, or coverage under, an IPDES permit does not convey any property rights or any exclusive privilege nor does it authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations. The issuance of, or coverage under, an IPDES permit does not constitute authorization of the permitted activities by any other state or federal agency or private person or entity, and does not excuse the permit holder from the obligation to obtain any other necessary approvals, authorizations, or permits. ( )

02. Compliance. Except for any toxic effluent standards and prohibitions imposed under the Clean Water Act section 307, and standards for sewage sludge use or disposal under the Clean Water Act section 405(d),

compliance with an IPDES permit during its term constitutes compliance, for purposes of enforcement, with Clean Water Act sections 301, 302, 306, 307, 318, 403, and 405(a) through (b). However, a permit or coverage under a permit may be modified, revoked and reissued, or terminated during its term for cause as set out in Sections 130 (General Permits), 201 (Modification, or Revocation and Reissuance of IPDES Permits), and 203 (Termination of IPDES Permits). ( )

101. DURATION.

01. Permit Term. IPDES permits shall be issued for a fixed duration not to exceed five (5) years. ( )

a. The Department may issue a permit for a period of less than five (5) years. An explanation of the reasoning behind issuing a permit for a shorter period shall be provided in the fact sheet. ( )

b. The duration of a permit may not be modified to lengthen the effective term of the permit past the maximum five (5) year duration. ( )

c. A permit may be issued to expire on or after the statutory deadline set forth in the Clean Water Act sections 301(b)(2)(A), (C), and (E), if the permit includes effluent limitations to meet the requirements of the Clean Water Act sections 301(b)(2)(A), (C), (D), (E) and (F), whether or not applicable effluent limitations guidelines have been promulgated or approved. ( )

d. A determination that a particular discharger falls within a given industrial category for purposes of setting a permit expiration date under Subsection 101.01.c. is not conclusive as to the discharger's inclusion in that industrial category for any other purposes, and does not prejudice any rights to challenge or change that inclusion at the time that a permit based on that determination is formulated. ( )

e. A federally-issued NPDES permit, the administration of which has been transferred to the Department upon or after EPA approval of the IPDES program, shall continue in effect and be enforceable by the Department, subject to Subsections 101.02 and 101.03. ( )

02. Continuation of Individual Permits. The conditions of an expired individual permit, whether a federal NPDES permit (except for permits over which EPA retains authority) or a state-issued IPDES permit, will remain fully effective and enforceable until the effective date of a new permit or the date of the Department's final decision to deny the application for the new permit, if: ( )

a. The permittee has submitted a timely and complete application for a new permit under Section 105 (Application for an Individual IPDES Permit); and ( )

b. The Department, because of time, resource, or other constraints, but through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit. ( )

03. Continuation of General Permits. The conditions of an expired general permit, whether a federal NPDES permit or a state-issued IPDES permit, will remain fully effective and enforceable (except for permits over which EPA retains authority) until the date the authorization to discharge under the new permit is determined, if: ( )

a. The permittee has submitted a timely notice of intent to obtain coverage under the new general permit as specified in Section 130 (General Permits); and ( )

b. The Department, because of time, resource, or other constraints, but through no fault of the permittee, does not issue a new general permit with an effective date on or before the expiration date of the previous permit. ( )

04. Continuation of Permits During an Appeal. Whether the conditions of an expired permit remain effective and enforceable during an appeal of a new permit, or an appeal of the denial of a permit application, is

governed by Section 204 (Appeals Process). ( )

102. OBLIGATION TO OBTAIN AN IPDES PERMIT.

01. Persons Who Must Obtain a Permit. Any person who discharges or proposes to discharge a pollutant from any point source into waters of the United States, or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR Part 503 or these rules, and who does not have an IPDES or NPDES permit in effect, shall submit a complete IPDES permit application to the Department, unless the discharge, proposed discharge, or TWTDS: ( )

a. Is covered by one (1) or more general permits in compliance with Section 130 (General Permits). Any applicant must complete a notice of intent for any discharge or proposed discharge that is covered by one (1) or more general permits; ( )

b. Is excluded from IPDES permit requirements under Subsection 102.05; ( )

c. Is by a user to a privately owned treatment works, and the Department, under Section 370 (Pretreatment Standards), does not otherwise require the person to apply for a permit; or ( )

d. Is a TWTDS facility that uses or disposes of sewage sludge to which a standard applicable to its sewage sludge use or disposal practices have not been published. Such facilities shall submit limited background information, as specified in Subsection 105.17.o., within one (1) year after publication of applicable standards. ( )

02. Operator's Duty to Obtain a Permit. When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit. ( )

03. Permits Under the Clean Water Act Section 405(f). All new and currently permitted TWTDS whose sewage sludge use or disposal practices are regulated by 40 CFR Part 503 must submit permit applications according to the applicable schedule in Subsection 105.17. The Department may require permit applications from any TWTDS at any time if the Department determines that a permit is necessary to protect public health and the environment from any potential adverse effects that may occur from toxic pollutants in sewage sludge. ( )

04. Designation of Small Municipal Separate Storm Sewer Systems (MS4s). DEQ shall designate a small MS4 that is not located in an urbanized area, as determined by the latest Decennial Census by the Bureau of Census, as a regulated small MS4 that must be covered by an IPDES permit if the Department determines that: ( )

a. The storm water discharge results in or has the potential to result in exceedance of water quality standards or other significant water quality impacts; or ( )

b. The storm water discharge contributes substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer that is regulated by the IPDES storm water program. ( )

05. Exclusions from Permit. A person shall not discharge pollutants from any point source into waters of the United States without first obtaining an IPDES permit from the Department or coverage under an IPDES general permit, unless the discharge is excluded from IPDES permit requirements or the discharge is authorized by an IPDES or NPDES permit that continues in effect. The Department will not require persons to obtain IPDES permits for facilities or activities that are not required to obtain NPDES permits from EPA under the Clean Water Act and federal Clean Water Act regulations. Discharges excluded from IPDES permit requirements, but that may be regulated by other state or federal regulations include: ( )

a. Any sewage discharge from vessels and any effluent from properly functioning marine engines, laundry, shower and galley sink wastes, or any other discharge incidental to the normal operation of a vessel of the U.S. Armed Forces within the meaning of the Clean Water Act section 312, and a recreational vessel within the meaning of the Clean Water Act section 502(25). None of these exclusions apply to: ( )

i. Rubbish, trash, garbage, or other such materials discharged overboard; nor to ( )

ii. Other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as: ( )

(1) An energy or mining facility; ( )

(2) A storage facility, or when secured to a storage facility; or ( )

(3) When secured to the bed of the waters of the United States for the purposes of mineral or oil exploration or development; ( )

b. Any discharge of dredged or fill material into waters of the United States that is regulated under the Clean Water Act section 404; ( )

c. Sewage, industrial wastes, or other pollutants discharged into publicly owned treatment works (POTWs) by an indirect discharger who has received a will-serve letter authorizing the discharge to the POTW. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with permits until all discharges of pollutants to waters of the United States are eliminated. This exclusion does not apply to the introduction of pollutants to privately owned treatment works or to other discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other party not leading to treatment works; ( )

d. Any discharge in compliance with the instructions of an on-scene coordinator under 40 CFR Part 300 (The National Oil and Hazardous Substances Pollution Contingency Plan), or 33 CFR 153.10(e) (Control of Pollution by Oil and Hazardous Substances, Discharge Removal); ( )

e. Any introduction of pollutants from non-point source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands; however, this exclusion does not apply to discharges from concentrated animal feeding operations (CAFO) as defined in 40 CFR 122.23, discharges from concentrated aquatic animal production (CAAP) facilities, discharges to aquaculture projects, and discharges from silvicultural point sources; ( )

f. Any return flow from irrigated agriculture; ( )

g. Discharges into a privately owned treatment works, except as the Department may otherwise require under Subsection 302.15; and ( )

h. Discharges from a water transfer. This exclusion does not apply to pollutants introduced by the water transfer activity itself to the water being transferred. ( )

103. PERMIT PROHIBITIONS.
The Department will not issue an IPDES permit for a discharge: ( )

01. Clean Water Act Compliance. Unless the conditions of the permit provide for compliance with the applicable requirements of IDAPA 58.01.02, "Water Quality Standards" and 58.01.25 "Rules Regulating the Idaho Pollutant Discharge Elimination System Program"; ( )

02. EPA Objection. When the Department has received written objection pursuant to 40 CFR 123.44 from the EPA Regional Administrator to issuance of the permit and until the objections are resolved according to the process identified in the Memorandum of Agreement between EPA and the Department; ( )

03. Water Quality Requirements. When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states; ( )

04. Anchorage and Navigation Impaired. When, in the judgment of the Secretary of the United States Army through the Army Corp Chief of Engineers, anchorage and navigation in or on any of the waters of the

United States would be substantially impaired by the discharge; ( )

05. Banned Content. Of any radiological, chemical, or biological warfare agent or high level radioactive waste; ( )

06. Area Wide Waste Treatment Management Plans. That is inconsistent with a plan or plan amendment approved under the Clean Water Act section 208(b); or ( )

07. New Sources or New Dischargers. For a new source or new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards. ( )

a. When the owner or operator of a new source or new discharge proposes to discharge into a water segment that does not meet applicable water quality standards, or that is not expected to meet those standards even after the application of the effluent limitations required by Clean Water Act sections 301(b)(1)(A) and (B), and for which the state or interstate agency has performed a pollutant load allocation for the pollutant to be discharged, then the owner or operator must demonstrate that: ( )

i. There are sufficient remaining pollutant load allocations to allow for the discharge; and ( )

ii. The existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards. ( )

b. The Department may waive the submission of the information by the permit applicant required in Subsection 103.07.a. if the Department determines that it already has adequate information to evaluate the request. ( )

c. An explanation of the development of limitations to meet the criteria of this section is to be included in the fact sheet to the permit. ( )

104. PRE-APPLICATION PROCESS.

Any person who intends to apply for a permit or who proposes to discharge a pollutant into the waters of the United States should contact the Department to schedule a meeting prior to submitting an application to discuss: ( )

01. IPDES Permit Applicability. Whether the actions or facility will require an IPDES permit, and whether other suitable permitting options are available; ( )

02. Application Content. The IPDES permit application requirements; and ( )

03. Application Schedule. The IPDES permit application submittal schedule. ( )

105. APPLICATION FOR AN INDIVIDUAL IPDES PERMIT.

01. Electronic Submittals. The Department may require an applicant to electronically submit information required by this section, if the Department approves an electronic method of submittal. ( )

02. Application Retention Schedule. An applicant must keep records of all data used to complete a permit application and any supplemental information submitted for a period of at least three (3) years from the date the application is signed. ( )

03. Time to Apply. Any person required under Subsections 102.01 through 102.03 to obtain an IPDES permit must submit to the Department a complete application for a permit in compliance with the requirements of this subsection. A permit application must be signed and certified as required by Section 090 (Signature Requirements). ( )

a. A person proposing a new discharge must submit an application at least one hundred eighty (180) days before the date on which the discharge is to commence, unless the Department has granted permission to submit the application on a later date as specified in Subsections 105.03.e. and f. A facility proposing a new discharge of storm water associated with industrial activity must submit an application one hundred eighty (180) days before that

facility commences industrial activity that may result in a discharge of storm water associated with that industrial activity, unless the Department has granted permission to submit the application on a later date as specified in Subsections 105.03.e. and f. ( )

b. Facilities described under 40 CFR 122.26(b)(14)(x) or (b)(15)(i) must submit an application at least ninety (90) days before the date on which construction is to commence unless otherwise required by the terms of an applicable general permit. ( )

c. Any TWTDS that commences operations after promulgation of any applicable "standard for sewage sludge use or disposal" must submit an application to the Department at least one hundred eighty (180) days prior to the date proposed for commencing operations. ( )

d. A person discharging from a permitted facility with a currently effective permit must submit a new application at least one hundred eighty (180) days before the expiration date of the existing permit, unless the Department has granted permission to submit the application on a later date as specified in Subsections 105.03.e. and f. ( )

e. Permission may be granted by the Department for submission of an application in less than one hundred eighty (180) days. The Department's prior approval must be sought and obtained in advance of the one hundred eighty (180) days before expiration of the existing permit or commencement of new discharge. ( )

f. The application will not be accepted after the expiration date of the existing permit as an application for renewal of the permit. Any applications received after the expiration of the permit will be received and reviewed as an application for a new source or new discharger. ( )

04. Individual Permit Application Forms. An applicant must submit an application on one (1) or more Department-approved forms appropriate to the number and type of discharge or outfall at the applicant's facility. A person required by Subsections 102.01 through 102.03 to obtain an individual IPDES permit must submit an application to the Department providing the information required by this subsection and Subsections 105.05 through 105.19, as applicable. The application must be submitted on one (1) or more of the EPA forms listed in this subsection, or on the Department equivalent of the listed EPA form: ( )

a. All applicants, other than a POTW, TWTDS, and pesticide applicators (see Subsection 105.06), EPA Form 1 and the following additional forms, if applicable: ( )

i. Applicants for a concentrated animal feeding operation (CAFO; see Subsection 105.09) or concentrated aquatic animal production (CAAP; see Subsection 105.10) facility, EPA Form 2B; ( )

ii. Applicants for an existing industrial facility, including manufacturing facilities, commercial facilities, mining activities, and silviculture activities (see Subsection 105.07), EPA Form 2C; ( )

iii. Applicants for a new industrial facility that discharges process wastewater (see Subsection 105.16), EPA Form 2D; ( )

iv. Applicants for a new or existing industrial facility that discharges only non-process wastewater (see Subsection 105.08.a.), EPA Form 2E; ( )

v. Applicants for a new or existing facility whose discharge is composed entirely of storm water associated with industrial activity (see Subsection 105.19), EPA Form 2F unless the applicant is exempted by 40 CFR 122.26(c)(1)(ii). If the applicant's discharge is composed of storm water and non-storm water (see Subsections 105.07, 105.08, and 105.16), EPA Forms 2C, 2D, or 2E, as appropriate, are also required; or ( )

vi. Applicants that operate a sludge-only facility (see Subsection 105.17), that currently does not have and is not applying for, an IPDES permit for a direct discharge to a surface water body, EPA Form 2S; ( )

b. For an applicant that is a new or existing POTW (see Subsections 105.11 through 105.15): ( )

i. EPA Form 2A; and ( )

ii. EPA Form 2S, if applicable. ( )

05. Application Information for All Dischargers. In addition to the application information required for specific dischargers, the Department may require the submittal of any information necessary to ensure compliance with Section 103 (Permit Prohibitions). Such information includes, but is not limited to: ( )

a. Information required to determine compliance with the antidegradation policy and antidegradation implementation provisions set forth in IDAPA 58.01.02.051 and 052, "Water Quality Standards"; ( )

b. Information required to determine compliance with the mixing zone provisions set forth in IDAPA 58.01.02.060, "Water Quality Standards"; or ( )

c. Information necessary for the Department to authorize a compliance schedule under IDAPA 58.01.02.400, "Water Quality Standards." ( )

06. Application Requirements for Dischargers Other than Treatment Works Treating Domestic Sewage (TWTDS), Publicly Owned Treatment Works (POTWs), and Pesticide Applicators. An applicant for an IPDES permit other than a POTW and other TWTDS, must provide the following information to the Department, using the appropriate forms specified in Subsection 105.04: ( )

a. The applicant's activity that requires an IPDES permit; ( )

b. The name, mailing address, e-mail address, and location of the facility for which the application is submitted; ( )

c. Up to four (4) Standard Industrial Classification (SIC) codes that best identify the principal products or services provided by the facility; ( )

d. The operator's name, mailing address, e-mail address, telephone number, ownership status, Employer Identification Number (EIN) or Department equivalent, and status as federal, state, private, public, or other entity; ( )

e. A statement that the facility is located in Indian country, if applicable; ( )

f. A listing of all permits or construction approvals received or applied for under any of the following programs: ( )

i. Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; ( )

ii. 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"; ( )

iii. IPDES program under IDAPA 58.01.25 "Rules Regulating the Idaho Pollutant Discharge Elimination System Program"; ( )

iv. Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for Control of Air Pollution in Idaho"; ( )

v. Nonattainment program under IDAPA 58.01.01, "Rules for Control of Air Pollution in Idaho"; ( )

vi. National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, "Rules for Control of Air Pollution in Idaho"; ( )

vii. Dredge or fill permits under the Clean Water Act section 404; or ( )

viii. Other relevant environmental permits, programs or activities, including those subject to state jurisdiction, approval, and permits; and ( )

g. A topographic map, or other map if a topographic map is unavailable, extending one (1) mile beyond the property boundaries of the source, depicting: ( )

i. The facility and each of its intake and discharge structures; ( )

ii. The location of the facility's hazardous waste treatment, storage, or disposal areas; ( )

iii. The location of each well where fluids from the facility are injected underground; and ( )

iv. The location of wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known by the applicant to exist in the map area; and ( )

h. A brief description of the nature of the business; ( )

i. An indication of whether the facility uses cooling water and the source of the cooling water; and ( )

j. An indication of whether the facility is requesting any of the variances in Subsection 310.01 if known at the time of application. ( )

07. Application Requirements for Existing Manufacturing, Commercial, Mining and Silviculture Dischargers. ( )

a. Except for a facility subject to the requirements in Subsection 105.08, an applicant for an IPDES permit for an existing discharge from a manufacturing, commercial, mining, or silviculture facility or activity must provide the following information to the Department, using the applicable forms specified in Subsection 105.04: ( )

i. For each outfall: ( )

(1) The latitude and longitude to the nearest second and the name of each receiving water; ( )

(2) A narrative identifying each type of process, operation, or production area that contributes wastewater to the effluent from that outfall, including process wastewater, cooling water, and storm water runoff; processes, operations, or production areas may be described in general terms, such as dye-making reactor or distillation tower; ( )

(3) The average flow that each process contributes and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge; ( )

(4) For a privately owned treatment works, the identity of each user of the treatment works; and ( )

(5) The average flow of point sources composed of storm water. For this subsection, the average flow may be estimated, and the basis for the rainfall event with the method of estimation must be submitted; ( )

ii. A description of the frequency, duration, and flow rate of each discharge occurrence for any of the discharges described in Subsections 105.07.a.i(2) through (5) that are intermittent or seasonal, except for storm water runoff, spillage, or leaks; ( )

iii. A reasonable measure of the applicant's actual production reported in the units used in the

applicable effluent guideline, if an effluent guideline promulgated under the Clean Water Act section 304 applies to the applicant and is expressed in terms of production or other measure of operation. The reported measure must reflect the actual production of the facility as required by Subsection 303.02.b.; ( )

iv. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading, or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates; ( )

v. A listing of any toxic pollutant that the applicant currently uses or manufactures as an intermediate or final product or byproduct, except that the Department may waive or modify this requirement; ( )

(1) If the applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant; and ( )

(2) The Department has adequate information to issue the permit; ( )

vi. An identification of any biological toxicity tests that the applicant knows or has reason to believe have been made within the last three (3) years on any of the applicant's discharges or on a receiving water in relation to a discharge; and ( )

vii. The identity of each laboratory or firm and the analyses performed, if a contract laboratory or consulting firm performed any of the analyses required by Subsection 105.07.c. through m. ( )

b. The owner or operator of a facility subject to this subsection must submit, with an application, a line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. ( )

i. In the line drawing, similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under Subsections 105.07.a.i(2) through (5). ( )

ii. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units. ( )

iii. If a water balance cannot be determined for certain activities, the applicant may instead provide a pictorial description of the nature and amount of any sources of water and any collection and treatment measures. ( )

c. In addition to the items of information listed in Subsections 105.07.a. through 105.07.b., and except for information on storm water discharges required by 40 CFR 122.26, an applicant for an IPDES permit for an existing facility described in Subsection 105.07.a. must: ( )

i. Collect, prepare, and submit information regarding the effluent characteristics and discharge of pollutants specified in this section; and ( )

ii. When quantitative data for a pollutant are required, collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136, except that when no analytical method is approved, the applicant may use any suitable method but must describe the method. ( )

d. An applicant under this subsection must: ( )

i. Use grab samples in providing information regarding cyanide, total phenols, residual chlorine, oil and grease, fecal coliform (including E. coli), enterococci (previously known as fecal streptococcus), and volatile organics; temperature, pH, dissolved oxygen, and residual chlorine effluent data may be obtained from grab samples or from calibrated and properly maintained continuous monitors; ( )

ii. For all other pollutants, use twenty-four (24) hour composite samples, unless specified otherwise at 40 CFR Part 136, with a minimum of four (4) grab samples, except that a minimum of one (1) grab sample may be

taken for effluents from holding ponds or other impoundments with a retention period greater than twenty-four (24) hours; ( )

e. For purposes of Subsection 105.07.c., exceptions to testing and data provision requirements for effluent characteristics include: ( )

i. When an applicant has two (2) or more outfalls with substantially identical effluents, the Department may allow the applicant to test only one (1) outfall and report that the quantitative data also apply to the substantially identical outfall; and ( )

ii. An applicant's duty under Subsections 105.07.j., k., and l. to provide quantitative data for certain pollutants known or believed to be present does not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report that those pollutants are present. ( )

f. For storm water discharges, associated with an existing facility described in Subsection 105.07.a., from storm events which yield more than one-tenth (0.1) inch of rainfall: ( )

i. All samples must be collected from the discharge resulting from a storm event and at least seventy-two (72) hours after the previously measurable storm event exceeding one-tenth (0.1) inch rainfall. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed fifty percent (50%) from the average or median rainfall event in that area; and ( )

ii. For all applicants, a flow-weighted composite sample must be taken for either the entire discharge or for the first three (3) hours of the discharge, except for the following: ( )

(1) The sampling may be conducted with a continuous sampler or as a combination of a minimum of three (3) sample aliquots taken in each hour of discharge for the entire discharge or for the first three (3) hours of the discharge, with each aliquot being separated by a minimum period of fifteen (15) minutes. If the Department approves, an applicant for a storm water discharge permit under Subsection 105.18 may collect flow-weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots; ( )

(2) A minimum of one (1) grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than twenty-four (24) hours; or ( )

(3) For a flow-weighted composite sample, only one (1) analysis of the composite of aliquots is required; ( )

iii. For samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first thirty (30) minutes, or as soon thereafter as practicable, of the discharge for all pollutants specified in Subsection 105.19 except that for all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants specified in 40 CFR 122.26(a) through (b) and (e) through (g), Subsections 105.18 and 105.19, but not for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform (including *E. coli*), and enterococci (previously known as fecal streptococcus; ( )

iv. The Department may, on a case-by-case basis, allow or establish appropriate site-specific sampling procedures or requirements, including: ( )

(1) Sampling locations; ( )

(2) The season in which the sampling takes place; ( )

(3) The minimum duration between the previous measurable storm event and the sampled storm event; ( )

(4) The minimum or maximum level of precipitation required for an appropriate storm event; ( )

(5) The form of precipitation sampled, whether snow melt or rain fall; ( )

(6) Protocols for collecting samples under 40 CFR Part 136; and ( )

(7) Additional time for submitting data; and ( )

v. An applicant is deemed to know or have reason to believe that a pollutant is present in an effluent if an evaluation of the expected use, production, or storage of the pollutant, or any previous analyses for the pollutant, show that pollutant's presence. ( )

g. Unless a reporting requirement is waived under Subsection 105.07.h., every applicant subject to this subsection must report quantitative data for the following pollutants for every outfall: ( )

i. 5-day biochemical oxygen demand (BOD5); ( )

ii. Chemical oxygen demand (COD); ( )

iii. Total organic carbon (TOC); ( )

iv. Total suspended solids (TSS); ( )

v. Ammonia, as N; ( )

vi. Temperature (both winter and summer); and ( )

vii. pH. ( )

h. The Department may waive the reporting requirements under Subsection 105.07.g. for individual point sources or for a particular industry category for one (1) or more of the pollutants listed in Subsection 105.07.g. if the applicant demonstrates that information adequate to support issuance of a permit can be obtained with less stringent requirements. ( )

i. Except as provided in Subsection 105.07.o., an applicant with an existing facility described in Subsection 105.07.a. that has processes that qualify in one (1) or more of the primary industry categories shown in Appendix A to 40 CFR Part 122 contributing to a discharge, must report quantitative data for pollutants in each outfall containing process wastewater as follows: ( )

i. Data for the organic toxic pollutants listed in Table II of Appendix D to 40 CFR Part 122 in the fractions designated in Table I of Appendix D to 40 CFR Part 122. For purposes of this subsection: ( )

(1) Table II of Appendix D to 40 CFR Part 122, lists the organic toxic pollutants in each fraction that result from the sample preparation required by the analytical procedure that uses gas chromatography/mass spectrometry; and ( )

(2) If the Department determines that an applicant falls within an industrial category for the purposes of selecting fractions for testing, that determination does not establish the applicant's category for any other purpose; see Notes 2 and 3 to 40 CFR 122.21; and ( )

ii. Data for the toxic metals, cyanide, and total phenols listed in Table III of Appendix D to 40 CFR Part 122. ( )

j. An applicant under this section must disclose whether the applicant knows or has reason to believe that any of the conventional and nonconventional pollutants in Table IV of Appendix D to 40 CFR Part 122 are discharged from each outfall. If an applicable effluent limitations guideline limits the pollutant either directly or indirectly by express limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged that is not limited in an effluent limitations guideline, the applicant must either report quantitative data or

briefly describe the reasons the pollutant is expected to be discharged. ( )

k. An applicant under this subsection must disclose whether the applicant knows or has reason to believe that any of the organic toxic pollutants listed in Table II or the toxic metals, cyanide, or total phenols listed in Table III of Appendix D to 40 CFR Part 122 for which quantitative data are not otherwise required under Subsection 105.07.i., are discharged from each outfall. Unless an applicant qualifies as a small business under Subsection 105.07.o., the applicant must: ( )

i. Report quantitative data for every pollutant expected to be discharged in concentrations of ten (10) parts per billion or greater; ( )

ii. Report quantitative data for acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4, 6 dinitrophenol, if any of these four (4) pollutants are expected to be discharged in concentrations of one hundred (100) parts per billion or greater; and ( )

iii. For every pollutant expected to be discharged in concentrations less than ten (10) parts per billion, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4, 6 dinitrophenol, in concentrations less than one hundred (100) parts per billion, either submit quantitative data, or briefly describe the reasons the pollutant is expected to be discharged and submit any supporting documentation. ( )

l. An applicant under this subsection must disclose whether the applicant knows or has reason to believe that asbestos or any of the hazardous substances listed in Table V of Appendix D to 40 CFR Part 122 are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged and report any quantitative data it has for any pollutant. ( )

m. An applicant under this subsection must disclose and report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7, 8-tetrachlorodibenzo-p-dioxin (TCDD) if the applicant: ( )

i. Uses or manufactures the following: ( )

(1) 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); ( )

(2) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); ( )

(3) 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); ( )

(4) o,o-dimethyl o-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); ( )

(5) 2,4,5-trichlorophenol (TCP); or ( )

(6) Hexachlorophene (HCP); or ( )

ii. Knows or has reason to believe that TCDD is or may be present in an effluent. ( )

n. Where quantitative data are required in Subsections 105.07.c. through m., existing data may be used, if available, in lieu of sampling done solely for the purpose of the application, provided that: ( )

i. All data requirements are met; sampling was performed, collected, and analyzed no more than four and one-half (4 ½) years prior to submission; ( )

ii. All data are representative of the discharge; and ( )

iii. All available representative data are considered in the values reported. ( )

o. An applicant under this subsection is exempt from the quantitative data requirements in Subsections 105.07.i. or 105.07.j. for the organic toxic pollutants listed in Table II of Appendix D to 40 CFR Part

122, if that applicant qualifies as a small business under one (1) of the following criteria: ( )

i. The applicant is a coal mine with an expected total annual production of less than one hundred thousand (100,000) tons per year; or ( )

ii. The applicant has gross total annual sales averaging less than two hundred eighty-seven thousand, three hundred dollars ($287,300) per year in 2014 dollars. ( )

p. In addition to the information reported on the application form, an applicant under this subsection must provide at the Department's request, any other information that may be reasonably required to assess the discharges of the facility and to determine whether to issue an IPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and information required to determine the cause of the toxicity. ( )

08. Application Requirements for New or Existing Manufacturing, Commercial, Mining, and Silviculture Facilities that Discharge only Non-Process Wastewater. ( )

a. An applicant that is a manufacturing, commercial, mining, or silvicultural discharger that discharges only non-process wastewater not regulated by an effluent limitations guideline or new source performance standard must provide the following information to the Department for all discharges, except for storm water discharges, using the applicable forms specified in Subsection 105.04: ( )

i. The number of each outfall, the latitude and longitude to the nearest second, and the name of each receiving water; ( )

ii. For a new discharger, the date of expected commencement of discharge; ( )

iii. An identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, restaurant or cafeteria wastes, or non-contact cooling water; ( )

iv. An identification of cooling water additives, if any, that are used or expected to be used upon commencement of operations, along with their composition if existing composition is available; ( )

v. Effluent characteristics prepared and submitted as described in Subsections 105.08.b. and 105.08.c.; ( )

vi. A description of the frequency of flow and duration of any seasonal or intermittent discharge, except for storm water runoff, leaks, or spills; ( )

vii. A brief description of any treatment system used or to be used; ( )

viii. Any additional information the applicant wishes to be considered, such as influent data for the purpose of obtaining net credits under Subsection 303.07; and ( )

ix. The signature of the certifying official under Section 090 (Signature Requirements). ( )

b. Except as otherwise provided in Subsections 105.08.d. through g., an application for a discharger described in Subsection 105.08.a. must include quantitative data for the following pollutants or parameters: ( )

i. 5-day biochemical oxygen demand (BOD5); ( )

ii. Total suspended solids (TSS); ( )

iii. Fecal coliform (including *E. coli*), if believed present or if sanitary waste is or will be discharged; ( )

iv. Total residual chlorine (TRC), if chlorine is used; ( )

v. Oil and grease; ( )

vi. Chemical oxygen demand (COD), if non-contact cooling water is or will be discharged; ( )

vii. Total organic carbon (TOC), if non-contact cooling water is or will be discharged; ( )

viii. Ammonia, as N; ( )

ix. Discharge flow; ( )

x. pH; and ( )

xi. Temperature, both in winter and summer, respectively. ( )

c. For purposes of the data required under Subsection 105.08.b.: ( )

i. Grab samples must be used for oil and grease, fecal coliform (including *E. coli*), and volatile organics. Temperature, pH, and TRC effluent data may be obtained from grab samples or from calibrated and properly maintained continuous monitors; ( )

ii. Twenty-four (24) hour composite samples must be used for pollutants listed in Subsection 105.08.b., other than those specified in Subsection 105.08.c.i., unless specified otherwise at 40 CFR Part 136. Twenty-four (24) hour composite samples must, at a minimum, be composed of four (4) grab samples unless specified otherwise at 40 CFR Part 136. For a composite sample, only one (1) analysis of the composite aliquots is required; ( )

iii. The quantitative data may be collected over the past three hundred sixty-five (365) days, as long as the data is representative of current operations, and must include maximum daily value, average daily value, and number of measurements taken; and ( )

iv. The applicant must collect and analyze samples in accordance with 40 CFR Part 136. ( )

d. The Department may waive the testing and reporting requirements for any of the pollutants or flow listed in Subsection 105.08.c. if the applicant requests a waiver with its application or earlier, and demonstrates that information adequate to support permit issuance can be obtained through less stringent requirements. ( )

e. If the applicant is a new discharger, the applicant must: ( )

i. Complete and submit Item IV of EPA Form 2E, or the Department equivalent, according to Subsection 105.04.a.iv., by providing quantitative data in compliance with that section no later than two (2) years after the discharge commences, except that the applicant need not complete those portions of Item IV requiring tests that the applicant has already performed and reported under the discharge monitoring requirements of its IPDES or NPDES permit; and ( )

ii. Include estimates and the source of each estimate instead of sampling data for the pollutants or parameters listed in Subsection 105.08.b.; ( )

f. For purposes of the data required under this subsection, all pollutant levels must be reported or estimated as concentration and as total mass, except for flow, pH, and temperature. Submittal of all estimated data must be accompanied by documents supporting the estimated value. ( )

g. An applicant's duty, under Subsections 105.08.b., c., and e., to provide quantitative data or estimates of certain pollutants does not apply to pollutants present in a discharge solely as a result of their presence in intake water. However, an applicant must report the presence of those pollutants. If the requirements of Subsection 303.07 are met, net credit may be provided for the presence of pollutants in intake water. ( )

09. Application Requirements for New and Existing Concentrated Animal Feeding Operations (CAFO). An applicant for an IPDES permit for a new or existing CAFO, as defined in 40 CFR 122.23(b) must provide the following information to the Department, using the applicable forms specified in Subsection 105.04: ( )

a. The name of the owner or operator; ( )

b. The facility location and mailing addresses; ( )

c. Latitude and longitude of the production area to the nearest second, measured at the entrance to the production area; ( )

d. A topographic map of the geographic area in which the concentrated animal feeding operation is located, showing the specific location of the production area; ( )

e. Specific information about the number and type of animals, including, if applicable: beef cattle, broilers, layers, swine weighing fifty-five (55) pounds or more, swine weighing less than fifty-five (55) pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, or other animals, whether in open confinement or housed under roof; ( )

f. The type of containment and total capacity in tons or gallons of any anaerobic lagoon, roofed storage shed, storage pond, under-floor pit, above-ground storage tank, below-ground storage tank, concrete pad, impervious soil pad, or other structure or area used for containment and storage of manure, litter, and process wastewater; ( )

g. The total number of acres available and under the applicant's control for land application of manure, litter, or process wastewater; ( )

h. Estimated amounts of manure, litter, and process wastewater generated per year in tons or gallons; ( )

i. Estimated amounts of manure, litter, and process wastewater transferred to other persons per year in tons or gallons; and ( )

j. A nutrient management plan that has been completed and will be implemented upon the date of permit coverage. A nutrient management plan must meet, at a minimum, the requirements specified in 40 CFR 122.42(e), including for all CAFOs subject to 40 CFR 412.30 through 412.37, 412.40 through 412.47, or the requirements of 40 CFR 412.4(c), as applicable. ( )

10. Application Requirements for New and Existing Concentrated Aquatic Animal Production (CAAP) Facilities. An applicant for an IPDES permit for a new or existing CAAP facility must provide the following information, using the applicable forms specified in Subsection 105.04: ( )

a. The maximum daily and average monthly flow from each outfall; ( )

b. The number of ponds, raceways, and similar structures; ( )

c. The name of the receiving water and the source of intake water; ( )

d. For each species of aquatic animal, the total yearly and maximum harvestable weight; and ( )

e. The calendar month of maximum feeding and the total mass of food fed during that month. ( )

11. Application Requirements for New and Existing POTWs and Other Dischargers Designated by the Department. ( )

a. Except as provided in Subsection 105.11.b., an applicant that is a POTW and any other discharger designated by the Department must provide the information in this subsection, using the applicable forms specified in Subsection 105.04.b. An applicant under this subsection must submit all information available at the time of application; however, they may provide information by referencing information previously submitted to the Department. ( )

b. The Department may waive any requirement of this subsection if it has access to substantially identical information or 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. ( )

c. An applicant under this subsection must provide: ( )

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

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

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: ( )

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

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

(4) Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; ( )

(5) Nonattainment program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; ( )

(6) National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; ( )

(7) Dredge or fill permits under the Clean Water Act section 404; ( )

(8) Sludge Management Program under IDAPA 58.01.16.650, "Wastewater Rules," and Section 380 (Sewage Sludge) of these rules; and ( )

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

iv. The name, population, and EDUs 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; ( )

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; ( )

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; ( )

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; ( )

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

(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; ( )

(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) 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; ( )

(4) For effluent sent to another facility for treatment prior to discharge, the means by which the effluent is transported, the name, mailing address, e-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, e-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 ( )

(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 ( )

ix. The name, mailing address, e-mail address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the POTW facility. ( )

x. An indication of whether applicant is operating under or requesting to operate under a variance as specified in Subsection 310.02 if known at the time of application. ( )

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: ( )

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; ( )

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: ( )

(1) The treatment plant area and unit processes; ( )

(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) Each well where fluids from the treatment plant are injected underground; ( )

(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; ( )

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

(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; ( )

iii. A process flow diagram or schematic as follows: ( )

(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 ( )

(2) A narrative description of the diagram; and ( )

iv. The following information regarding scheduled improvements: ( )

(1) The outfall number of each affected outfall; ( )

(2) A narrative description of each required improvement; ( )

(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 ( )

(4) A description of permits and authorizations concerning other federal and state requirements. ( )

e. An applicant under this subsection must provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable: ( )

i. For each outfall: ( )

(1) The outfall number; ( )

(2) The county, and city or town in which the outfall is located; ( )

(3) The latitude and longitude, to the nearest second; ( )

(4) The distance from shore and depth below surface; ( )

(5) The average daily flow rate, in million gallons per day (MGD); ( )

(6) If the outfall has a seasonal or periodic discharge, the number of times per year the discharge occurs, the duration of each discharge, the flow of each discharge, and the months in which discharge occurs; and ( )

(7) A statement whether the outfall is equipped with a diffuser and the type of diffuser used, such as high-rate; ( )

ii. For each outfall discharging effluent to waters of the United States, the following receiving water information, if the information is available: ( )

(1) The name of each receiving water; ( )

(2) The critical flow of each receiving stream; and ( )

(3) The total hardness of the receiving stream at critical low flow; and ( )

iii. For each outfall discharging to waters of the United States, the following information describing the treatment of the discharges: ( )

(1) The highest level of treatment, including primary, equivalent to secondary, secondary, advanced, or other treatment level provided for: ( )

(a) The design biochemical oxygen demand removal percentage; ( )

(b) The design suspended solids removal percentage; ( )

(c) The design phosphorus removal percentage; ( )

(d) The design nitrogen removal percentage; and ( )

(e) Any other removals that an advanced treatment system is designed to achieve; and ( )

(2) A description of the type of disinfection used, and a statement whether the treatment plant de-chlorinates, if disinfection is accomplished through chlorination. ( )

f. In addition to Subsection 105.11.a., and except as provided in Subsection 105.11.h., an applicant under this subsection must undertake sampling and analysis and submit effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the United States, except for combined sewer overflows, including the following if applicable: ( )

i. Sampling and analysis for the pollutants listed in Appendix J, Table 1A to 40 CFR Part 122; ( )

ii. For an applicant with a design flow greater than or equal to zero point one (0.1) million gallons per day (MGD), sampling and analysis for the pollutants listed in Appendix J, Table 1 to 40 CFR Part 122, except that a facility that does not use chlorine for disinfection, does not use chlorine elsewhere in the treatment process, and has no reasonable potential to discharge chlorine in the facility's effluent, is not required to sample or analyze chlorine; ( )

iii. Sampling and analysis for the pollutants listed in Appendix J, Table 2 to 40 CFR Part 122 and for any other pollutants for which the state or EPA has established water quality standards applicable to the receiving waters if the facility is: ( )

(1) A POTW that has a design flow rate equal to or greater than one (1) million gallons per day (MGD); ( )

(2) A POTW that has an approved pretreatment program; ( )

(3) A POTW that is required to develop a pretreatment program; or ( )

(4) Any POTW, as required by the Department to ensure compliance with these rules; ( )

iv. Sampling and analysis for additional pollutants, as the Department may require, on a case-by-case basis; ( )

v. Data from a minimum of three (3) samples taken within four and one-half (4 ½) years before the date of the permit application; to meet this requirement: ( )

(1) Samples must be representative of the seasonal variation in the discharge from each outfall; ( )

(2) Existing data may be used, if available, in lieu of sampling done solely for the purpose of this application; and ( )

(3) Additional samples may be required by the Department on a case-by-case basis; and ( )

vi. All existing data for pollutants specified in Subsections 105.11.f.i. through iv. collected within four and one-half (4 ½) years of the application. This data must be included in the pollutant data summary submitted by the applicant, except that if the applicant samples for a specific pollutant on a monthly or more frequent basis, only the data collected for that pollutant within one (1) year of the application must be provided. ( )

g. To meet the information requirements of Subsection 105.11.f., an applicant must: ( )

i. Collect samples of effluent and analyze the samples for pollutants in accordance with analytical methods approved under 40 CFR Part 136 unless an alternative is specified in the existing IPDES or NPDES permit; ( )

ii. Use the following methods: ( )

(1) Grab samples for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform (including *E. coli*), and volatile organics. Temperature, pH, dissolved oxygen, and residual chlorine data may be obtained from grab samples or from calibrated and properly maintained continuous monitors; ( )

(2) Twenty-four (24) hour composite samples for all other pollutant, unless specified otherwise at 40 CFR Part 136, using a minimum of four (4) grab samples; for a composite sample, only one (1) analysis of the composite of aliquots is required; and ( )

iii. Provide at least the following information for each parameter: ( )

(1) Maximum daily discharge, expressed as concentration or mass, based upon actual sample values; ( )

(2) Average daily discharge for all samples, expressed as concentration or mass, and the number of samples used to obtain this value; ( )

(3) The analytical method used; and ( )

(4) The threshold level, such as the method detection limit, minimum level, or other designated method endpoint for the analytical method used; and ( )

iv. Report metals as total recoverable, unless the Department requires otherwise. ( )

h. When an applicant under this subsection has two (2) or more outfalls with substantially identical effluent discharging to the same receiving water segment, the Department may, on a case-by-case basis, allow the applicant to submit sampling data for only one (1) outfall. The Department may also allow an applicant to composite samples from one (1) or more outfalls that discharge into the same mixing zone, pursuant to IDAPA 58.01.02, "Water Quality Standards." For POTWs applying prior to commencement of discharge, data must be submitted no later than twenty-four (24) months after the commencement of discharge. ( )

12. Whole Effluent Toxicity (WET) Monitoring for POTWs. ( )

a. An applicant for a permit under Subsection 105.11 must submit information on effluent monitoring for WET, including an identification of any WET tests conducted during the four and one-half (4 ½) years before the date of the application on any of the applicant's discharges or on any receiving water near the discharge. For POTWs applying prior to commencement of discharge, data must be submitted no later than twenty-four (24) months after the

commencement of discharge. ( )

b. An applicant under Subsection 105.11 must submit to the Department, in compliance with Subsections 105.12.c. through f., the results of valid WET tests for acute or chronic toxicity for samples taken from each outfall through which effluent is discharged to surface waters, except for combined sewer overflows, if the applicant: ( )

i. Has a design flow rate greater than or equal to one (1) million gallons per day (MGD); ( )

ii. Has an approved pretreatment program or is required to develop a pretreatment program; or ( )

iii. Is required to comply with this subsection by the Department, based on consideration of the following factors: ( )

(1) The variability of the pollutants or pollutant parameters in the POTW effluent based on chemical-specific information, the type of treatment plant, and types of industrial contributors; ( )

(2) The ratio of effluent flow to receiving stream flow; ( )

(3) Existing controls on point or non-point sources, including total maximum daily load calculations for the receiving stream segment and the relative contribution of the POTW; ( )

(4) Receiving water characteristics, including possible or known water quality impairment, and whether the POTW discharges to a water designated as an outstanding natural resource water; or ( )

(5) Other considerations, including the history of toxic impacts and compliance problems at the POTW that the Department determines could cause or contribute to adverse water quality impacts. ( )

c. When an applicant under Subsection 105.11 has two (2) or more outfalls with substantially identical effluent discharging to the same receiving water segment, the Department may, on a case-by-case basis, allow the applicant to submit whole effluent toxicity data for only one (1) outfall. The Department may also allow an applicant to composite samples from one (1) or more outfalls that discharge into the same mixing zone. ( )

d. An applicant under Subsection 105.12.b. that is required to perform WET testing must provide: ( )

i. Results of a minimum of four (4) quarterly tests for a year, from the year preceding the permit application or results from four (4) tests performed at least annually in the four and one-half (4 ½) year period before the application, if the results show no appreciable toxicity using a safety factor determined by the Department; ( )

ii. The number of chronic or acute whole effluent toxicity tests that have been conducted since the last permit reissuance; ( )

iii. The results using the form provided by the Department, or test summaries, if available and comprehensive, for each WET test conducted under this subsection for which the information has not been reported previously to the Department; ( )

iv. For WET data submitted to the Department within four and one-half (4 ½) years before the date of the application, the dates on which the data were submitted and a summary of the results; and ( )

v. Any information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if any WET test conducted within the past four and one-half (4 ½) years revealed toxicity. ( )

e. An applicant under Subsection 105.11 must conduct tests with no less than two (2) species, including fish, invertebrate, or plant, and test for acute or chronic toxicity, depending on the range of receiving water

dilution. Unless the Department directs otherwise, an applicant must conduct acute or chronic testing based on the following dilutions: ( )

i. Acute toxicity testing if the dilution of the effluent is greater than a ratio of one thousand to one (1,000:1) at the edge of the mixing zone; ( )

ii. Acute or chronic toxicity testing, if the dilution of the effluent is between a ratio of one hundred to one (100:1) and one thousand to one (1,000:1) at the edge of the mixing zone; acute testing may be more appropriate at the higher end of this range (one thousand to one (1,000:1)), and chronic testing may be more appropriate at the lower end of this range (one hundred to one (100:1)); or ( )

iii. Chronic testing if the dilution of the effluent is less than a ratio of one hundred to one (100:1) at the edge of the mixing zone. ( )

f. For purposes of the WET testing required by this section, an applicant must conduct testing using methods approved under 40 CFR Part 136. ( )

13. Application Requirements for POTWs Receiving Industrial Discharges. ( )

a. An applicant for an IPDES permit as a POTW under Subsection 105.11 must state in its application the number of significant industrial users (SIU) and non-significant categorical industrial users (NSCIU), as defined at 40 CFR 403.3(v), including SIUs and NSCIUs that truck or haul waste, discharging to the POTW. A POTW with one (1) or more SIUs must provide the following information for each SIU that discharges to the POTW: ( )

i. The name and mailing address of the SIU; ( )

ii. A description of all industrial processes that affect or contribute to the SIU's discharge; ( )

iii. The principal products and raw materials of each SIU that affects or contributes to that SIU's discharge; ( )

iv. The average daily volume of wastewater discharged by the SIU, indicating the amount attributable to process flow and non-process flow; ( )

v. A statement whether the SIU is subject to local limits; ( )

vi. A statement whether the SIU is subject to one (1) or more categorical standards, and if so, under which category and subcategory; and ( )

vii. A statement whether any problems at the POTW, including upsets, pass-through, or interference have been attributed to the SIU in the past four and one-half (4 ½) years. ( )

b. The information required in Subsection 105.13.a. may be waived by the Department for a POTW with a pretreatment program if the applicant has submitted either of the following that contains information substantially identical to the information required in Subsection 105.13.a.: ( )

i. An annual report submitted within one (1) year of the application; or ( )

ii. A pretreatment program. ( )

14. Application Requirements for POTWs Receiving Discharges from Hazardous Waste Generators and from Waste Cleanup or Remediation Sites. ( )

a. A POTW receiving hazardous or corrective action wastes or wastes generated at another type of cleanup or remediation site must provide the following information: ( )

i. If the POTW receives, or has been notified that it will receive by truck, rail, or dedicated pipe, any

wastes that are regulated as hazardous wastes under 40 CFR Part 261 and IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," the applicant must report the following: ( )

(1) The method of delivery, including by truck, rail, or dedicated pipe, by which the waste is received; and ( )

(2) The applicable hazardous waste number designated in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste" for the transported waste, and the amount received annually of each hazardous waste; and ( )

ii. If the POTW receives, or has been notified that it will receive, wastewater that originates from remedial activities, including those undertaken under Comprehensive Environmental Response, Compensation, and Liability Act, and the Resource Conservation and Recovery Act sections 3004(u) or 3008(h), the applicant must report the following: ( )

(1) The identity and description of each site or facility at which the wastewater originates; ( )

(2) The identity of any known hazardous constituents specified in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," in the wastewater; and ( )

(3) The extent of any treatment the wastewater receives or will receive before entering the POTW. ( )

b. An applicant under this subsection is exempt from the requirements of Subsection 105.14.a.ii. if the applicant receives no more than fifteen (15) kilograms per month of hazardous wastes, unless the wastes are acute hazardous wastes as specified in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste." ( )

15. Application Requirements for POTWs with Combined Sewer Systems and Overflows. A POTW applicant with a combined sewer system must provide the following information on the combined sewer system and outfalls: ( )

a. A system map indicating the location of: ( )

i. All combined sewer overflow discharge points; ( )

ii. Any sensitive use areas potentially affected by combined sewer overflows including beaches, drinking water supplies, shellfish beds, sensitive aquatic ecosystems; ( )

iii. Outstanding national resource waters potentially affected by combined sewer overflows; and ( )

iv. Waters supporting threatened and endangered species potentially affected by combined sewer overflows; ( )

b. A system diagram of the combined sewer collection system that includes the locations of: ( )

i. Major sewer trunk lines, both combined and separate sanitary; ( )

ii. Points where separate sanitary sewers feed into the combined sewer system; ( )

iii. In-line and off-line storage structures; ( )

iv. Flow-regulating devices; and ( )

v. Pump stations; ( )

c. Information on each outfall for each combined sewer overflow discharge point covered by the permit application, including: ( )

i. The outfall number; ( )

ii. The county and city or town in which the outfall is located; ( )

iii. The latitude and longitude, to the nearest second; and ( )

iv. The distance from shore and depth below surface; ( )

d. A statement whether the applicant monitored any of the following in the past year for a combined sewer overflow: ( )

i. Rainfall; ( )

ii. Overflow volume; ( )

iii. Overflow pollutant concentrations; ( )

iv. Receiving water quality; ( )

v. Overflow frequency; and ( )

vi. The number of storm events monitored in the past year; ( )

e. Information regarding the number of combined sewer overflows from each outfall in the past year and, if available: ( )

i. The average duration per event; ( )

ii. The average volume for each event; and ( )

iii. The minimum rainfall that caused a combined sewer overflow event in the last year; ( )

f. The name of each receiving water; ( )

g. A description of any known water quality impact caused by the combined sewer overflow operations, including permanent or intermittent beach closings, permanent or intermittent shellfish bed closings, fish kills, fish advisories, other recreational loss, or the exceedance of any applicable state water quality standard, on the receiving water; and ( )

h. All applicants must provide the name, mailing address, e-mail address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility. ( )

16. Application Requirements for New Sources and New Discharges. ( )

a. An applicant for an IPDES permit for a new manufacturing, commercial, mining, silviculture, or other discharge, except for a new discharge from a facility subject to the requirements of Subsection 105.08 or a new discharge of storm water associated with industrial activity that is subject to the requirements of Subsection 105.19, except as provided by Subsection 105.19.c., must provide the following information to the Department, using the applicable forms specified in Subsection 105.04.b.: ( )

i. The latitude and longitude to the nearest second of the expected outfall location and the name of each receiving water; ( )

ii. The expected date the discharge will commence; ( )

iii. The following information on flows, sources of pollution, and treatment technologies: ( )

(1) A narrative describing the treatment that the wastewater will receive, identifying all operations contributing wastewater to the effluent, stating the average flow contributed by each operation, and describing the ultimate disposal of any solid or liquid wastes not discharged; ( )

(2) A line drawing of the water flow through the facility with a water balance as described in Subsection 105.07.b.; and ( )

(3) If any of the expected discharges will be intermittent or seasonal, a description of the frequency, duration, and maximum daily flow rate of each discharge occurrence, except for storm water runoff, spillage, or leaks; ( )

iv. If a new source performance standard promulgated under the Clean Water Act section 306 or an effluent limitation guideline applies to the applicant and is expressed in terms of production or other measure of operation, a reasonable calculation of the applicant's expected actual production reported in the units used in the applicable effluent guideline or new source performance standard, as required by Subsection 303.02.b., for each of the first three (3) years. The applicant may submit alternative estimates if production is likely to vary; ( )

v. The effluent characteristics information as described in Subsection 105.16.b.; ( )

vi. The existence of any technical evaluation concerning the applicant's wastewater treatment, along with the name and location of similar plants of which the applicant has knowledge; ( )

vii. Any optional information the permittee wishes the Department to consider. ( )

b. An applicant under this section must provide the following effluent characteristics information: ( )

i. Estimated daily maximum, daily average, and the source of that information for each outfall for the following pollutants or parameters: ( )

(1) Five (5)-day biochemical oxygen demand (BOD5); ( )

(2) Chemical oxygen demand (COD); ( )

(3) Total organic carbon (TOC); ( )

(4) Total suspended solids (TSS); ( )

(5) Flow; ( )

(6) Ammonia, as N; ( )

(7) Temperature, in both winter and summer; and ( )

(8) pH. ( )

ii. Estimated daily maximum, daily average, and the source of that information for each outfall for all the conventional and nonconventional pollutants in Table IV of Appendix D to 40 CFR Part 122, if the applicant knows or has reason to believe any of the pollutants will be present or if any of the pollutants are limited by an effluent limitation guideline or new source performance standard either directly or indirectly through limitations on an indicator pollutant; ( )

iii. Estimated daily maximum, daily average, and the source of that information for the following pollutants for each outfall, if the applicant knows or has reason to believe the pollutants will be present in the discharge from any outfall: ( )

(1) All pollutants in Table IV of Appendix D to 40 CFR Part 122; ( )

(2) The toxic metals, total cyanide, and total phenols listed in Table III of Appendix D to 40 CFR Part 122; ( )

(3) The organic toxic pollutants in Table II of Appendix D to 40 CFR Part 122 except bis (chloromethyl) ether, dichlorofluoromethane, and trichlorofluoromethane; however, this requirement is waived for: ( )

(a) An applicant with expected gross sales of less than two hundred eighty-seven thousand three hundred dollars ($287,300) per year in 2014 dollars for the next three (3) years (see also Subsection 105.07.o.ii.); or ( )

(b) A coal mine with expected average production of less than one hundred thousand (100,000) tons of coal per year (see also Subsection 105.07.o.i.); ( )

iv. The information that 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) may be discharged if the applicant uses or manufactures one (1) of the following compounds, or if the applicant knows or has reason to believe that TCDD will or may be present in an effluent: ( )

(1) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); Chemical Abstract Service (CAS) #93-76-5; ( )

(2) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #93-72-1); ( )

(3) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136-25-4); ( )

(4) o,o-dimethyl o-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel) (CAS #299-84-3); ( )

(5) 2,4,5-trichlorophenol (TCP) (CAS #95-95-4); or ( )

(6) Hexachlorophene (HCP) (CAS #70-30-4); and ( )

v. The potential presence of any of the pollutants listed in Table V of Appendix D to 40 CFR Part 122 if the applicant believes these pollutants will be present in any outfall, except that quantitative estimates are not required unless they are already available at the time the applicant applies for the permit. ( )

c. No later than twenty-four (24) months after the commencement of discharge from the proposed facility, the applicant is required to complete and submit Items V and VI of EPA application Form 2C or the Department equivalent. The applicant need not complete those portions of Item V or the Department equivalent requiring tests already performed and reported under the discharge monitoring requirements of its permit. ( )

d. The effluent characteristics requirements in Subsections 105.08.b., c., and e. that an applicant must provide estimates of certain pollutants expected to be present do not apply to pollutants present in a discharge solely as a result of their presence in intake water. However, an applicant must report that a pollutant is present. For purposes of this subsection, net credits may be provided for the presence of pollutants in intake water if the requirements of Subsection 303.07 are met, and (except for discharge flow, temperature, and pH) all levels must be estimated as concentration and as total mass. ( )

e. The Department may waive the reporting requirements for any of the pollutants and parameters in Subsection 105.16.b. if the applicant requests a waiver with its application, or earlier, and demonstrates that information adequate to support issuance of the permit can be obtained through less stringent reporting requirements. ( )

17. 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. ( )

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. ( )

b. All applicants must submit the following information: ( )

i. The name, mailing address, and location of the TWTDS for which the application is submitted; ( )

ii. The name, mailing address, e-mail address, EIN or Department equivalent, and telephone number of the applicant and indication whether the applicant is the owner, operator, or both; ( )

iii. Whether the facility is a Class I Sludge Management Facility; ( )

iv. The design flow rate in million gallons per day (MGD); ( )

v. The total population and equivalent dwelling units (EDU) served; and ( )

vi. The TWTDS's status as federal, state, private, public, or other entity. ( )

c. All applicants must submit the facility's NPDES or IPDES permit number, if applicable, and a listing of all other federal, state, and local permits or construction approvals received or applied for under any of the following programs: ( )

i. Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; ( )

ii. 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"; ( )

iii. IPDES program under IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program"; ( )

iv. Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; ( )

v. Nonattainment program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; ( )

vi. National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; ( )

vii. Dredge or fill permits under the Clean Water Act section 404; ( )

viii. Sludge Management Program under IDAPA 58.01.16.650, "Wastewater Rules," and Section 380 (Sewage Sludge) of these rules; and ( )

ix. Other relevant environmental permits, programs or activities, including those subject to state jurisdiction, approval, and permits. ( )

d. All applicants must identify any generation, treatment, storage, land application, or disposal of sewage sludge that occurs in Indian country. ( )

e. All applicants must submit a topographic map (or other map if a topographic map is unavailable) extending one (1) mile beyond property boundaries of the facility and showing the following information: ( )

i. All sewage sludge management facilities, including on-site treatment, storage, and disposal sites; and ( )

ii. Wells, springs, and other surface water bodies that are within one-quarter (¼) mile of the property boundaries and listed in public records or otherwise known to the applicant. ( )

f. All applicants must submit a line drawing and/or a narrative description that identifies all sewage sludge management practices employed during the term of the permit, including all units used for collecting, dewatering, storing, or treating sewage sludge, the destination(s) of all liquids and solids leaving each such unit, and all processes used for pathogen reduction and vector attraction reduction. ( )

g. The applicant must submit sewage sludge monitoring data for the pollutants for which limits in sewage sludge have been established in 40 CFR Part 503 for the applicant's use or disposal practices on the date of permit application. ( )

i. The Department may require sampling for additional pollutants, as appropriate, on a case-by-case basis; ( )

ii. Applicants must provide data from a minimum of three (3) samples taken within four and one-half (4 ½) years prior to the date of the permit application. Samples must be representative of the sewage sludge and should be taken at least one (1) month apart. Existing data may be used in lieu of sampling done solely for the purpose of this application; ( )

iii. Applicants must collect and analyze samples in accordance with analytical methods approved under SW-846 (Test Methods for Evaluating Solid Waste, Physical/Chemical Methods) unless an alternative has been specified in an existing sewage sludge permit; and ( )

iv. The monitoring data provided must include at least the following information for each parameter: ( )

(1) Average monthly concentration for all samples (mg/kg dry weight), based upon actual sample values; ( )

(2) The analytical method used; and ( )

(3) The method detection level. ( )

h. If the applicant is either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge, the following information must be provided: ( )

i. If the applicant's facility generates sewage sludge, the total dry metric tons per three hundred sixty-five (365)-day period generated at the facility; ( )

ii. If the applicant's facility receives sewage sludge from another facility, the following information for each facility from which sewage sludge is received: ( )

(1) The name, mailing address, and location of the other facility; ( )

(2) The total dry metric tons per three hundred sixty-five (365)-day period received from the other facility; and ( )

(3) A description of any treatment processes occurring at the other facility, including blending activities and treatment to reduce pathogens or vector attraction characteristics; ( )

iii. If the applicant's facility changes the quality of sewage sludge through blending, treatment, or other activities, the following information must be submitted: ( )

(1) Whether the Class A pathogen reduction requirements in 40 CFR 503.32(a) or the Class B pathogen reduction requirements in 40 CFR 503.32(b) are met, and a description of any treatment processes used to reduce pathogens in sewage sludge; ( )

(2) Whether any of the vector attraction reduction options of 40 CFR 503.33(b)(1) through (b)(8) are met, and a description of any treatment processes used to reduce vector attraction properties in sewage sludge; and ( )

(3) A description of any other blending, treatment, or other activities that change the quality of sewage sludge; ( )

iv. If sewage sludge from the applicant's facility meets the ceiling concentrations in 40 CFR 503.13(b)(1), the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one (1) of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(8), and if the sewage sludge is applied to the land, the applicant must provide the total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that is applied to the land; ( )

v. If sewage sludge from the applicant's facility is sold or given away in a bag or other container for application to the land, and the sewage sludge is not subject to Subsection 105.17.h.iv., the applicant must provide the following information: ( )

(1) The total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that is sold or given away in a bag or other container for application to the land; and ( )

(2) A copy of all labels or notices that accompany the sewage sludge being sold or given away; and ( )

vi. If sewage sludge from the applicant's facility is provided to another person who generates sewage sludge during the treatment of domestic sewage in a treatment works or a person who derives a material from sewage sludge, and the sewage sludge is not subject to Subsection 105.17.h.iv., the applicant must provide the following information for each facility receiving the sewage sludge: ( )

(1) The name, e-mail address, and mailing address of the receiving facility; ( )

(2) The total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that the applicant provides to the receiving facility; ( )

(3) A description of any treatment processes occurring at the receiving facility, including blending activities and treatment to reduce pathogens or vector attraction characteristic; ( )

(4) A copy of the notice and necessary information that the applicant is required to provide the receiving facility under 40 CFR 503.12(g); and ( )

(5) If the receiving facility places sewage sludge in bags or containers for sale or give-away to application to the land, a copy of any labels or notices that accompany the sewage sludge. ( )

i. If sewage sludge from the applicant's facility is applied to the land in bulk form, and is not subject to Subsection 105.17.h.iv., v., or vi., the applicant must provide the following information: ( )

i. The total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to

this subsection that is applied to the land; ( )

ii. If any land application sites are located in states other than the state where the sewage sludge is prepared, a description of how the applicant will notify the permitting authority for the state(s) where the land application sites are located; ( )

iii. The following information for each land application site that has been identified at the time of permit application: ( )

(1) The name (if any), and location for the land application site; ( )

(2) The site's latitude and longitude to the nearest second, and method of determination; ( )

(3) A topographic map (or other map if a topographic map is unavailable) that shows the site's location; ( )

(4) The name, mailing address, e-mail address, and telephone number of the site owner, if different from the applicant; ( )

(5) The name, mailing address, e-mail address, and telephone number of the person who applies sewage sludge to the site, if different from the applicant; ( )

(6) Whether the site is agricultural land, forest, a public contact site, or a reclamation site, as such site types are defined under 40 CFR 503.11; ( )

(7) The type of vegetation grown on the site, if known, and the nitrogen requirement for this vegetation; ( )

(8) Whether either of the vector attraction reduction options of 40 CFR 503.33(b)(9) or (b)(10) is met at the site, and a description of any procedures employed at the time of use to reduce vector attraction properties in sewage sludge; and ( )

(9) Other information that describes how the site will be managed, as specified by the permitting authority. ( )

iv. The following information for each land application site that has been identified at the time of permit application, if the applicant intends to apply bulk sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site: ( )

(1) Whether the applicant has contacted the permitting authority in the state where the bulk sewage sludge subject to 40 CFR 503.13(b)(2) will be applied, to ascertain whether bulk sewage sludge subject to 40 CFR 503.13(b)(2) has been applied to the site on or since July 20, 1993, and if so, the name of the permitting authority and the name, phone number, and e-mail address, if available, of a contact person at the permitting authority; ( )

(2) Identification of facilities other than the applicant's facility that have sent, or are sending, sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site since July 20, 1993, if, based on the inquiry in Subsection 105.17.i.iv(1) bulk sewage sludge subject to cumulative pollutant loading rates in 40 CFR 503.13(b)(2) has been applied to the site since July 20, 1993; ( )

v. If not all land application sites have been identified at the time of permit application, the applicant must submit a land application plan that, at a minimum: ( )

(1) Describes the geographical area covered by the plan; ( )

(2) Identifies the site selection criteria; ( )

(3) Describes how the site(s) will be managed; ( )

(4) Provides for advance notice to the permit authority of specific land application sites and reasonable time for the permit authority to object prior to land application of the sewage sludge; and ( )

(5) Provides for advance public notice of land application sites in the manner prescribed by state and local law. When state or local law does not require advance public notice, it must be provided in a manner reasonably calculated to apprise the general public of the planned land application. ( )

j. If sewage sludge from the applicant's facility is placed on a surface disposal site, the applicant must provide the following information: ( )

i. The total dry metric tons of sewage sludge from the applicant's facility that is placed on surface disposal sites per three hundred sixty-five (365)-day period; ( )

ii. The following information for each surface disposal site receiving sewage sludge from the applicant's facility that the applicant does not own or operate: ( )

(1) The site name or number, contact person, mailing address, e-mail address, and telephone number for the surface disposal site; and ( )

(2) The total dry metric tons from the applicant's facility per three hundred sixty-five (365)-day period placed on the surface disposal site; ( )

iii. The following information for each active sewage sludge unit at each surface disposal site that the applicant owns or operates: ( )

(1) The name or number and the location of the active sewage sludge unit; ( )

(2) The unit's latitude and longitude to the nearest second, and method of determination; ( )

(3) If not already provided, a topographic map (or other map if a topographic map is unavailable) that shows the unit's location; ( )

(4) The total dry metric tons placed on the active sewage sludge unit per three hundred sixty-five (365)-day period; ( )

(5) The total dry metric tons placed on the active sewage sludge unit over the life of the unit; ( )

(6) A description of any liner for the active sewage sludge unit, including whether it has a maximum permeability of 1×10^{-7} cm/sec; ( )

(7) A description of any leachate collection system for the active sewage sludge unit, including the method used for leachate disposal, and any federal, state, and local permit number(s) for leachate disposal; ( )

(8) If the active sewage sludge unit is less than one hundred fifty (150) meters from the property line of the surface disposal site, the actual distance from the unit boundary to the site property line; ( )

(9) The remaining capacity (dry metric tons) for the active sewage sludge unit; ( )

(10) The date on which the active sewage sludge unit is expected to close, if such a date has been identified; ( )

(11) The following information for any other facility that sends sewage sludge to the active sewage sludge unit: ( )

(a) The name, contact person, and mailing address of the facility; and ( )

(b) Available information regarding the quality of the sewage sludge received from the facility,

including any treatment at the facility to reduce pathogens or vector attraction characteristics; ( )

(12) Whether any of the vector attraction reduction options of 40 CFR 503.33(b)(9) through (b)(11) is met at the active sewage sludge unit, and a description of any procedures employed at the time of disposal to reduce vector attraction properties in sewage sludge; ( )

(13) The following information, as applicable to any ground water monitoring occurring at the active sewage sludge unit: ( )

(a) A description of any ground water monitoring occurring at the active sewage sludge unit; ( )

(b) Any available ground water monitoring data, with a description of the well locations and approximate depth to ground water; ( )

(c) A copy of any ground water monitoring plan that has been prepared for the active sewage sludge unit; and ( )

(d) A copy of any certification that has been obtained from a qualified ground water scientist that the aquifer has not been contaminated; and ( )

(14) If site-specific pollutant limits are being sought for the sewage sludge placed on this active sewage sludge unit, information to support such a request. ( )

k. If sewage sludge from the applicant's facility is fired in a sewage sludge incinerator, the applicant must provide the following information: ( )

i. The total dry metric tons of sewage sludge from the applicant's facility that is fired in sewage sludge incinerators per three hundred sixty-five (365)-day period; ( )

ii. The following information for each sewage sludge incinerator firing the applicant's sewage sludge that the applicant does not own or operate: ( )

(1) The name and/or number, contact person, mailing address, e-mail address, and telephone number of the sewage sludge incinerator; and ( )

(2) The total dry metric tons from the applicant's facility per three hundred sixty-five (365)-day period fired in the sewage sludge incinerator; ( )

iii. The following information for each sewage sludge incinerator that the applicant owns or operates: ( )

(1) The name and/or number and the location of the sewage sludge incinerator; ( )

(2) The incinerator's latitude and longitude to the nearest second, and method of determination; ( )

(3) The total dry metric tons per three hundred sixty-five (365)-day period fired in the sewage sludge incinerator; ( )

(4) Information, test data, and documentation of ongoing operating parameters indicating that compliance with the National Emission Standard for Beryllium in 40 CFR Part 61 will be achieved; ( )

(5) Information, test data, and documentation of ongoing operating parameters indicating that compliance with the National Emission Standard for Mercury in 40 CFR Part 61 will be achieved; ( )

(6) The dispersion factor for the sewage sludge incinerator, as well as modeling results and supporting documentation; ( )

(7) The control efficiency for parameters regulated in 40 CFR 503.43, as well as performance test results and supporting documentation; ( )

(8) Information used to calculate the risk specific concentration (RSC) for chromium, including the results of incinerator stack tests for hexavalent and total chromium concentrations, if the applicant is requesting a chromium limit based on a site-specific RSC value; ( )

(9) Whether the applicant monitors total hydrocarbons (THC) or Carbon Monoxide (CO) in the exit gas for the sewage sludge incinerator; ( )

(10) The type of sewage sludge incinerator; ( )

(11) The maximum performance test combustion temperature, as obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies; ( )

(12) The following information on the sewage sludge feed rate used during the performance test: ( )

(a) Sewage sludge feed rate in dry metric tons per day; ( )

(b) Identification of whether the feed rate submitted is average use or maximum design; and ( )

(c) A description of how the feed rate was calculated; ( )

(13) The incinerator stack height in meters for each stack, including identification of whether actual or creditable stack height was used; ( )

(14) The operating parameters for the sewage sludge incinerator air pollution control device(s), as obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies; ( )

(15) Identification of the monitoring equipment in place, including (but not limited to) equipment to monitor the following: ( )

(a) Total hydrocarbons or Carbon Monoxide; ( )

(b) Percent Oxygen; ( )

(c) Percent moisture; and ( )

(d) Combustion temperature; and ( )

(16) A list of all air pollution control equipment used with this sewage sludge incinerator. ( )

l. If sewage sludge from the applicant's facility is sent to a municipal solid waste landfill (MSWLF), the applicant must provide the following information for each MSWLF to which sewage sludge is sent: ( )

i. The name, contact person, mailing address, e-mail address location, and all applicable permit numbers of the MSWLF; ( )

ii. The total dry metric tons per three hundred sixty-five (365)-day period sent from this facility to the MSWLF; ( )

iii. A determination of whether the sewage sludge meets applicable requirements for disposal of sewage sludge in a MSWLF, including the results of the paint filter liquids test and any additional requirements that apply on a site-specific basis; and ( )

iv. Information, if known, indicating whether the MSWLF complies with criteria set forth in 40 CFR Part 258. ( )

m. All applicants must provide the name, mailing address, e-mail address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility related to sewage sludge generation, treatment, use, or disposal. ( )

n. At the request of the Department, the applicant must provide any other information necessary to determine the appropriate standards for permitting under 40 CFR Part 503 and any other information necessary to assess the sewage sludge use and disposal practices, determine whether to issue a permit, or identify appropriate permit requirements. ( )

o. TWTDS facilities using or disposing of sewage sludge to which a standard applicable to its sewage sludge use or disposal practices have been published must submit the following information on EPA Form 2S, Part I, or on the Department equivalent form: ( )

i. The TWTDS's name, mailing address, location, and status as federal, state, private, public, or other entity; ( )

ii. The applicant's name, address, e-mail address, telephone number, and ownership status; ( )

iii. A description of the sewage sludge use or disposal practices. Unless the sewage sludge meets the requirements of Subsection 105.17.h.iv., the description must include the name and address of any facility where sewage sludge is sent for treatment or disposal, and the location of any land application sites; ( )

iv. Annual amount of sewage sludge generated, treated, used or disposed (estimated dry weight basis); and ( )

v. The most recent data the TWTDS may have on the quality of the sewage sludge. ( )

18. Application Requirements for Municipal Separate Storm Sewer Discharges. The operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the Department under 40 CFR 122.26(a)(1)(v), may submit a jurisdiction-wide or system-wide permit application. Where more than one (1) public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent or interconnected municipal separate storm sewer systems), such operators may be a co-applicant to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under 40 CFR 122.26 (a)(1)(v) must include: ( )

a. In Part 1 of the application ( )

i. The applicants' name, address, e-mail address, EIN or Department equivalent, telephone number of contact person, ownership status and status as a state or local government entity; ( )

ii. A description of existing legal authority to control discharges to the municipal separate storm sewer system. When existing legal authority is not sufficient to meet the criteria provided in Subsection 105.18.b.i., the description must list additional authorities as will be necessary to meet the criteria and include a schedule and commitment to seek such additional authority that will be needed to meet the criteria; ( )

iii. A description of the historic use of ordinances, guidance or other controls which limited the discharge of non-storm water discharges to any POTW serving the same area as the municipal separate storm sewer system, include all of the following: ( )

(1) A USGS seven point five (7.5) minute topographic map (or equivalent topographic map with a scale between one to ten thousand (1:10,000) and one to twenty-four thousand (1:24,000) if cost effective) extending one (1) mile beyond the service boundaries of the municipal storm sewer system covered by the permit application; ( )

(2) The location of known municipal storm sewer system outfalls discharging to waters of the United States; ( )

(3) A description of the land use activities (e.g. divisions indicating undeveloped, residential, commercial, agricultural and industrial uses) accompanied with estimates of population densities and projected growth for a ten (10) year period within the drainage area served by the separate storm sewer and an estimate of an average runoff coefficient for each land use type; ( )

(4) The location and a description of the activities of the facility of each currently operating or closed municipal landfill or other treatment, storage or disposal facility for municipal waste; ( )

(5) The location and the permit number of any known discharge to the municipal storm sewer that has been issued a NPDES or IPDES permit; ( )

(6) The location of major structural controls for storm water discharge (retention basins, detention basins, major infiltration devices, etc.); and ( )

(7) The identification of publicly owned parks, recreational areas, and other open lands. ( )

iv. A description of the discharge including: ( )

(1) Monthly mean rain and snow fall estimates (or summary of weather bureau data) and the monthly average number of storm events; ( )

(2) Existing quantitative data describing the volume and quality of discharges from the municipal storm sewer, including a description of the outfalls sampled, sampling procedures and analytical methods used; ( )

(3) A list of water bodies that receive discharges from the municipal separate storm sewer system, including downstream segments, lakes and estuaries, where pollutants from the system discharges may accumulate and cause water degradation and a brief description of known water quality impacts. At a minimum, the description of impacts must include a description of whether the water bodies receiving such discharges have been: ( )

(a) Assessed and reported in the Clean Water Act section 305(b) reports submitted by the Department, the basis for the assessment (evaluated or monitored), a summary of designated use support and attainment of Clean Water Act goals (fishable and swimmable waters), and causes of nonsupport of designated uses; ( )

(b) Listed under the Clean Water Act section 304(l)(1)(A)(i), 304(l)(1)(A)(ii), or 304(l)(1)(B) that is not expected to meet water quality standards or water quality goals; ( )

(c) Listed in state Nonpoint Source Assessments required by the Clean Water Act section 319(a), without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards due to storm sewers, construction, highway maintenance and runoff from municipal landfills and municipal sludge adding significant pollution (or contributing to a violation of water quality standards); ( )

(d) Identified and classified according to eutrophic condition of publicly owned lakes listed in state reports required under the Clean Water Act section 314(a) (include the following: A description of those publicly owned lakes for which uses are known to be impaired, a description of procedures, processes and methods to control the discharge of pollutants from municipal separate storm sewers into such lakes, and a description of methods and procedures to restore the quality of such lakes); ( )

(e) Recognized by the applicant as highly valued or sensitive waters; ( )

(f) Defined by the state as wetlands; and ( )

(g) Found to have pollutants in bottom sediments, fish tissue, or biosurvey data. ( )

(4) Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in the permit application. At a minimum, a screening analysis includes a narrative description, for either each field screening point or major outfall, of visual observations made during dry weather periods. If any flow is observed, two (2) grab samples are to be collected during a twenty-four (24)-hour period with a minimum period of four (4) hours between samples. For all such samples, a narrative description of the color, odor, turbidity, the presence of an oil sheen or surface scum as well as any other relevant observations regarding the potential presence of non-storm water discharges or illegal dumping must be provided. In addition, a narrative description of the results of a field analysis using suitable methods to estimate pH, total chlorine, total copper, total phenol, and detergents (or surfactants) must be provided along with a description of the flow rate. Where the field analysis does not involve analytical methods approved under 40 CFR Part 136, the applicant must provide a description of the method used including the name of the manufacturer of the test method along with the range and accuracy of the test. Field screening points are either major outfalls or other outfall points (or any other point of access such as manholes) randomly located throughout the storm sewer system by placing a grid over a drainage system map and identifying those cells of the grid which contain a segment of the storm sewer system or major outfall. The field screening points are established using the following guidelines and criteria: ( )

(a) Overlay a grid system consisting of perpendicular north-south and east-west lines spaced one-quarter (¼) mile apart on a map of the municipal storm sewer system, creating a series of cells; ( )

(b) Identify all cells that contain a segment of the storm sewer system; select one (1) field screening point in each cell; major outfalls may be used as field screening points; ( )

(c) Field screening points should be located downstream of any sources of suspected illegal or illicit activity; ( )

(d) Locate field screening points to the degree practicable at the farthest manhole or other accessible location downstream in the system, within each cell; however, safety of personnel and accessibility of the location should be considered in making this determination; ( )

(e) Hydrological conditions, total drainage area of the site, population density of the site, traffic density, age of the structures or buildings in the area, history of the area, and land use types; ( )

(f) For medium municipal separate storm sewer systems, no more than two hundred fifty (250) cells need to have identified field screening points; in large municipal separate storm sewer systems, no more than five hundred (500) cells need to have identified field screening points; cells established by the grid that contain no storm sewer segments will be eliminated from consideration; if fewer than two hundred fifty (250) cells in medium municipal sewers are created, and fewer than 500 in large systems are created by the overlay on the municipal sewer map, then all those cells which contain a segment of the sewer system are subject to field screening (unless access to the separate storm sewer system is impossible); and ( )

(g) Large or medium municipal separate storm sewer systems which are unable to utilize the procedures described in Subsection 105.18.a.iv(4)(a) through (f), because a sufficiently detailed map of the separate storm sewer systems is unavailable, must field screen no more than five hundred (500) or two hundred fifty (250) major outfalls respectively (or all major outfalls in the system, if less). In such circumstances, the applicant must establish a grid system consisting of north-south and east-west lines spaced one-quarter (¼) mile apart as an overlay to the boundaries of the municipal storm sewer system, thereby creating a series of cells. The applicant will then select major outfalls in as many cells as possible until at least five hundred (500) major outfalls (large municipalities) or two hundred fifty (250) major outfalls (medium municipalities) are selected; a field screening analysis must occur at these major outfalls; and ( )

(5) Information and a proposed program to meet the requirements of Subsection 105.18.b.iii., including at least: the location of outfalls or field screening points appropriate for representative data collection under Subsection 105.18.b.iii(1), a description of why the outfall or field screening point is representative, the seasons during which sampling is intended, a description of the sampling equipment. The proposed location of outfalls or field screening points for such sampling should reflect water quality concerns (see Subsection 105.18.a.iv(3)) to the extent practicable; ( )

v. A description of the existing management programs to control pollutants from the municipal separate storm sewer system including existing source controls and operation and maintenance measures for structural controls that are currently being implemented. Such controls may include, but are not limited to: procedures to control pollution resulting from construction activities; floodplain management controls; wetland protection measures; best management practices for new subdivisions; and emergency spill response programs. The description may address controls established under state law as well as local requirements; ( )

vi. A description of the existing program to identify illicit connections to the municipal storm sewer system, that includes inspection procedures and methods for detecting and preventing illicit discharges, and describe areas where this program has been implemented; and ( )

vii. A description of the financial resources currently available to the municipality to complete part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets, and sources of funds for storm water programs. ( )

b. In Part 2 of the application: ( )

i. A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance, or series of contracts which authorizes or enables the applicant at a minimum to: ( )

(1) Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity; ( )

(2) Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer; ( )

(3) Control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water; ( )

(4) Control through interagency agreements among co-applicants the contribution of pollutants from a portion of the municipal system to another portion of the municipal system; ( )

(5) Require compliance with conditions in ordinances, permits, contracts or orders; and ( )

(6) Carry out all inspection, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer. ( )

ii. The location of any major outfall that discharges to waters of the United States that was not reported under Subsection 105.18.a.iii(2). Provide an inventory, organized by watershed of the name and address, and a description (such as Standard Industrial Classification (SIC) codes) which best reflects the principal products or services provided by each facility which may discharge, to the municipal separate storm sewer, storm water associated with industrial activity; ( )

iii. When quantitative data for a pollutant are required under Subsection 105.18.b.iii(1)(c), the applicant must collect a sample of effluent in accordance with Subsection 105.07.c. through 105.07.m. and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including: ( )

(1) Quantitative data from representative outfalls designated by the Department developed as follows (based on information received in part 1 of the application. The Department will designate between five (5) and ten (10) outfalls or field screening points as representative of the commercial, residential and industrial land use activities

of the drainage area contributing to the system or, where there are less than five (5) outfalls covered in the application, the Department will designate all outfalls): ( )

(a) For each outfall or field screening point designated under this subsection, samples must be collected of storm water discharges from three (3) storm events occurring at least one (1) month apart in accordance with the requirements at Subsection 105.07.c. through 105.07.m. (the Department may allow exemptions to sampling three (3) storm events when climatic conditions create good cause for such exemptions); ( )

(b) A narrative description must be provided of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable (greater than one-tenth (0.1) inch rainfall) storm event; ( )

(c) For samples collected and described under Subsections 105.18.b.iii(1)(a) and (b), quantitative data will be provided for the organic pollutants listed in Table II and the pollutants listed in Table III (toxic metals, cyanide, and total phenols) of Appendix D of 40 CFR Part 122, and for the following pollutants: ( )

(i) Total suspended solids (TSS); ( )

(ii) Total dissolved solids (TDS); ( )

(iii) Chemical oxygen demand (COD); ( )

(iv) Five (5)-day biochemical oxygen demand (BOD5); ( )

(v) Oil and grease; ( )

(vi) Fecal coliform (including *E. coli*); ( )

(vii) Enterococci (previously known as fecal streptococcus); ( )

(viii) pH; ( )

(ix) Total Kjeldahl nitrogen; ( )

(x) Nitrate plus nitrite; ( )

(xi) Total ammonia plus organic nitrogen; ( )

(xii) Dissolved phosphorus; and ( )

(xiii) Total phosphorus; ( )

(d) Additional limited quantitative data required by the Department for determining permit conditions (the Department may require that quantitative data be provided for additional parameters, and may establish sampling conditions such as the location, season of sample collection, form of precipitation (snow melt, rainfall) and other parameters necessary to insure representativeness); ( )

(2) Estimates of the annual pollutant load of the cumulative discharges to waters of the United States from all identified municipal outfalls and the event mean concentration of the cumulative discharges to waters of the United States from all identified municipal outfalls during a storm event for BOD5, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead, and zinc. Estimates must be accompanied by a description of the procedures for estimating constituent loads and concentrations, including any modelling, data analysis, and calculation methods; ( )

(3) A proposed schedule to provide estimates for each major outfall identified in either Subsection 105.18.b.ii. or 105.18.a.iii(2) of the seasonal pollutant load and of the event mean concentration of a representative

storm for any constituent detected in any sample required under Subsection 105.18.b.iii(1); and ( )

(4) A proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of instream stations), why the location is representative, the frequency of sampling, parameters to be sampled, and a description of sampling equipment; ( )

iv. A proposed management program covering the duration of the permit, that includes a comprehensive planning process involving public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate. The program must also include a description of staff and equipment available to implement the program. Separate proposed programs may be submitted by each co-applicant. Proposed programs may impose controls on a system wide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. Proposed programs will be considered by the Department when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs must describe priorities for implementing controls. Such programs must be based on: ( )

(1) A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls. At a minimum, the description must include: ( )

(a) A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate storm sewers; ( )

(b) A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plan must address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed (controls to reduce pollutants in discharges from municipal separate storm sewers containing construction site runoff are addressed in Subsection 105.18.b.iv(4)); ( )

(c) A description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities; ( )

(d) A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible; ( )

(e) A description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage, or disposal facilities for municipal waste that identifies priorities and procedures for inspections and establishing and implementing control measures for such discharges (this program can be coordinated with the program developed under Subsection 105.18.b.iv(3)); and ( )

(f) A description of a program to reduce to the maximum extent practicable, pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides, and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities; ( )

(2) A description of a program, including a schedule, to detect and remove (or require the discharger to the municipal separate storm sewer to obtain a separate IPDES permit for) illicit discharges and improper disposal into the storm sewer. The proposed program must include: ( )

(a) A description of a program, including inspections, to implement and enforce an ordinance, orders

or similar means to prevent illicit discharges to the municipal separate storm sewer system. This program description must address all types of illicit discharges; however, the following categories of non-storm water discharges or flows must be addressed where such discharges are identified by the municipality as sources of pollutants to waters of the United States: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined in Section 010) to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (program descriptions must address discharges or flows from firefighting only where such discharges or flows are identified as significant sources of pollutants to waters of the United States); ( )

(b) A description of procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by such field screens; ( )

(c) A description of procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water (such procedures may include: sampling procedures for constituents such as fecal coliform (including *E. coli*), enterococci (previously known as fecal streptococcus), surfactants (MBAS), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting in storm sewer inspections where safety and other considerations allow. Such description must include the location of storm sewers that have been identified for such evaluation); ( )

(d) A description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer; ( )

(e) A description of a program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers; ( )

(f) A description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and ( )

(g) A description of controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary; ( )

(3) A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program must: ( )

(a) Identify priorities and procedures for inspections and establishing and implementing control measures for such discharges; and ( )

(b) Describe a monitoring program for storm water discharges associated with the industrial facilities identified in Subsection 105.18.b.iv(3), to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES or IPDES permit for a facility; oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under Subsections 105.07.j. through l.; ( )

(4) A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system that includes: ( )

(a) A description of procedures for site planning which incorporate consideration of potential water quality impacts; ( )

(b) A description of requirements for nonstructural and structural best management practices; ( )

(c) A description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality; and ( )

(d) A description of appropriate educational and training measures for construction site operators; ( )

v. Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment must also identify known impacts of storm water controls on ground water; ( )

vi. For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under Subsections 105.18.b.iii. and iv. Such analysis must include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds; ( )

vii. Where more than one (1) legal entity submits an application, the application must contain a description of the roles and responsibilities of each legal entity and procedures to ensure effective coordination; and ( )

viii. Where requirements under Subsections 105.18.a.iv(5), 105.18.b.ii., 105.18.b.iii.(2), and 105.18.b.iv. are not practicable or are not applicable, the Department may exclude any operator of a discharge from a municipal separate storm sewer which is designated under 40 CFR 122.26(a)(1)(v), (b)(4)(ii) or (b)(7)(ii) from such requirements. The Department must not exclude the operator of a discharge from a municipal separate storm sewer identified in Appendix F, G, H or I of 40 CFR Part 122, from any of the permit application requirements under this subsection except where authorized under this section. ( )

19. Application Requirements for Industrial and Construction Storm Water Discharges. Application requirements for storm water discharges associated with industrial activity and storm water discharges associated with small construction activity. ( )

a. Dischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit or any discharge of storm water which the Department is evaluating for designation (see Section 130, General Permits) under 40 CFR 122.26(a)(1)(v) and is not a municipal storm sewer, must submit an IPDES application in accordance with the requirements of Section 105 (Application for an Individual IPDES Permit) as modified and consistent with this subsection. ( )

b. Except as provided in Subsections 105.19.c. through e., the operator of a storm water discharge associated with industrial activity subject to this section must provide: ( )

i. A site map showing topography (or indicating the outline of drainage areas served by the outfall(s) covered in the application if a topographic map is unavailable) of the facility including: ( )

(1) Each of its drainage and discharge structures; ( )

(2) The drainage area of each storm water outfall; ( )

(3) Paved areas and buildings within the drainage area of each storm water outfall, each past or present area used for outdoor storage or disposal of significant materials, each existing structural control measure to reduce pollutants in storm water runoff, materials loading and access areas, areas where pesticides, herbicides, soil conditioners and fertilizers are applied, each of its hazardous waste treatment, storage or disposal facilities (including each area not required to have a Resource Conservation and Recovery Act permit which is used for accumulating hazardous waste under 40 CFR 262.34); ( )

(4) Each well where fluids from the facility are injected underground; and ( )

(5) Springs, and other surface water bodies which receive storm water discharges from the facility; ( )

ii. An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total area drained by each outfall (within a mile radius of the facility) and a narrative description of the following: ( )

(1) Significant materials that in the three (3) years prior to the submittal of this application have been treated, stored, or disposed in a manner to allow exposure to storm water; ( )

(2) Method of treatment, storage or disposal of such materials; materials management practices employed, in the three (3) years prior to the submittal of this application, to minimize contact by these materials with storm water runoff; ( )

(3) Materials loading and access areas; ( )

(4) The location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; ( )

(5) The location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and ( )

(6) A description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge; ( )

iii. A certification that all outfalls containing storm water discharges associated with industrial activity have been tested or evaluated for the presence of non-storm water discharges which are not covered by an IPDES permit, including a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test. Tests for such non-storm water discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests.; ( )

iv. Existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three (3) years prior to the submittal of this application; ( )

v. Quantitative data based on samples collected during storm events and collected in accordance with Subsection 105.07 from all outfalls containing a storm water discharge associated with industrial activity for the following parameters: ( )

(1) Any pollutant limited in an effluent guideline to which the facility is subject; ( )

(2) Any pollutant listed in the facility's NPDES or IPDES permit for its process wastewater (if the facility is operating under an existing NPDES or IPDES permit); ( )

(3) Oil and grease, pH, BOD5, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen; ( )

(4) Any information on the discharge required under Subsections 105.07.j. through l.; ( )

(5) Flow measurements or estimates of the flow rate, and the total amount of discharge for the storm event(s) sampled, and the method of flow measurement or estimation; and ( )

(6) The date and duration (in hours) of the storm event(s) sampled, rainfall measurements or estimates of the storm event (in inches) which generated the sampled runoff and the duration (in hours) between the storm event sampled and the end of the previous measurable (greater than one-tenth (0.1) inch rainfall) storm event; ( )

vi. Operators of a discharge which is composed entirely of storm water are exempt from the requirements of Subsections 105.07.b., 105.07.a.i(2) through (5), 105.07.a.ii., 105.07.a.iii., 105.07.g., 105.07.h., 105.07.i., and 105.07.m.; and ( )

vii. Operators of new sources or new discharges (as defined in Section 010, Definitions) which are composed in part or entirely of storm water must include estimates for the pollutants or parameters listed in Subsection 105.19.b.v. instead of actual sampling data, along with the source of each estimate. Operators of new sources or new discharges composed in part or entirely of storm water must provide quantitative data for the parameters listed in Subsection 105.19.b.v. within two (2) years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the IPDES permit for the discharge. Operators of a new source or new discharge which is composed entirely of storm water are exempt from the requirements of Subsections 105.16.a.iii.(2) and (3), and 105.16.b. ( )

c. An operator of an existing or new storm water discharge that is associated with industrial activity solely under 40 CFR 122.26(b)(14)(x) or is associated with small construction activity solely under 40 CFR 122.26 (b)(15), is exempt from the requirements of Subsection 105.07 and Subsection 105.19.b. Such operator must provide a narrative description of: ( )

i. The location (including a map) and the nature of the construction activity; ( )

ii. The total area of the site and the area of the site that is expected to undergo excavation during the life of the permit; ( )

iii. Proposed measures, including best management practices, to control pollutants in storm water discharges during construction, including a brief description of applicable state and local erosion and sediment control requirements; ( )

iv. Proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed, including a brief description of applicable state or local erosion and sediment control requirements; ( )

v. An estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and ( )

vi. The name of the receiving water. ( )

d. The operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application in accordance with Subsection 105.19.b., unless the facility: ( )

i. Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at any time since November 16, 1987; or ( )

ii. Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or ( )

iii. Contributes to a violation of a water quality standard. ( )

e. The operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations. ( )

f. Applicants must provide such other information the Department may reasonably require under

Subsection 105.07.o. to determine whether to issue a permit and may require any facility subject to Subsection 105.19.c. to comply with Subsection 105.19.b. ( )

106. INDIVIDUAL PERMIT APPLICATION REVIEW.

01. Completeness Criteria. The Department will not begin processing or issue an individual IPDES permit application before receiving a complete application. An application is complete when an application form and any supplemental information are completed and submitted to the Department's satisfaction. The Department will not consider a permit application to be complete until all applicable fees required under Section 110 (Permit Fee Schedule for IPDES Permitted Facilities) are paid. ( )

02. Sufficiently Sensitive Methods. Except as specified in Subsection 106.02.c., a permit application shall not be considered complete unless all required quantitative data are collected in accordance with sufficiently sensitive analytical methods approved under 40 CFR Part 136 or required under 40 CFR Parts 400 through 471 and 501 through 503. ( )

a. A method approved under 40 CFR Part 136 or required under 40 CFR Parts 400 through 471 and 501 through 503 is "sufficiently sensitive" when: ( )

i. The method minimum level (ML) is at or below the level of the applicable water quality criterion for the measured pollutant or pollutant parameter; or ( )

ii. The method ML is above the applicable water quality criterion, but the amount of the pollutant or pollutant parameter in a facility's discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or ( )

iii. The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR Parts 400 through 471 and 501 through 503 for the measured pollutant or pollutant parameter. ( )

b. For Subsection 106.02.a., consistent with 40 CFR Part 136, applicants have the option of providing matrix or sample specific minimum levels rather than the published levels. Further, where an applicant 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 applicant should select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with Subsection 106.02.a. Where no other EPA-approved methods exist, the applicant should select a method consistent with Subsection 106.02.c. ( )

c. When there is no analytical method that has been approved under 40 CFR Part 136, required under 40 CFR Parts 400 through 471 and 501 through 503, and is not otherwise required by the Department, the applicant may use any suitable method but shall provide a description of the method. When selecting a suitable method, other factors such as a method's precision, accuracy, or resolution, may be considered when assessing the performance of the method. ( )

03. Independence. The Department shall judge the completeness of any IPDES permit application independently of any other permit application or permit. ( )

04. Schedule. The Department will notify an applicant in writing whether the application is deemed complete for purposes of this section within: ( )

a. Thirty (30) days if the application is for a new source or new discharger under the IPDES program, or ( )

b. Sixty (60) days if the application is for an existing source or sludge-only facility. ( )

05. Additional Information. Notification that an application is complete does not preclude the

Department from requiring the applicant submit additional information for the Department's use in processing the application. This additional information may only be requested when necessary to clarify, modify, or supplement previously submitted material. ( )

a. Requests for additional information will not render an application incomplete. ( )

b. If the Department decides that a site visit is necessary for any reason in connection with the processing of an application, the Department shall notify the applicant and a date shall be scheduled. Failure to schedule or refusal of a requested site visit are grounds for permit denial. ( )

c. The applicant's failure or refusal to correct deficiencies, or supply requested information may result in permit denial, and appropriate enforcement actions may be initiated, if warranted. ( )

06. Incomplete Due to Waiver Denial. The Department will not consider a permit application to be complete if the Department waived application requirements under Subsection 105.11 or 105.17 and the EPA has disapproved the waiver. ( )

07. Impact of Waiver Delay. If a person required to reapply for a permit submits a waiver request to the Department more than two hundred ten (210) days before an existing permit expires, and the EPA does not disapprove the waiver request one hundred eighty-one (181) days before the permit expires, the Department will consider the permit application to be complete without the information that is the subject of the waiver request. ( )

08. Application Completeness Date. The completeness date of an application is the date on which the Department notifies the applicant that the application is complete. ( )

107. DECISION PROCESS.

After the Department has determined that a permit application is complete the Department will decide whether to tentatively deny the application, or prepare an IPDES draft permit. ( )

01. Application Denial. If the Department decides to tentatively deny the application: ( )

a. A notice of intent to deny the permit application shall be issued. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit and shall be made available for public comment, and the Department shall give notice of opportunity for a public meeting, as specified in Section 109 (Public Notification and Comment); ( )

b. The Department shall generate a response to public comment; and ( )

c. Issue a final decision. The final decision may: ( )

i. Be to withdraw the notice of intent to deny the application, and proceed to prepare a draft permit and fact sheet as defined in Section 108 (Draft Permit and Fact Sheet); or ( )

ii. Confirm the decision to deny the application. ( )

d. The applicant may appeal the final decision to deny the application by adhering to the requirements of Section 204 (Appeals Process). ( )

02. Draft Permit. If the Department decides to generate a draft permit and fact sheet it will comply with Section 108 (Draft Permit and Fact Sheet). ( )

a. Upon completion of the draft permit and fact sheet the Department shall issue a public notification as required in Subsection 109.01. ( )

b. An opportunity for the public to comment and request a public meeting shall be provided. ( )

c. The Department shall generate a response to public comment as stipulated in Subsection 109.03.

( )

03. Proposed Permit. After the close of the public comment period on a draft permit, the Department will make appropriate changes in response to comments, and generate a proposed permit and fact sheet. ( )

04. Final Permit. After the close of the public comment period on a draft permit, and after receipt of comments on the proposed permit, if any, from EPA, the Department shall issue a final permit decision and fact sheet. A final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit. ( )

a. The Department shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. ( )

b. A final permit decision shall become effective twenty-eight (28) days after the service of notice of the decision unless: ( )

i. A later effective date is specified in the decision; or ( )

ii. A Petition for Review is filed with the Department as specified in Section 204 (Appeals Process). ( )

108. DRAFT PERMIT AND FACT SHEET.

01. Draft Permit. ( )

a. If the Department decides to prepare a draft permit, it shall contain the following information: ( )

i. All conditions established under Section 300 (Conditions Applicable to All Permits); ( )

ii. All conditions for specific categories established under Section 301 (Permit Conditions for Specific Categories) and 40 CFR 122.42(e). ( )

iii. All conditions established under Section 302 (Establishing Permit Provisions); ( )

iv. All conditions established under Section 303 (Calculating Permit Provisions); ( )

v. All monitoring requirements established under Section 304 (Monitoring and Reporting Requirements); ( )

vi. Schedules of compliance established under Section 305 (Compliance Schedules); and ( )

vii. Any variances that are approved. ( )

b. General and individual proposed permits shall be available to the EPA Region 10 Administrator for comment as specified in Subsections 107.03 (Proposed Permit) and 107.04 (Final Permit). ( )

02. Fact Sheets. ( )

a. A fact sheet containing the information required in Subsection 108.02.b. must accompany the draft permit prepared for: ( )

i. A major IPDES facility or activity; ( )

ii. A Class I sludge management facility; ( )

iii. An IPDES general permit; ( )

iv. A permit that incorporates a variance or requires an explanation under Subsection 108.02.b.ix. through 108.02.b.x.; ( )

v. A permit that includes a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix); and ( )

vi. A permit that the Department finds is the subject of wide-spread public interest or raises major issues. ( )

b. A fact sheet must briefly set out the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit and must include, if applicable, the following information: ( )

i. A brief description of the type of facility or activity that is the subject of the draft permit; ( )

ii. The type and quantity of wastes, fluids, or pollutants that are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged; ( )

iii. A brief summary of the basis for the draft permit conditions, including references to applicable statutes or regulations and appropriate supporting references to the administrative record; ( )

iv. Reasons for the Department's tentative decision on any requested variances or alternatives to required standards; ( )

v. A description of the procedures for reaching a final decision on the draft permit, including: ( )

(1) The beginning and ending dates of the comment period under Subsection 109.02 and the address where comments should be submitted; ( )

(2) The procedure for requesting a public meeting and the nature of that meeting; and ( )

(3) Any other procedures by which the public may participate in the final decision; ( )

vi. The name and telephone number of a person to contact for additional information; ( )

vii. The justification for waiver of any application requirements under Section 105 (Application for an Individual IPDES Permit) for new and existing POTWs; ( )

viii. Any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions, including a citation to the applicable effluent limitation guideline or performance standard as required by Section 302 (Establishing Permit Provisions), and reasons why the effluent limitations and conditions are applicable, or an explanation of how any alternate effluent limitation was developed; ( )

ix. If applicable, an explanation of why the draft permit contains the following conditions or waivers: ( )

(1) Limitations to control toxic pollutants under Subsection 302.07; ( )

(2) Limitations on internal waste streams under Section 304 (Monitoring and Reporting Requirements); ( )

(3) Limitations on indicator pollutants under 40 CFR 125.3(g); ( )

(4) Limitations established on a case-by-case basis under 40 CFR 125.3 (c)(2) or (c)(3) or pursuant to the Clean Water Act section 405(d)(4); ( )

(5) Limitations to meet the criteria for permit issuance under Subsection 103.07; or ( )

(6) Waivers from monitoring requirements granted under Subsection 302.03; ( )

x. For a draft permit for a treatment works owned by a person other than a state or municipality, an explanation of the Department's decision on regulation of users under Subsection 302.15; ( )

xi. If appropriate, a sketch or detailed description of the location of the discharge or regulated activity described in the application; and ( )

xii. For permits that include a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), a brief description of how each of the required elements of the land application plan are addressed in the permit. ( )

109. PUBLIC NOTIFICATION AND COMMENT.

01. Public Notification. ( )

a. The Department will give notice to the public that: ( )

i. A draft permit has been prepared under Subsection 108.01; ( )

ii. The Department intends to deny a permit application under Subsection 107.01; ( )

iii. A public meeting is scheduled; or ( )

iv. An IPDES new source determination has been made. ( )

b. A public notice may describe more than one (1) permit or permit action. ( )

c. The Department will allow at least thirty (30) days for public comment on the items in the notice, and will provide at least thirty (30) days' notice before the public meeting. Notice of the draft permit and the meeting may be combined and given at the same time. ( )

d. Public notice that a draft permit has been prepared, and any public meeting on the draft permit must be given by the following methods: ( )

i. By mailing a copy of the notice to the following persons, unless any person entitled to receive notice under this subsection waives that person's right to receive notice for any classes and categories of permits: ( )

(1) The applicant, unless there is no applicant for an IPDES general permit; ( )

(2) Any other agency (including EPA when the draft permit is prepared by the state) that the Department knows has issued or is required to issue a permit for the same facility or activity under the following laws and programs: ( )

(a) Resource Conservation and Recovery Act, under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; ( )

(b) Underground Injection Control (UIC) Program under Idaho Department of Water Resources as authorized under Idaho Code Title 42 Chapter 39 and regulated under IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells"; ( )

(c) Clean Air Act, under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; ( )

(d) Idaho Pollution Discharge Elimination System Program, under IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program"; or ( )

(e) Sludge Management Program, under IDAPA 58.01.16.650, "Wastewater Rules"; and ( )

(f) Dredge and Fill Permit Program (Clean Water Act section 404); ( )

(3) Affected federal and state agencies with jurisdiction over fish, shellfish, wildlife, and other natural resources, state historic preservation officers, and any affected Indian tribe; ( )

(4) Any state agency responsible for plan development under the Clean Water Act sections 208(b)(2), 208(b)(4), or 303(e), and the United States Army Corps of Engineers, the United States Fish and Wildlife Service, and the National Marine Fisheries Service; ( )

(5) Any user identified in the permit application of a privately owned treatment works; ( )

(6) Persons on a mailing list developed by: ( )

(a) Recording those who request in writing to be on the list; ( )

(b) Soliciting persons for area lists from participants in past permit proceedings in that area; and ( )

(c) Publishing notice of the opportunity to be on the mailing list on the Department's website and through periodic publication in the local press and in regional and state-funded newsletters, environmental bulletins, state law journals or similar publications. The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed, and may delete from the list the name of any person who fails to respond to the Department's request; ( )

(7) Any unit of local government having jurisdiction over the area where the facility is proposed to be located; and ( )

(8) Each state agency having any authority under state law with respect to the construction or operation of the facility; ( )

ii. For a major facility permit, a general permit, and a permit that includes sewage sludge land application plans, by publishing a notice in a daily or weekly newspaper within the area affected by the facility or activity; and ( )

iii. By any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or use of any other forum or media to elicit public participation. For IPDES major permits and general permits, in lieu of the requirement for publication of a notice in a daily or weekly newspaper, the Department may publish all notices of activities described in Subsection 109.01.a. to the Department's website. If the Department selects this option for a draft permit, in addition to meeting the requirements in Subsection 109.01.e., the Department will post the draft permit and fact sheet on the website for the duration of the public comment period. The Department will ensure the methods of public notice effectively inform all interested communities and allow access to the permitting process for those seeking to participate. ( )

e. A public notice issued under this subsection must contain at least the following information: ( )

i. Name and address of the office processing the permit action for which notice is being given and where comments may be submitted; ( )

ii. Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit, except in the case of IPDES draft general permits; ( )

iii. A brief description of the business conducted at the facility or activity described in the permit

application, or for general permits when there is no application, in the draft permit; ( )

iv. Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, fact sheet, and the application; ( )

v. A brief description of the comment and public meeting procedures required by this subsection and the time and place of any meeting that will be held; if no meeting has already been scheduled, a statement of procedures to request a meeting and other procedures by which the public may participate in the final permit decision; ( )

vi. A general description of the location of each existing or proposed discharge point and the name of the receiving water; ( )

vii. The sludge use and disposal practices and the location of each sludge TWTDS and use or disposal sites known at the time of permit application; ( )

viii. A description of requirements applicable to cooling water intake structures under the Clean Water Act section 316(b), in accordance with 40 CFR 125.80 through 89, 125.90 through 99, and 125.130 through 139; and ( )

ix. Directions to the Department's website where interested parties can obtain copies of the draft permit, fact sheet, and the permit application, if any; and ( )

f. In addition to the information required by Subsection 109.01.e., the public notice for a draft permit for a discharge for which a request has been filed under the Clean Water Act section 316(a) must include: ( )

i. A statement that the thermal component of the discharge is subject to effluent limitations under the Clean Water Act sections 301 or 306, and a brief description, including a quantitative statement, of the thermal effluent limitations proposed under the Clean Water Act sections 301 or 306; ( )

ii. A statement that a request has been filed under the Clean Water Act section 316(a), that alternative less stringent effluent limitations may be imposed on the thermal component of the discharge under the Clean Water Act section 316(a), and a brief description, including a quantitative statement, of the alternative effluent limitations, if any, included in the request; and ( )

iii. If the applicant has filed an early screening request under 40 CFR 125.72 for a variance under the Clean Water Act section 316(a), a statement that the applicant has submitted that early screening request. ( )

g. In addition to the general public notice described in Subsection 109.01.e., the public notice of a meeting under this section must contain the following information: ( )

i. Reference to the date of previous public notices relating to the permit; ( )

ii. Date, time, and place of the meeting; and ( )

iii. A brief description of the nature and purpose of the meeting, including the applicable rules and procedures. ( )

h. The Department will mail a copy of the general public notice described in Subsection 109.01.e. to all persons identified in Subsections 109.01.d.i(1), (2), (3), and (4). ( )

i. The Department will hold a public meeting whenever the Department finds, on the basis of requests, a significant degree of public interest in a draft permit. The Department may also hold a public meeting if a meeting might clarify one (1) or more issues involved in the permit decision or for other good reason in the Department's discretion. ( )

02. Public Comment. ( )

a. During the public comment period, any interested person may submit written comments on the draft permit. Written comments must be submitted to the person identified in the notice and as specified in Subsection 109.01.e. ( )

b. During the public comment period, any interested person may request a public meeting if no public meeting has been scheduled. The Department will schedule and hold a public meeting if the Department determines that significant public interest exists in the draft permit. ( )

i. A request for a public meeting must be in writing and 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 will prepare a transcript of the meeting if an appeal is filed. ( )

c. If, during the comment period for an IPDES draft permit, the district engineer of the United States Army Corps of Engineers advises the Department in writing that anchorage and navigation of any of the waters of the United States would be substantially impaired by the granting of a permit, the Department will deny the permit and notify the applicant of the denial. If the district engineer advises the Department that imposing specified conditions upon the permit is necessary to avoid any substantial impairment of anchorage or navigation, the Department will include the specified conditions in the permit. Review or appeal of denial of a permit or of conditions specified by the district engineer must be sought through the applicable procedures of the United States Army Corps of Engineers and not through the state procedures. If a court of competent jurisdiction stays the conditions or if applicable procedures of the United States Army Corps of Engineers result in a stay of the conditions, those conditions must be considered stayed in the IPDES permit for the duration of the stay. ( )

d. If, during the comment period for an IPDES draft permit, the United States Fish and Wildlife Service, the National Marine Fisheries Service, or any other state or federal agency with jurisdiction over fish, wildlife, or public health advises the Department in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, or wildlife resources, the Department may include the specified conditions in the permit to the extent the Department determines they are necessary to comply with the provisions of the Clean Water Act. ( )

e. In some cases, the Department may confer with one (1) or more of the agencies referred to in Subsections 109.02.c. and 109.02.d. before issuing a draft permit and may set out an agency's view in the fact sheet or the draft permit. ( )

f. The Department will consider all comments in making the final decision and will answer the comments as provided in this subsection. ( )

g. Requests for extending a public comment period must be received in writing by the Department prior to the last day of the comment period. ( )

h. After the close of the public comment period and prior to the issuance of the final permit decision, the Department will afford the permit applicant an opportunity to provide additional information to respond to public comments. In addition, in order to respond to comments, the Department may request the applicant provide additional information. ( )

03. Response to Comments. When the Department issues a final permit, the Department will issue a response to comments, that will be available to the public. The response must: ( )

a. Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and ( )

b. Briefly describe and respond to all significant comments on the draft permit raised during the

public comment period, or during any meeting. ( )

110. FEE SCHEDULE FOR IPDES PERMITTED FACILITIES.

01. Effective Date. Annual fees must 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. ( )

02. Fee Schedule. ( )

a. Publicly and privately owned treatment works, and any other discharger designated by the Department (Subsection 105.11.a.), must pay an annual fee based on the number of equivalent dwelling units (EDUs). The fee is $1.74 per EDU. EDUs and the appropriate annual fee will be calculated according to the definition of EDUs in Section 010 by the following: ( )

i. The Department calculates facility EDUs; or ( )

ii. Existing facilities may annually report to the Department the number of EDUs served; or ( )

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. ( )

b. All other permitted IPDES dischargers, excluding small scale suction dredges, must pay an annual fee, an application fee, or both according to the following schedule:

Permit Type	Application	Annual
Non-POTW Individual Permits		
Major	$0	$13,000
Minor	$0	$4,000
Storm Water General Permits		
Construction (CGP)		
1-10 acres[1]	$200	$0
≥10-50 acres	$400	$75
≥50-100 acres	$750	$100
≥100-500 acres	$1,000	$400
>500 acres	$1,250	$400
Low Erosivity Waiver (CGP)	$125	$0
Industrial (MSGP) Permits	$1,500	$1,000
Cert. of No Exposure (MSGP)	$250	$100
Other General Permits	$0	$0

[1]This includes NOIs for construction that will disturb one or more acres of land, or will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land. ( )

03. Fee Assessment. ( )

a. An annual fee assessment will be generated for each IPDES-permitted facility for which an annual

fee is required as set forth in Subsection 110.02. Annual fees will be determined based on the twelve (12) months between October 1 and September 30 of the following calendar year. ( )

b. Application Fees and Annual Fees. ( )

i. Application fees, as identified in Subsection 110.02.b., are assessed at the time of application for coverage under an individual permit, or notice of intent for coverage under a general permit. ( )

ii. Owners or operators of multi-year storm water facilities or construction projects are subject to annual fees that will be assessed in the year (October through September) immediately following the receipt of the application or notice of intent for coverage. ( )

c. Assessment of annual fees will consider the number of months a permittee was covered under either a general or an individual permit in a given year (October through September of the following calendar year). If the permittee was covered for less than a full twelve (12) months, the assessed fee will be pro-rated to account for less than a full year's coverage under the permit. ( )

04. Billing. For those permitted facilities subject to an annual fee, the annual fee will be assessed and a statement will be mailed by the Department on or before July 1 of each year. ( )

05. Payment. ( )

a. Payment of the annual fee is due on October 1, unless it is a Saturday, Sunday, or legal holiday, in which event the payment is due on the successive business day. ( )

b. If a POTW serves five hundred seventy-five (575) EDUs or more, the facility may request to divide its annual fee payment into equal monthly or quarterly installments by submitting a request to the Department on the proper request form provided with the initial billing statement. ( )

i. The Department will notify an applicable POTW, in writing, of approval or denial of a requested monthly or quarterly installment plan within ten (10) business days of the Department receiving such a request. ( )

ii. If a POTW has been approved to pay monthly installments then each installment is due by the first day of each month, unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment is due on the next business day. ( )

iii. If a POTW has been approved to pay quarterly installments then each installment is due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment is due on the next business day. ( )

c. Payment of the application fee is due with the application for an individual permit or notice of intent for coverage under a general permit. ( )

06. Delinquent Unpaid Fees. A permittee covered under either a general permit or an individual permit will be delinquent in payment if the annual fee assessed has not been received by the Department by November 1; or if having first opted to pay monthly or quarterly installments, its monthly or quarterly installment has not been received by the Department by the last day of the month in which the monthly or quarterly payment is due. ( )

07. Suspension of Services and Disapproval Designation. For any permittee delinquent in payment of fees assessed under Subsections 110.02 and 110.06: ( )

a. In excess of ninety (90) days, the Department will suspend all technical services it provides. The permittee will receive a warning letter that identifies administrative enforcement actions the Department may pursue if the permittee does not comply with the terms of the permit. ( )

b. In excess of one hundred and eighty (180) days, the Department will consider the permittee in non-compliance with permit conditions and these rules, and subject to provisions described in Section 500 (Enforcement) of these rules. ( )

08. Reinstatement of Suspended Services and Approval Status. For any permittee for which delinquency of fee payment pursuant to Subsection 110.07 has resulted in the suspension of technical services, determination of non-compliance of permit condition, or both, the continuation of technical services, determination of compliance based on payment of fee, or both will occur upon payment of delinquent annual fee assessments. ( )

09. Enforcement Action. Nothing in Section 110 (Fee Schedule for IPDES Permitted Facilities) waives the Department's right to undertake a non-fee related enforcement action at any time, including seeking penalties, as provided in Sections 39-108, 39-109, and 39-117, Idaho Code. ( )

10. Responsibility to Comply. Subsection 110.07 does not relieve any permittee from its obligation to comply with all applicable state and federal statutes, rules, regulations, permits, or orders. ( )

111. -- 119. (RESERVED)

120. NEW SOURCES AND NEW DISCHARGES.

01. Criteria for New Source Determination. Except as otherwise provided in an applicable new source performance standard, a source is a new source if it meets the definition in Section 010 (Definitions), and: ( )

a. Is constructed at a site at which no other source is located; or ( )

b. Totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or ( )

c. Its processes are substantially independent of an existing source at the same site. In determining whether these processes are substantially independent, the Department shall consider such factors as: ( )

i. The extent to which the new facility is integrated with the existing plant; and ( )

ii. The extent to which the new facility is engaged in the same general type of activity as the existing source. ( )

02. New Source vs. New Discharger. A source meeting the requirements of Subsection 120.01 is a new source only if a new source performance standard is independently applicable to it. If there is no such independently applicable standard, the source is a new discharger, as defined in Section 010 (Definitions). ( )

03. Modification vs. New Source/Discharger. Construction on a site at which an existing source is located, results in a modification subject to Subsection 201.02, rather than a new source (or a new discharger) if the construction does not create a new building, structure, facility, or installation meeting the criteria of Subsection 120.01, but otherwise alters, replaces, or adds to existing process or production equipment. ( )

04. New Source Construction. Construction of a new source has commenced if the owner or operator has: ( )

a. Begun, or caused to begin as part of a continuous on-site construction program: ( )

i. Any placement, assembly, or installation of facilities or equipment; or ( )

ii. Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or ( )

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Items which do not constitute contractual obligations under this section include: ( )

i. Options to purchase or contracts which can be terminated or modified without substantial loss; ( )

ii. Contracts for feasibility engineering; and ( )

iii. Design studies. ( )

121. -- 129. (RESERVED)

130. GENERAL PERMITS.

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

a. Within a geographic area, the general permit will 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: ( )

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

ii. Sewer districts or sewer authorities; ( )

iii. City, county, or state political boundaries; ( )

iv. State highway systems; ( )

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

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

vii. Any other appropriate division or combination of boundaries. ( )

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: ( )

i. Storm water point sources; or ( )

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: ( )

(1) Involve the same or substantially similar types of operations; ( )

(2) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices; ( )

(3) Require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal; ( )

(4) Require the same or similar monitoring; and ( )

(5) In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits. ( )

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 are subject to the same water quality-based effluent limitations. ( )

d. Other requirements: ( )

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

ii. The general permit may exclude specified sources or areas from coverage. ( )

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 (1) of the two (2) 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 (1) 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. 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. ( )

03. Information Retention Schedule. An applicant must keep records of all data used to complete a notice of intent and any supplemental information submitted for a period of at least three (3) years from the date the notice of intent is signed. ( )

04. Notice of Intent. ( )

a. Any person required under Subsections 102.01 through 102.03 must submit a notice of intent to the Department for coverage under an IPDES general permit as set out in Subsection 130.05. ( )

b. A notice of intent must be signed and certified as required by Section 090 (Signature Requirements). ( )

05. Administration. ( )

a. General permits may be issued, modified, revoked and reissued, or terminated in accordance with Sections 201 (Modification, or Revocation and Reissuance of IPDES Permits) and 203 (Termination of IPDES Permits). ( )

b. Authorization to discharge, or authorization to engage in sludge use and disposal practices will follow these procedures: ( )

i. Except as provided in Subsections 130.05.b.xi. and 130.05.b.xii., a discharger must submit, in accordance with general permit requirements, a complete and timely notice of intent which will fulfill the requirements for permit applications; ( )

ii. A discharger (or TWTDS) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge (or in the case of sludge disposal permit, to engage in a sludge use or disposal practice) under the terms of the general permit unless: ( )

(1) The general permit, in accordance with Subsections 130.05.b.xi., contains a provision that a notice of intent is not required; or ( )

(2) The Department notifies a discharger (or TWTDS) that it is covered by a general permit in accordance with Subsection 130.05.b.xii.; ( )

iii. All notices of intent must be signed as required in Section 090 (Signature Requirements); ( )

iv. The general permit will specify the contents of the notice of intent and require the submission of information necessary for adequate program implementation, including at a minimum: ( )

(1) The legal name, address, and EIN or Department equivalent of the owner or operator; ( )

(2) The facility name and address; ( )

(3) Type of facility or discharges; and ( )

(4) The receiving stream(s); ( )

v. Coverage under a general permit may be terminated or revoked in accordance with Subsection 130.05.c. through e.; ( )

vi. Notices of intent for coverage under a general permit for CAFOs must include the information specified in Subsection 105.09 and 40 CFR 122.21(i)(1), including a topographic map; ( )

vii. A CAFO owner or operator may be authorized to discharge under a general permit only in accordance with the process described in 40 CFR 122.23(h); ( )

viii. General permits for storm water discharges associated with industrial activity from inactive mining, inactive oil and gas operations, or inactive landfills occurring on federal lands where an operator cannot be identified may contain alternative notice of intent requirements; ( )

ix. General permits shall specify the deadlines for submitting notices of intent to be covered and the date(s) when a discharger is authorized to discharge under the permit; ( )

x. General permits shall specify whether a discharger (or TWTDS), who has submitted a complete and timely notice of intent to be covered in accordance with the general permit and is eligible for coverage under the permit, is authorized to discharge (or in the case of a sludge disposal permit, to engage in a sludge use or disposal practice) in accordance with the permit either: ( )

(1) Upon receipt of the notice of intent by the Department; ( )

(2) After a waiting period specified in the general permit; ( )

(3) On a date specified in the general permit; or ( )

(4) Upon receipt of notification of inclusion by the Department; ( )

xi. Discharges other than discharges from POTWs, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and storm water discharges associated with industrial activity, may, at the discretion of the Department, be authorized to discharge under a general permit without submitting a notice of intent where the Department finds that a notice of intent requirement would be inappropriate. The Department shall provide in the public notice of the general permit the reasons for not requiring a notice of intent. In making such a finding, the Department shall consider: ( )

(1) The type of discharge; ( )

(2) The expected nature of the discharge; ( )

(3) The potential for toxic and conventional pollutants in the discharges; ( )

(4) The expected volume of the discharges; ( )

(5) Other means of identifying discharges covered by the permit; and ( )

(6) The estimated number of discharges to be covered by the permit; and ( )

xii. The Department may notify a discharger (or TWTDS) that it is covered by a general permit, even if the discharger (or TWTDS) has not submitted a notice of intent to be covered. A discharger (or TWTDS) so notified may request an individual permit as specified in Subsection 130.05.d. ( )

c. The Department may terminate, revoke, or deny coverage under a general permit, and require the discharger or applicant to apply for and obtain an individual IPDES permit. Any interested person may petition the Department to take action under this subsection. Cases where an individual IPDES permit may be required include the following: ( )

i. The discharger or TWTDS is not in compliance with the conditions of the general permit; ( )

ii. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source or TWTDS; ( )

iii. Effluent limitation guidelines are promulgated for point sources covered by the general permit; ( )

iv. A Water Quality Management plan containing requirements applicable to such point sources is approved; ( )

v. Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary; ( )

vi. Standards for sewage sludge use or disposal have been promulgated for the sludge use and disposal practice covered by the general IPDES permit; or ( )

vii. The discharge(s) is a significant contributor of pollutants. In making this determination, the Department may consider the following factors: ( )

(1) The location of the discharge with respect to waters of the United States; ( )

(2) The size of the discharge; ( )

(3) The quantity and nature of the pollutants discharged to waters of the United States; and ( )

(4) Other relevant factors. ( )

d. Any owner or operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. ( )

i. The owner or operator shall submit an application under Section 105 (Application for an Individual IPDES Permit), with reasons supporting the request, to the Department no later than ninety (90) days after the publication of the general permit. ( )

ii. The Department shall process the request under Sections 106 (Individual Permit Application Review), 107 (Decision Process), 108 (Draft Permit and Fact Sheet) and 109 (Public Notification and Comment). ( )

iii. The Department shall grant a request by issuing an individual permit if the reasons cited by the owner or operator are adequate to support the request. ( )

e. When an individual IPDES permit is issued to an owner or operator otherwise subject to a general IPDES permit, the applicability of the general permit to the individual IPDES permittee is automatically terminated on the effective date of the individual permit. ( )

f. A source excluded from a general permit, solely because it already has an individual permit, may request that the individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply to the source. ( )

06. Case-by-Case Requirements for Individual Permits. ( )

a. The Department may require any owner or operator authorized by a general permit to apply for an individual IPDES permit as provided in Subsection 130.05.c., only if the owner or operator has been notified in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a time for the owner or operator to file the application, a statement that on the effective date of the individual IPDES permit, the general permit as it applies to the individual permittee shall automatically terminate, and a statement that the owner or operator may appeal the Department's decision as provided in Section 204 (Appeals Process). The Department may grant additional time upon request of the applicant. ( )

b. Prior to a case-by-case determination that an individual permit is required for a storm water discharge under this section (see 40 CFR 122.26(a)(1)(v), (a)(9)(iii), and Subsection 105.19), the Department may require the discharger to submit a permit application or other information regarding the discharge described in the Clean Water Act section 308. ( )

i. In requiring such information, the Department shall notify the discharger in writing and shall send an application form with the notice. ( )

ii. The discharger must apply for a permit within one hundred eighty (180) days of notice, unless permission for a later date is granted by the Department. ( )

131. -- 199. (RESERVED)

200. RENEWAL OF IPDES PERMITS.

01. Interim Effluent Limits. Except as provided in Subsection 200.02, 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 the circumstances on which the previous permit was based: ( )

a. Have materially and substantially changed since the time the permit was issued; and ( )

b. Would constitute cause for permit modification or revocation and reissuance under Subsection 201.02. ( )

02. Final Clean Water Act Section 402(a)(1)(B) Effluent Limits. In the case of effluent limitations established by the Department on the basis of the Clean Water Act section 402(a)(1)(B), a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under Clean Water Act section 304(b) after the original issuance of a permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit, except a permit may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant, if: ( )

a. Material and substantial alterations or additions to the permitted facility occurred after permit issuance, which justify the application of a less stringent effluent limitation; ( )

b. Information is available: ( )

i. Which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or ( )

ii. Which the Department determines indicates that technical mistakes or mistaken interpretations of law were made in issuing the permit under the Clean Water Act section 402(a)(1)(b); ( )

c. A less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy; ( )

d. The permittee has received a permit modification under the Clean Water Act section 301(c), 301(g), 301(i), 301(k), 301(n), or 316(a); or ( )

e. The permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations. In this case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification). ( )

03. Final Clean Water Act Section 301(b)(1)(C) or 303 Effluent Limits. In the case of effluent limitations established on the basis of Clean Water Act section 301(b)(1)(C) or section 303(d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except when: ( )

a. One of the exceptions in Subsection 200.02 apply; or ( )

b. The water to which the discharge occurs is identified as impaired on Idaho's Integrated Report and the effluent limitation is based on a total maximum daily load or other waste load allocation established under Clean Water Act section 303, if the cumulative effect of all revised effluent limitations based on such total maximum daily load or waste load allocation will assure the attainment of applicable water quality standards; or ( )

c. The water quality in the water to which the discharge occurs meets or exceeds levels required by applicable water quality standards and the effluent limitation is based on a total maximum daily load or other waste load allocation established under Clean Water Act section 303, any water quality standard, or any permitting standard, if such revision is subject to and consistent with the antidegradation policy and implementation procedures in the water quality standards. ( )

04. Effluent Limits and Water Quality Standards. In no event may a permit with respect to which Subsection 200.02 or 200.03 applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters of the United States be renewed, issued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under IDAPA 58.01.02, "Water Quality Standards." ( )

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

01. Procedures to Modify, or Revoke and Reissue Permits. ( )

a. Permits may be modified, or revoked and reissued either at the request of any interested person (including the permittee) or upon the Department's initiative. However, permits may only be modified or revoked and reissued for the reasons specified in Subsection 201.02. All requests shall be in writing and shall contain facts or reasons supporting the request. ( )

b. If the Department tentatively decides to modify or revoke and reissue a permit, the Department shall prepare a draft permit under Section 108 (Draft Permit and Fact Sheet), incorporating the proposed changes. ( )

i. The Department may request additional information and, in the case of a modified permit, may require the submission of an updated application. If the tentative decision is to revoke and reissue a permit, the Department shall require the submission of a new application. ( )

ii. In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. ( )

iii. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued. ( )

iv. Minor modifications, as defined in Subsection 201.03, do not require the development of a draft permit, fact sheet, nor must minor modifications be subjected to public notification and comment. ( )

02. Causes to Modify, or Revoke and Reissue Permits. When the Department receives any pertinent information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or revocation and reissuance under Subsection 201.01, or conducts a review of the permit file), the Department may determine whether or not one (1) or more of the causes listed in Subsections 201.02.c. and 201.02.d. for modification or revocation and reissuance or both exist. ( )

a. If cause exists, the Department may modify or revoke and reissue the permit accordingly, subject to the limitations of Subsection 201.01.b., and may request a new or updated application, if necessary. ( )

b. If cause does not exist under this section, the Department shall not modify or revoke and reissue the permit. ( )

c. The following are causes for modification but not revocation and reissuance of permits except when the permittee requests or agrees: ( )

i. There are material and substantial alterations or additions to the permitted facility or activity

(including a change or changes in the permittee's sludge use or disposal practice), which occurred after permit issuance, and which justify the application of permit conditions that are different or absent in the existing permit. ( )

ii. The Department has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance: ( )

(1) For IPDES general permits (Section 130) this cause includes any information indicating that cumulative effects on the environment are unacceptable; and ( )

(2) For new source or new discharger IPDES permits (Section 120), this cause shall include any significant information derived from effluent testing required under Subsection 105.08 or 105.16 after issuance of the permit. ( )

iii. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows: ( )

(1) For promulgation of amended standards or regulations, when: ( )

(a) The permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA approved or promulgated water quality standards, or the Secondary Treatment Regulations under 40 CFR Part 133; ( )

(b) EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit condition was based, or has approved a state action with regard to a water quality standard on which the permit condition was based; and ( )

(c) A permittee requests modification in accordance with Subsection 201.01 or 203.01 within ninety (90) days after notice of the action on which the request is based; and ( )

(2) For judicial decisions, a court of competent jurisdiction has remanded and stayed EPA or Idaho promulgated regulations or effluent limitation guidelines, if the remand and stay concerns that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the permittee in accordance with Subsection 201.01 or 203.01 within ninety (90) days of judicial remand. ( )

iv. The Department determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. However, in no case may an IPDES compliance schedule be modified to extend beyond an applicable Clean Water Act statutory deadline. ( )

v. When the permittee has filed a request for a variance under Clean Water Act section 301(c), 301(g), 301(i), 301(k), or 316(a) or for fundamentally different factors within the time specified in Section 310 (Variances). ( )

vi. When required to incorporate an applicable Clean Water Act 307(a) toxic effluent standard or prohibition, under Subsection 302.04. ( )

vii. When required by the reopener conditions in a permit, which are established in the permit under Subsection 302.05 or 40 CFR 403.18(e) (Pretreatment Standards). ( )

viii. Upon request of a permittee who qualifies for effluent limitations on a net basis, or when a discharger is no longer eligible for net limitations, as provided in Subsection 303.07. ( )

ix. As necessary under 40 CFR 403.8(e) (Pretreatment Program Requirements: Development and

Implementation by POTW). ( )

x. Upon failure of an approved state to notify, as required by the Clean Water Act section 402(b)(3), another state whose waters may be affected by a discharge from the approved state. ( )

xi. When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c). ( )

xii. To establish a notification level as provided in Subsection 302.08. ( )

xiii. To modify a schedule of compliance to reflect the time lost during construction of an innovative or alternative facility, in the case of a POTW which has received a loan under IDAPA 58.01.12, "Rules for Administration of Water Pollution Control Loans." In no case shall the compliance schedule be modified to extend beyond an applicable Clean Water Act statutory deadline. ( )

xiv. For a small MS4, to include an effluent limitation requiring implementation of a minimum control measure or measures as specified in 40 CFR 122.34(b) when: ( )

(1) The permit does not include such measure(s) based upon the determination that another entity was responsible for implementation of the requirement(s), and ( )

(2) The other entity fails to implement measure(s) that satisfy the requirement(s). ( )

xv. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions. ( )

xvi. When the discharger has installed the treatment technology considered by the permit writer in setting effluent limitations imposed under the Clean Water Act section 402(a)(1) and has properly operated and maintained the facilities but nevertheless has been unable to achieve those effluent limitations. In this case, the limitations in the modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by a subsequently promulgated effluent limitations guideline). ( )

xvii. The incorporation of the terms of a CAFO's nutrient management plan into the terms and conditions of a general permit when a CAFO obtains coverage under a general permit in accordance with 40 CFR 122.23(h) and Section 130 (General Permits) is not a cause for modification pursuant to the requirements of this section. ( )

xviii. When required by a permit condition to incorporate a land application or sludge disposal plan for beneficial reuse of sewage sludge, to revise an existing land application or sludge disposal plan, or to add a land application or sludge disposal plan as required by IDAPA 58.01.16.650, "Wastewater Rules," and Section 380 (Sewage Sludge) of these rules. ( )

d. The following are causes to modify or, alternatively, revoke and reissue a permit: ( )

i. Cause exists for termination under Subsection 203.03, and the Department determines that modification or revocation and reissuance is appropriate; ( )

ii. The Department has received notification, as required in the permit, of a proposed transfer of the permit; or ( )

iii. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (Subsection 202.02) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee. ( )

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: ( )

a. Correct typographical errors; ( )

b. Require more frequent monitoring or reporting by the permittee; ( )

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; ( )

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; ( )

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); ( )

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; ( )

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; ( )

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 ( )

i. Require electronic reporting requirements (to replace paper reporting requirements) including those specified in 40 CFR Part 127 (NPDES Electronic Reporting). ( )

202. TRANSFER OF IPDES PERMITS.

01. Transfers by Modification. Except as provided in Subsection 202.02, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued under Subsection 201.02.d., or a minor modification made under Subsection 201.03, to identify the new permittee and incorporate such other requirements as may be necessary under the Clean Water Act. ( )

02. Automatic Transfers. As an alternative to transfers by modification, any IPDES permit may be automatically transferred to a new permittee if: ( )

a. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; ( )

b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee; and ( )

c. The Department does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. A modification under this subsection may also be a minor modification under Subsection 201.03. If this notice is not received, the transfer is effective on the date specified in the agreement. ( )

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. ( )

a. Request for termination by persons other than the permittee must 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. ( )

02. Tentative Permit Termination. Except as provided in Subsection 203.04, if the Department tentatively decides to terminate a permit under Subsection 203.03, the Department will issue a notice of intent to terminate. A notice of intent to terminate will be available for public comment, and the Department will give notice of an opportunity for public meetings, as specified in Section 109 (Public Notification and Comment). ( )

03. Cause to Terminate Permits. The following are causes for terminating a permit during its term, or for denying a permit renewal application: ( )

a. Noncompliance by the permittee with any condition of the permit; ( )

b. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; ( )

c. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or ( )

d. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW), or other situations where the Department has sufficiently reliable basis for determining discharge will cease. ( )

04. Expedited Termination Process for Terminated or Eliminated Discharge. If the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the Department may terminate the permit by notice to the permittee. ( )

a. Termination by notice becomes effective thirty (30) days after notice is sent (expedited permit termination), unless the permittee objects within that time. ( )

b. If the permittee objects during that period, the Department will follow procedures for termination in Subsection 203.02. ( )

c. Expedited permit termination procedures are not available to permittees that are subject to pending state and/or federal enforcement actions including citizen suits brought under federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending state or federal enforcement actions including citizen suits brought under federal law. ( )

204. APPEALS PROCESS.

01. Petition for Review of a Permit Decision. Appeal of a final IPDES permit decision, issued under Section 107 (Decision Process), to the Hearing Authority is commenced by filing a Petition for Review with the Department's Hearing Coordinator within the time prescribed in Subsection 204.01.b. The "Hearing Authority" shall

be a Hearing Officer appointed by the Director from a pool of Hearing Officers approved by the Board. ( )

a. Any person who is aggrieved by the final permit decision may file a Petition for Review as provided in this section. A person aggrieved is limited to the permit holder or applicant, and any person or entity who filed comments or who participated in the public meeting on the draft permit. ( )

b. A Petition for Review must be filed with the Department's Hearing Coordinator within twenty-eight (28) days after the Department serves notice of the final permit decision under Section 107 (Decision Process). A petition is filed when it is received by the Department's Hearing Coordinator at the address specified in Subsection 204.13. ( )

c. In addition to meeting the requirements in Subsection 204.06, a Petition for Review must: ( )

i. Be confined to the issues raised during the public comment process or to changes made to the permit by the Department after the close of the public comment period; ( )

ii. Identify the permit condition or other specific aspect of the permit decision that is being challenged; ( )

iii. Set forth the legal and factual basis for the petitioner's contentions; ( )

iv. Set forth the relief sought; and ( )

v. Set forth the basis for asserting that the petitioner is an aggrieved person. ( )

02. Public Notice of the Petition for Review. Within fourteen (14) days of the date a Petition for Review has been filed, the Hearing Authority must give reasonable notice to the public of the petition. ( )

03. Administrative Record Filed By the Department. The Department shall file a certified copy of the administrative record, as identified in Section 600 (Administrative Records and Data Management), with an index within twenty-eight (28) days of the date the Petition for Review was filed. ( )

04. Participation by the Permit Applicant or Permit Holder. A permit applicant or permit holder who did not file a petition but who wishes to participate in the appeal process must file a notice of appearance within twenty-eight (28) days of the date the Petition for Review was filed. ( )

05. Petition to Intervene. Any person who has a direct and substantial interest in the outcome of the Petition for Review may file a Petition to Intervene. ( )

a. The Petition to Intervene must set forth the interest of the intervener, and why intervention would not unduly broaden the issues and cause delay or prejudice to the parties. ( )

b. Petitions to Intervene must be filed within fourteen (14) days of the notice of filing of the Petition for Review. ( )

c. Any party opposing a Petition to Intervene must file objections within seven (7) days after service of the Petition to Intervene and serve the objection upon all parties of record and upon the person petitioning to intervene. ( )

d. If a Petition to Intervene shows direct and substantial interest in the outcome of the Petition for Review, does not unduly broaden the issues, and will not cause delay or prejudice to the parties, the Hearing Authority shall grant intervention. ( )

06. Content and Form Requirements for Petitions and Briefs. All petitions and briefs filed under this section must: ( )

a. Identify, in the caption, the permit applicant or holder, the permitted facility, and the permit number.

The caption should also include the case number, if available at the time of filing, and the title of the document, and ( )

b. Specify on the upper left corner of the first page, the name, address, telephone number, e-mail address and facsimile number, if any, of the person filing the document. If the person filing the document is a representative of a party as provided in Subsection 204.11, the document must identify the name of the person or entity represented. No more than two (2) representatives for service of documents may be listed. ( )

07. Augmenting the Administrative Record. Consideration of the Petition for Review by the Hearing Authority is limited to the certified administrative record unless, upon the request of a party, the Hearing Authority allows the record to be augmented. A request to augment the record must be filed within fourteen (14) days of the filing of the certified administrative record, unless intervention is granted, in which case the request to augment must be filed within fourteen (14) days of the date the order granting intervention is issued. The Hearing Authority may allow the record to be augmented if the requesting party shows that the additional information is material, is relevant to the issues raised in the appeal and that: ( )

a. There were good reasons for failure to present the information during the permitting proceeding; or ( )

b. There were alleged irregularities in the permitting proceeding and the party wishes to introduce evidence of the alleged irregularities. ( )

08. Brief of the Petitioner. Once all requests to augment the record and motions to intervene have been determined, the Hearing Authority shall issue an order notifying the parties that the administrative record has been settled and of the date by which the petitioner must file petitioner's brief in support of the Petition for Review. In addition to meeting the requirements of Subsection 204.06, the brief must include: ( )

a. The legal arguments and citations to legal authority that support the allegations in the Petition for Review; and ( )

b. The factual support for the allegations in the Petition for Review, including citations to the administrative record. ( )

c. A statement regarding whether the party desires an opportunity for oral argument. ( )

09. Response Briefs. Unless an alternative date is set by the Hearing Authority, the Department and all other parties must file response briefs within twenty-eight (28) days of the service of the petitioner's brief. In addition to meeting the requirements of Subsection 204.06, the response briefs must include: ( )

a. A response to the arguments and assertions in the petitioner's brief (either in support or opposed); ( )

b. A citation to all legal authorities and facts in the administrative record relied upon; and ( )

c. A statement regarding whether the party desires an opportunity for oral argument. ( )

10. Reply Briefs by the Petitioner. Unless an alternative date is set by the Hearing Authority, the petitioner may file a reply brief within fourteen (14) days after service of response briefs. A petitioner may not raise new issues or arguments in the reply. ( )

11. Representation of Parties. Unless otherwise authorized or required by law, appearances and representation of parties or other persons shall be as follows: ( )

a. A natural person may represent himself or herself or be represented by an attorney or, if the person lacks full legal capacity to act for himself or herself, then by a legal guardian or guardian ad litem or representative of an estate; ( )

b. A general partnership may be represented by a partner or an attorney; ( )

c. A corporation, or any other business entity other than a general partnership, must be represented by an attorney; ( )

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization must be represented by an attorney; or ( )

e. A state, federal or tribal governmental entity or agency must be represented by an attorney. ( )

12. Substitution and Withdrawal of Representatives. A party's representative may be changed and a new representative may be substituted by notice to all parties so long as the proceedings are not unreasonably delayed. Representatives who wish to withdraw from a proceeding must immediately file a motion to withdraw representation and serve that motion on the party represented and all other parties. ( )

13. Filing and Service Requirements. ( )

a. All documents concerning actions governed by these rules must be filed with the Hearing Coordinator at the following address: Hearing Coordinator, Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706. Documents may also be filed by fax or may be filed electronically. The Hearing Coordinator's fax number and email address for filing electronically are available at www.deq.idaho.gov/petitions-for-review. The documents are deemed to be filed on the date received by the Hearing Coordinator. Upon receipt of the filed document, the Hearing Coordinator will provide confirmation to the originating party. ( )

b. All documents subsequent to the petition must be served on all parties or representatives, unless otherwise directed by the Hearing Authority. ( )

c. Service of documents on the named representative is valid service upon the party for all purposes in the proceeding. ( )

14. Proof of Service. Every document meeting the requirements for service must be attached to or accompanied by proof of service containing the following certificate:

> I hereby certify that on this (insert date), a true and correct copy of the foregoing (insert name of document) was served on the following as indicated below:
>
> (insert names and addresses of parties and method of delivery (first class U.S. mail, facsimile, hand-delivery, or overnight express))
>
> (Signature)

( )

15. Motions. A request for an interlocutory or procedural order or other relief must be made by written motion unless these rules prescribe another form. ( )

a. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support the motion. In advance of filing a motion, parties must attempt to ascertain whether the other parties concur or object to the motion and must indicate in the motion the attempt made and the response obtained. ( )

b. Any party may file a response to a motion. Responses must state with particularity the grounds for opposition and the legal argument necessary to support the motion. The response must be filed within fifteen (15) days after service of the motion unless the Hearing Authority shortens or extends the time for response. ( )

c. Any reply to a response must be filed within ten (10) days after service of the response. A reply must not introduce any new issues or arguments and may respond only to matters presented in the response. ( )

d. The Hearing Authority may act on a motion for a procedural order at any time without awaiting a response. ( )

e. Parties must file motions for extensions of time sufficiently in advance of the due date to allow other parties to have a reasonable opportunity to respond to the request for more time and to provide the Hearing Authority with a reasonable opportunity to issue an order prior to the due date. ( )

16. **Oral Argument**. The Hearing Authority may hold oral argument on its own initiative or at its discretion in response to a request by one or more of the parties. ( )

17. **Withdrawal of Permit or Portions of Permit by the Department**. The Department may, at any time, upon notification to the Hearing Authority and all parties, withdraw the permit or specified portions of the permit and prepare a new draft permit under Section 108 (Draft Permit and Fact Sheet) addressing the portions so withdrawn. The new draft permit must proceed through the same process of public comment and opportunity for a public meeting as would apply to any other draft permit. If applicable, any portions of the permit that are not withdrawn continue to apply, unless stayed under Sections 205 (Contested Permit Conditions) and 206 (Stays of Contested Permit Conditions). The appeal shall continue with respect to those portions of the permit that are contested in the appeal that the Department does not withdraw. ( )

18. **Request to Dismiss Petition**. The petitioner, by motion, may request to have the Hearing Authority dismiss its appeal. The motion must briefly state the reason for its request. ( )

19. **Burden of Proof**. The petitioner has the burden of proving the allegations in the Petition for Review. Factual allegations must be proven by a preponderance of the evidence. ( )

20. **Appointment of Hearing Officers**. The Hearing Authority shall be a Hearing Officer appointed by the Director from a pool of Hearing Officers approved by the Board. Hearing Officers should be persons with technical expertise or experience in the issues involved in IPDES appeals. Notice of appointment of a Hearing Officer shall be served on all parties. No Hearing Officer shall be appointed that has a conflict of interest as defined in 40 CFR 123.25(c). ( )

21. **Scope of Authority of the Hearing Authority**. The Hearing Authority shall have the following authority: ( )

a. The authority to set schedules and take such other actions to ensure an efficient and orderly adjudication of the issues raised in the Petition for Review; ( )

b. The authority to hear and decide motions; and ( )

c. The authority to issue an order that decides the issues raised in the appeal and includes findings of fact and conclusions of law. The required contents of an order are set forth in Subsection 204.24. ( )

22. **Ex Parte Communications**. The Hearing Authority shall not communicate, directly or indirectly, regarding any substantive issue in the permit appeal with any party, except upon notice and opportunity for all parties to participate in the communication. The Hearing Authority may communicate ex parte with a party concerning procedural matters (e.g., scheduling). When the Hearing Authority becomes aware of a written ex parte communication regarding any substantive issue from a party or representative of a party during an appeal, the Hearing Authority shall place a copy of the communication in the file for the case and order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not ex parte communications. ( )

23. **Alternative Dispute Resolution**. Parties to the permit appeal may agree to use a means of alternative dispute resolution. ( )

24. **Final Orders**. ( )

a. Final orders are issued by the Hearing Authority upon review of the petitions, briefs and the

administrative record on appeal. ( )

b. Every final order shall contain the following: ( )

i. A reasoned statement in support of the decision; ( )

ii. Findings of fact, with reference to the portions of the administrative record that support the findings. The findings of fact must be based exclusively on the administrative record, or if augmented during the appeal, the augmented record; ( )

iii. Conclusions of law with respect to legal issues raised in the appeal; ( )

iv. The final order shall either affirm the permitting decision, or vacate and remand the decision to the Department with instructions; and ( )

v. A statement of the right to judicial review as set forth in Section 204.26. ( )

c. Motions for reconsideration of any final order shall not be considered. ( )

25. Final Agency Action for Purposes of Judicial Review. ( )

a. Filing a Petition for Review is a prerequisite to seeking judicial review of the Department's permitting decision. ( )

b. For purposes of judicial review under Sections 39-107 and 67-5270, Idaho Code, final agency action or determination regarding an appeal of a permit occurs when a final order that affirms the Department's permitting decision is issued. ( )

c. An order that vacates and remands the decision to the Department with instructions is not a final agency action for purposes of judicial review. ( )

26. Petition for Judicial Review. ( )

a. Any person aggrieved by a final agency action or determination by the Department as defined in Subsection 204.25 has a right to judicial review by filing a petition for judicial review. ( )

b. The petition for judicial review must be filed with the Hearing Coordinator as set out in Subsection 204.13 and with the district court and served on all parties. The petition for judicial review shall also be served upon the Hearing Authority, the Director of the Department, and upon the Attorney General of the State of Idaho. Pursuant to Section 67-5272, Idaho Code, petitions for judicial review may be filed in the District Court of the county in which: ( )

i. The hearing was held; ( )

ii. The final agency action was taken; ( )

iii. The party seeking review of the agency action resides; or ( )

iv. The real property or personal property that was the subject of the agency action is located. ( )

c. Pursuant to Section 67-5273, Idaho Code, a petition for judicial review of a final agency action must be filed within twenty-eight (28) days of the service date of a final order issued by the Hearing Authority. ( )

27. IPDES General Permits. ( )

a. Persons affected by an IPDES general permit may not file a petition under this section or otherwise

challenge the conditions of a general permit in further Department proceedings. Instead, they may do either of the following: ( )

i. Challenge the conditions in a general permit by filing an action in court; or ( )

ii. Apply for an individual IPDES permit under Section 105 (Application for an Individual IPDES Permit), as authorized in Section 130 (General Permits), and may then petition the Hearing Authority to review the individual permit as provided by in these rules. ( )

b. As provided in Subsection 130.05.c., any interested person may also petition the Department to require an individual IPDES permit for any discharger eligible for authorization to discharge under an IPDES general permit. ( )

c. The Department's decision to terminate, revoke or deny coverage under a general permit and to require application for an individual permit may be appealed pursuant to the provisions of Section 204 (Appeals Process). ( )

28. Appeals of Variances. ( )

a. When the Department issues a permit on which EPA has made a variance decision, separate appeals of the Department permit and of the EPA variance decision are possible. If the owner or operator is challenging the same issues in both proceedings, the EPA Region 10 Administrator will decide, in consultation with the Department, which case will be heard first. ( )

b. Variance decisions made by EPA may be appealed under the provisions of 40 CFR 124.19. ( )

c. Stays for variances other than Clean Water Act section 301(g) variances are governed by Section 205 (Contested Permit Conditions) and 206 (Stays of Contested Permit Conditions). ( )

205. CONTESTED PERMIT CONDITIONS.

01. Force and Effect of Conditions. As provided in Subsection 206.01, if an appeal of a permit decision is filed under Section 204 (Appeals Process), the force and effect of the contested conditions of the permit are stayed until final Department action. The Department must notify the discharger and all interested parties of the uncontested conditions of the permit that are enforceable obligations of the discharger in accordance with Subsection 206.01.c. ( )

02. Control Technologies. When effluent limitations are contested, but the underlying control technology is not, the notice must identify the installation of the technology in accordance with the permit compliance schedules as an uncontested, enforceable obligation of the permit. ( )

03. Combination of Technologies. When a combination of technologies is contested, but a portion of the combination is not contested, that portion must be identified as uncontested if compatible with the combination of technologies proposed by the requester. ( )

04. Inseverable Conditions. Uncontested conditions, if inseverable from a contested condition, must be considered contested. ( )

05. Enforceable Dates. Uncontested conditions become enforceable thirty (30) days after the date of notice under Subsection 205.01. ( )

06. Uncontested Conditions. Uncontested conditions include: ( )

a. Preliminary design and engineering studies or other requirements necessary to achieve the final permit conditions which do not entail substantial expenditures; and ( )

b. Permit conditions which will have to be met regardless of the outcome of the appeal under Section

204 (Appeals Procedure). ( )

206. STAYS OF CONTESTED PERMIT CONDITIONS.

01. Stays. ( )

a. If a Petition for Review of an IPDES permit under Section 204 (Appeals Process) is filed, the effect of the contested permit conditions are stayed pending final Department action. Uncontested permit conditions are stayed only until the date specified in Subsection 206.01.b. If the permit involves a new facility or new injection well, new source, new discharger or a recommencing discharger, the applicant will not be issued a permit for the proposed new facility, injection well, source or discharger pending final Department action. ( )

b. Uncontested conditions which are not severable from those contested are stayed together with the contested conditions. The Department must identify the stayed provisions of permits for existing facilities, injection wells, and sources. All other provisions of the permit for the existing facility, injection well, or source become fully effective and enforceable thirty (30) days after the date of the notification required in Subsection 206.01.c. ( )

c. As soon as possible after receiving notification from the Hearing Coordinator of the filing of a Petition for Review, the Department must notify the Hearing Authority, the applicant, and all other parties of the uncontested (and severable) conditions of the final permit that will become fully effective enforceable obligations of the permit as of the date specified in Subsection 206.01.b., and the notice must comply with the requirements of Section 205 (Contested Permit Conditions). ( )

02. Stays Based on Cross Effects. ( )

a. The Department may grant a stay based on the grounds that an appeal to the Hearing Authority under Section 204 (Appeals Process) of one permit may result in changes to another Department-issued IPDES permit only when each of the permits involved has been appealed to the Department. ( )

b. No stay of an EPA-issued NPDES permit may be granted based on the staying of any Department-issued IPDES permit except at the discretion of the EPA Region 10 Administrator and only upon written request from the Department. ( )

03. Permittee Responsibilities. Any facility or activity holding an existing permit must: ( )

a. Comply with the conditions of that permit during any modification or revocation and reissuance proceeding under Section 201 (Modification, or Revocation and Reissuance of IPDES Permits); and ( )

b. To the extent conditions of any new permit are stayed under this section, comply with the conditions of the existing permit which correspond to the stayed conditions, unless compliance with the existing conditions would be technologically incompatible with compliance with other conditions of the new permit which have not been stayed. ( )

207. -- 299. (RESERVED)

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 will be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation must be given in the permit. ( )

01. Duty to Comply. The permittee must comply with all conditions of the permit. ( )

a. Any permit noncompliance constitutes a violation of Idaho law, the Clean Water Act, and is grounds for: ( )

i. Enforcement action; ( )

ii. Permit termination, revocation and reissuance, or modification; or ( )

iii. Denial of a permit renewal application. ( )

b. The permittee shall comply with effluent standards or prohibitions established under the Clean Water Act section 307(a) for toxic pollutants and with standards for sewage sludge use or disposal established under the Clean Water Act section 405(d), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, "Wastewater Rules," within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement. ( )

02. Duty to Reapply. If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee must apply for and obtain a new permit. If the permittee complies with the application requirements of Section 105 (Application for an Individual IPDES Permit), or the notice of intent requirements of Section 130 (General Permits) for a general permit, and a permit is not issued prior to the permit's expiration date, the permit shall remain in force as stipulated in Subsections 101.02 and 101.03. ( )

03. Need to Halt or Reduce Activity. In an enforcement action, a permittee may not assert as a defense that compliance with the conditions of the permit would have made it necessary for the permittee to halt or reduce the permitted activity. ( )

04. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of the permit which has a reasonable likelihood of adversely affecting human health or the environment. ( )

05. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. ( )

a. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. ( )

b. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit or are required by IDAPA 58.01.16 "Wastewater Rules." ( )

06. Permit Actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. ( )

07. Property Rights. The permit does not convey any property rights of any sort, or any exclusive privilege. ( )

08. Duty to Provide Information. The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by the permit. ( )

09. Inspection and Entry. The permittee shall provide the Department's inspectors, or authorized representatives, including authorized contractors acting as representatives of the Department, upon presentation of credentials and other documents as may be required by law, access to: ( )

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit; ( )

b. Any records that must be kept under the conditions of the permit and, at reasonable times, to copy

such records; ( )

c. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and ( )

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location. ( )

10. Monitoring and Records. A permittee must comply with the following monitoring and recordkeeping conditions: ( )

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. ( )

b. The permittee shall retain the following records: ( )

i. All monitoring information, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time; and ( )

ii. The permittee's sewage sludge use and disposal activities shall be retained for a period of at least five (5) years or longer as required by 40 CFR Part 503. ( )

c. Records of monitoring information shall include: ( )

i. All calibration and maintenance records; ( )

ii. All original strip chart recordings for continuous monitoring instrumentation or other forms of data approved by the Department; ( )

iii. Copies of all reports required by the permit; ( )

iv. Records of all data used to complete the application or notice of intent for the permit; ( )

v. The date, exact place, and time of sampling or measurements; ( )

vi. The name of any individual(s) who performed the sampling or measurements; ( )

vii. The date(s) any analyses were performed; ( )

viii. The name of any individual(s) who performed the analyses; ( )

ix. The analytical techniques or methods used; and ( )

x. The results of the analysis. ( )

d. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another test method is required by 40 CFR Part 401 through 471 or Part 501 through 503. ( )

11. Signatory Requirements. All applications, reports, or information submitted to the Department shall be signed and certified in accordance with Section 090 (Signature Requirements) and must include penalty provisions pursuant to Section 500 (Enforcement). ( )

12. Reporting Requirements. ( )

a. The permittee must give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility if: ( )

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); ( )

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 ( )

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: ( )

(1) Not reported during the permit application process, or ( )

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

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

c. The permit is not transferable to any person except after notice to the Department. The Department may modify or revoke and reissue a permit to change the name of the permittee and incorporate such other requirements as may be necessary under Section 202 (Transfer of IPDES Permits). ( )

d. Monitoring results must be reported at the intervals specified in the permit and meet the following requirements: ( )

i. Monitoring results will 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. ( )

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 will be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department. ( )

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

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. ( )

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

i. Within twenty-four (24) hours from the time the permittee becomes aware of the circumstances, provide any information orally; ( )

ii. Within five (5) days from the time the permittee becomes aware of the circumstances, provide a written submission that contains a description of: ( )

(1) The noncompliance and its cause; ( )

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

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

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

(5) For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described in Subsections 300.12.f.ii(1) through (4), as well as the type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (e.g., manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. ( )

(6) 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 information must be reported within twenty-four (24) hours: ( )

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

(2) Any upset which exceeds any effluent limitation in the permit; and ( )

(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 ( )

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. ( )

g. The permittee must 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 must 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. ( )

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 must promptly submit such facts or correct information. ( )

13. Bypass Terms and Conditions. ( )

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

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

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 ( )

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. ( )

b. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three (3) conditions listed in Subsection 300.13.a. ( )

c. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least ten (10) days before the date of the bypass. ( )

d. The permittee shall submit notice of an unanticipated bypass as required in Subsection 300.12.f. (24-hour notice). ( )

e. Bypasses not exceeding limitations, are allowed to occur, and are not subject to Subsection 300.13.a. or 300.13.d. if: ( )

i. The bypass does not cause effluent limitations to be exceeded, and ( )

ii. Only if it also is for essential maintenance to assure efficient operation. ( )

14. Upset Terms and Conditions. ( )

a. In any enforcement action for noncompliance with technology-based permit effluent limitations, a permittee may claim upset, as defined in Section 010 (Definitions), as an affirmative defense. A permittee seeking to establish the occurrence of an upset has the burden of proof. ( )

b. Any determination made in administrative review of a claim that noncompliance was caused by upset, before an action for noncompliance is commenced, is not final administrative action subject to judicial review. ( )

c. The following conditions are necessary for a permittee to demonstrate that an upset occurred. A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that: ( )

i. An upset occurred and that the permittee can identify the cause(s) of the upset; ( )

ii. The permitted facility was at the time being properly operated; ( )

iii. The permittee submitted twenty-four (24)-hour notice of the upset as required Subsection 300.12.f.iii(2); and ( )

iv. The permittee complied with any remedial measures required under Subsection 300.04. ( )

15. Penalties and Fines. Permits must include penalty and fine requirements pursuant to Section 500 (Enforcement). ( )

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. ( )

01. Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. In addition to the reporting requirements under Subsection 300.12, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe: ( )

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit if that discharge will exceed the highest of the following notification levels: ( )

i. One hundred micrograms per liter (100 µg/L); ( )

ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; ( )

iii. Five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and ( )

iv. One milligram per liter (1 mg/L) for antimony; ( )

v. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Subsection 105.07; or ( )

vi. The level established by the Department in accordance with Subsection 302.08; and ( )

b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit if that discharge will exceed the highest of the following notification levels: ( )

i. Five hundred micrograms per liter (500 µg/L); ( )

ii. One milligram per liter (1 mg/L) for antimony; ( )

iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Subsection 105.07; or ( )

iv. The level established by the Department in accordance with Subsection 302.08. ( )

02. Publicly Owned Treatment Works. All POTWs must provide adequate notice to the Department of the following: ( )

a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to the Clean Water Act section 301 or 306 if it were directly discharging those pollutants; and ( )

b. Any substantial change in the volume or character of pollutants being introduced into that POTW

by a source introducing pollutants into the POTW at the time of issuance of the permit. For purposes of this subsection, adequate notice shall include information on: ( )

i. The quality and quantity of effluent introduced into the POTW, and ( )

ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW. ( )

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: ( )

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

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.; ( )

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.; ( )

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

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

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

g. Identification of water quality improvements or degradation. ( )

04. Storm Water Dischargers. The initial permits for discharges composed entirely of storm water issued pursuant to 40 CFR 122.26(e)(7) shall require compliance with the conditions of the permit as expeditiously as practicable but in no event later than three (3) years after the date of issuance of the permit. ( )

05. Concentrated Animal Feeding Operations (CAFOs). Any applicable permit must include provisions pursuant to 40 CFR 122.42(e). ( )

302. ESTABLISHING PERMIT PROVISIONS.

The Department will 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, including 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. ( )

01. Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit. ( )

02. Applicable Requirements. The Department shall establish conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the Clean Water Act and Section

101 (Duration), and Subsections 304.01, and 305.01 of these rules. ( )

a. Applicable requirements include all statutory or regulatory requirements which take effect prior to final administrative disposition of the permit. ( )

b. Applicable requirements also include any requirement which takes effect prior to the modification or revocation and reissuance of a permit under Section 201 (Modification, or Revocation and Reissuance of IPDES Permits). ( )

c. New or reissued permits, and to the extent allowed under Section 201 (Modification, or Revocation and Reissuance of IPDES Permits) for modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in Sections 200 (Renewal of IPDES Permits), and 302 (Establishing Permit Provisions) through 304 (Monitoring and Reporting Requirements). ( )

03. Technology-Based Effluent Limitations and Standards. ( )

a. Technology-based effluent limitations and standards shall be based on: ( )

i. Effluent limitations and standards promulgated under the Clean Water Act section 301; ( )

ii. New source performance standards promulgated under the Clean Water Act section 306; ( )

iii. Effluent limitations determined on a case-by-case basis under the Clean Water Act section 402(a)(1); or ( )

iv. A combination of the three (3), in accordance with 40 CFR 125.3. ( )

b. For new sources or new dischargers, these technology based limitations and standards are subject to the provisions of 40 CFR 122.29(d). ( )

c. The Department may authorize a discharger, subject to technology-based effluent limitations guidelines and standards in an IPDES permit, to forgo sampling of a pollutant found at 40 CFR Parts 401 through 471, if the discharger has demonstrated through sampling and other technical factors that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger. ( )

i. This waiver is good only for the term of the permit and is not available during the term of the first NPDES or IPDES permit issued to a discharger. ( )

ii. Any request for this waiver must be submitted when applying for a reissued permit or modification of a reissued permit. The request must demonstrate through sampling or other technical information, including information generated during an earlier permit term that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger. ( )

iii. Any grant of the monitoring waiver must be included in the permit as an express permit condition and the reasons supporting the grant must be documented in the permit's fact sheet. ( )

iv. This provision does not supersede certification processes and requirements already established in existing effluent limitations guidelines and standards. ( )

04. Other Effluent Limitations and Standards. ( )

a. If any applicable toxic effluent limitations and standards under the Clean Water Act sections 301, 302, 303, 307, 318, and 405 or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under the Clean Water Act section 307(a) for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the Department shall initiate

proceedings under Section 201 (Modification, or Revocation and Reissuance of IPDES Permits) to modify or revoke and reissue the permit to conform to the more stringent toxic effluent standard or prohibition (see also Subsection 300.01). ( )

b. Standards for sewage sludge use or disposal under the Clean Water Act section 405(d), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, "Wastewater Rules," shall be applied, unless those standards have been included in a permit issued under the appropriate provisions of: ( )

i. Subtitle C of the Solid Waste Disposal Act; ( )

ii. Part C of Safe Drinking Water Act; ( )

iii. The Clean Air Act; or ( )

iv. State permit programs approved by the EPA. ( )

c. When there are no applicable standards for sewage sludge use or disposal, 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. ( )

d. If any applicable standard for sewage sludge use or disposal is promulgated under the Clean Water Act section 405(d), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, "Wastewater Rules," that standard is more stringent than any limitation on the pollutant or practice in the permit, the Department may initiate proceedings under these regulations to modify or revoke and reissue the permit, in compliance with Section 201 (Modification, or Revocation and Reissuance of IPDES Permits), to conform to the standard for sewage sludge use or disposal. ( )

e. Include any requirements applicable to cooling water intake structures under the Clean Water Act section 316(b), in accordance with 40 CFR 125.80 through 125.99. ( )

05. Reopener Clause. For any permit issued to a TWTDS (including sludge-only facilities), the Department shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under the Clean Water Act section 405(d). The Department may promptly modify or revoke and reissue any permit containing the reopener clause required by this subsection if the standard for sewage sludge use or disposal: ( )

a. Is more stringent than any requirements for sludge use or disposal in the permit, or ( )

b. Controls a pollutant or practice not limited in the permit. ( )

06. Water Quality Standards and Requirements. Any requirements in addition to or more stringent than promulgated effluent limitations guidelines or standards under the Clean Water Act sections 301, 304, 306, 307, 318 and 405 shall be included in a permit if they are necessary to: ( )

a. Achieve water quality standards established in IDAPA 58.01.02, "Water Quality Standards," including narrative criteria for water quality and antidegradation provisions. ( )

i. Effluent limitations in a permit must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Department determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard, including narrative criteria for water quality. ( )

ii. When the Department determines whether a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative or numeric criteria within a water quality standard, the Department shall use procedures which account for: ( )

(1) Existing controls on point and nonpoint sources of pollution; ( )

(2) The variability of the pollutant or pollutant parameter in the effluent; ( )

(3) The sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity); and where appropriate, ( )

(4) The dilution of the effluent in the receiving water; ( )

iii. When the Department determines, using the procedures in Subsection 302.06.a.ii., that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the allowable ambient concentration of a state numeric criteria within a state water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant. ( )

iv. When the Department determines, using the procedures in Subsection 302.06.a.ii., that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the numeric criterion for whole effluent toxicity, the permit must contain effluent limits for whole effluent toxicity. ( )

v. Except as provided in this subsection, when the Department determines, using the procedures in Subsection 302.06.a.ii., toxicity testing data, or other information, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative criterion within an applicable water quality standard, the permit must contain effluent limits for whole effluent toxicity. Limits on whole effluent toxicity are not necessary where the Department demonstrates in the fact sheet of the IPDES permit, using the procedures in Subsection 302.06.a.ii., that chemical-specific limits for the effluent are sufficient to attain and maintain applicable numeric and narrative state water quality standards. ( )

vi. When the state has not established a numeric water quality criterion for a specific chemical pollutant that is present in an effluent at a concentration that causes, has the reasonable potential to cause, or contributes to an excursion above a narrative criterion within an applicable state water quality standard, the Department must establish effluent limits using one (1) or more of the following options: ( )

(1) Establish effluent limits using a calculated numeric water quality target or concentration value for the pollutant which the Department demonstrates will attain and maintain applicable narrative water quality criteria and will fully protect the designated use. Such a target or concentration value may be derived: ( )

(a) Using a proposed criterion, or an explicit policy or regulation interpreting its narrative water quality criterion, and ( )

(b) Supplemented with other relevant information which may include EPA's Water Quality Standards Handbook, as currently revised, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration (FDA), and current EPA criteria documents; ( )

(2) Establish effluent limits on a case-by-case basis, using EPA's water quality criteria, published under the Clean Water Act section 304(a), supplemented where necessary by other relevant information; or ( )

(3) Establish effluent limitations on an indicator parameter for the pollutant of concern, provided: ( )

(a) The permit identifies which pollutants are intended to be controlled by the use of the effluent limitation; ( )

(b) The required fact sheet sets forth the basis for the limit, including a finding that compliance with the effluent limit on the indicator parameter will result in controls on the pollutant of concern which are sufficient to attain and maintain applicable water quality standards; ( )

(c) The permit requires all effluent and ambient monitoring necessary to show that during the term of the permit the limit on the indicator parameter continues to attain and maintain applicable water quality standards; and ( )

(d) The permit contains a reopener clause allowing the Department to modify or revoke and reissue the permit if the limits on the indicator parameter no longer attain and maintain applicable water quality standards. ( )

vii. When developing water quality-based effluent limits under this subsection, the Department shall ensure that: ( )

(1) The level of water quality to be achieved by limits on point sources established under this subsection is derived from, and complies with all applicable water quality standards; and ( )

(2) Effluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the state and approved by EPA pursuant to 40 CFR 130.7; ( )

b. Attain or maintain a specified water quality through water quality related effluent limits established under the Clean Water Act section 302; ( )

c. Conform to applicable water quality requirements under the Clean Water Act section 402(b)(5) when the discharge affects a state other than Idaho; ( )

d. Incorporate any more stringent limitations, treatment standards, or schedules of compliance requirements established under federal or state law or regulations in accordance with the Clean Water Act section 301(b)(1)(C); ( )

e. Ensure consistency with the requirements of a Water Quality Management plan approved by EPA under the Clean Water Act section 208(b); or ( )

f. Incorporate alternative effluent limitations or standards where warranted by fundamentally different factors, under 40 CFR 125.30 through 125.32. ( )

07. Technology-Based Controls for Toxic Pollutants. ( )

a. In determining whether to include limitations on toxic pollutants in a permit under this section, the Department will establish limits in accordance with Subsections 302.03, 302.04, and 302.06 and in a notification under Section 301 (Permit Conditions for Specific Categories), or other relevant information. The fact sheet must explain the development of limitations included in the permit. ( )

b. An IPDES permit must include limitations to control all toxic pollutants which the Department determines (based on information reported in a permit application under Subsection 105.07 and 301.01.a., or on other information) are or may be discharged at a level greater than the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c). ( )

c. The requirement that the limitations control the pollutants meeting the criteria of Subsection 302.07.b. will be satisfied by: ( )

i. Limitations on those toxic pollutants; or ( )

ii. Limitations on other pollutants which, in the judgment of the Department, will provide treatment of the pollutants under Subsection 302.07.b. to the levels required by 40 CFR 125.3(c). ( )

08. Notification Level. An IPDES permit must include a condition requiring a notification level which exceeds the notification level of Subsection 301.01.a., upon a petition from the permittee or on the Department's initiative. This new notification level may not exceed the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c). ( )

09. Twenty-Four (24) Hour Reporting. A permit will list pollutants for which the permittee is

required to report violations of maximum daily discharge limitations within twenty-four (24) hours under Subsection 300.12.f.iii(3), including any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance. ( )

10. **Permit Durations**. Permits must include permit durations pursuant to Subsection 101.01. ( )

11. **Monitoring Requirements**. Permits must include monitoring requirements pursuant to Section 304 (Monitoring and Reporting Requirements). ( )

12. **Pretreatment Program for POTWs**. A POTW permit must include pretreatment program conditions requiring the permittee to: ( )

a. Identify, in terms of character and volume of pollutants, any Significant Industrial Users discharging into the POTW subject to Pretreatment Standards under the Clean Water Act section 307(b) and 40 CFR Part 403; ( )

b. Submit a local program when required by and in accordance with 40 CFR Part 403, to ensure compliance with pretreatment standards to the extent applicable under the Clean Water Act section 307(b): ( )

i. The local program shall be incorporated into the permit as described in 40 CFR Part 403, and ( )

ii. The program must require all indirect dischargers to the POTW to comply with the reporting requirements of 40 CFR Part 403; ( )

c. Provide written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1), following permit issuance or reissuance; and ( )

d. POTWs which are sludge-only facilities, are required to develop a pretreatment program under 40 CFR Part 403, when the Department determines that a pretreatment program is necessary to assure compliance with the Clean Water Act section 405(d). ( )

13. **Best Management Practices**. An IPDES permit must include best management practices (BMPs) to control or abate the discharge of pollutants when: ( )

a. Authorized under the Clean Water Act section 304(e) for the control of toxic pollutants and hazardous substances from ancillary industrial activities; ( )

b. Authorized under the Clean Water Act section 402(p) for the control of storm water discharges; ( )

c. Numeric effluent limitations are infeasible; or ( )

d. The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the Clean Water Act. ( )

14. **Reissued Permits**. When a permit is renewed or reissued, it must include provisions pursuant to Section 200 (Renewal of IPDES Permits). ( )

15. **Privately-Owned Treatment Works**. For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this section. ( )

a. Alternatively, the Department may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. ( )

b. The Department's decision to issue a permit with no conditions applicable to any user, to impose

conditions on one (1) or more users, to issue separate permits, or to require separate applications, and the basis for that decision, shall be stated in the fact sheet for the draft permit for the treatment works. ( )

16. **Grants**. An IPDES permit must include any conditions imposed in grants made by the EPA to POTWs under the Clean Water Act sections 201 and 204, which are reasonably necessary for the achievement of effluent limitations under the Clean Water Act section 301. ( )

17. **Sewage Sludge**. An IPDES permit must include any requirements under the Clean Water Act section 405 governing the disposal of sewage sludge from POTWs or any other TWTDS for any use for which regulations have been established, in accordance with any applicable regulations. ( )

18. **Navigation**. An IPDES permit must include any conditions that the Secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired, in accordance with Subsection 103.04 and 109.02. ( )

19. **Qualifying State or Local Programs**. ( )

a. For storm water discharges associated with small construction activity disturbing one (1) acre or more, but less than five (5) acres as specified in 40 CFR 122.26(b)(15), the Department may include permit conditions that incorporate by reference qualifying state or local erosion and sediment control program requirements. Where a qualifying state or local program does not include one (1) or more of the elements in this subsection, then the Department must include those elements as conditions in the permit. ( )

b. A qualifying state or local erosion and sediment control program is one that includes: ( )

i. Requirements for construction site operators to implement appropriate erosion and sediment control best management practices; ( )

ii. Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; ( )

iii. Requirements for construction site operators to develop and implement a storm water pollution prevention plan, which must include: ( )

(1) Site descriptions; ( )

(2) Descriptions of appropriate control measures; ( )

(3) Copies of approved state or local requirements; ( )

(4) Maintenance procedures; ( )

(5) Inspection procedures; ( )

(6) Identification of non-storm water discharges; and ( )

iv. Requirements to submit a site plan for review that incorporates consideration of potential water quality impacts. ( )

c. For storm water discharges from a construction activity disturbing five (5) acres or more, including activities that disturb less than acres (5) acres but are part of a larger common plan of development or sale that will ultimately disturb five (5) acres or more, as specified in 40 CFR 122.26(b)(14)(x), the Department may include permit conditions that incorporate by reference qualifying state or local erosion and sediment control program requirements. A qualifying state or local erosion and sediment control program is one that includes the elements listed in Subsections 302.19.a. and b. and any additional requirements necessary to achieve the applicable technology-based standards of best available technology and best conventional technology based on the best

professional judgment of the permit writer. ( )

20. Water Quality Trading. The Department may include provisions in IPDES permits that allow for compliance with water quality based permit limits to be achieved through water quality trading. ( )

303. CALCULATING PERMIT PROVISIONS.

01. Outfalls and Discharge Points. All permit effluent limitations, standards and prohibitions shall be established for each outfall or discharge point of the permitted facility, except as otherwise provided under Subsection 302.13, (Best Management Practices,) and Subsection 303.08, (Internal Waste Streams.) ( )

02. Production-Based Limitations. ( )

a. In the case of POTWs, permit effluent limitations, standards, or prohibitions shall be calculated based on design flow. ( )

b. Except in the case of POTWs or as provided in Subsection 303.02.b.ii., calculation of any permit limitations, standards, or prohibitions which are based on production (or other measure of operation) shall be based upon a reasonable measure of actual production of the facility. ( )

i. For new sources or new dischargers, actual production shall be estimated using projected production. The time period of the measure of production shall correspond to the time period of the calculated permit limitations; for example, monthly production shall be used to calculate average monthly discharge limitations. ( )

ii. The Department may include a condition establishing alternate permit limitations, standards, or prohibitions based upon anticipated increased (not to exceed maximum production capability) or decreased production levels. ( )

iii. For the automotive manufacturing industry only, the Department shall establish an alternate condition under 303.02.b.ii., if the applicant satisfactorily demonstrates to the Department, at the time the application is submitted, that: ( )

(1) Its actual production, as indicated in Subsections 303.02.b. and 303.02.b.i. is substantially below maximum production capability, and ( )

(2) There is a reasonable potential for an increase above actual production during the duration of the permit. ( )

iv. If the Department establishes permit conditions under Subsection 303.02.b.ii.: ( )

(1) The permit shall require the permittee to notify the Department at least two (2) business days prior to a month in which the permittee expects to operate at a level higher than the lowest production level identified in the permit. The notice shall specify: ( )

(a) The anticipated level, and the period during which the permittee expects to operate at the alternate level; and ( )

(b) If the notice covers more than one (1) month, the notice shall specify the reasons for the anticipated production level increase; and ( )

(c) New notice of discharge at alternate levels is required to cover a period or production level not covered by prior notice or, if during two (2) consecutive months otherwise covered by a notice, the production level at the permitted facility does not in fact meet the higher level designated in the notice; ( )

(2) The permittee shall comply with the limitations, standards, or prohibitions that correspond to the lowest level of production specified in the permit, unless the permittee has notified the Department under Subsection

303.02.b.ii., in which case the permittee shall comply with the lower of the actual level of production during each month or the level specified in the notice; and ( )

(3) The permittee shall submit, with the Discharge Monitoring Report, the level of production that actually occurred during each month and the limitations, standards, or prohibitions applicable to that level of production. ( )

03. Metals. All permit effluent limitations, standards, or prohibitions for a metal shall be expressed in terms of total recoverable metal as defined in 40 CFR Part 136, unless: ( )

a. An applicable effluent standard or limitation has been promulgated under the Clean Water Act and specifies the limitation for the metal in the dissolved or valent or total form; ( )

b. In establishing permit limitations on a case-by-case basis under 40 CFR 125.3, it is necessary to express the limitation on the metal in the dissolved or valent or total form to carry out the provisions of the Clean Water Act; or ( )

c. All approved analytical methods for the metal inherently measure only its dissolved form (e.g., hexavalent chromium). ( )

04. Continuous Discharges. For continuous discharges all permit effluent limitations, standards, and prohibitions, including those necessary to achieve water quality standards, shall, unless impracticable, be stated as: ( )

a. Maximum daily and average monthly discharge limitations for all dischargers other than POTWs; or ( )

b. Average weekly and average monthly discharge limitations for POTWs. ( )

05. Noncontinuous Discharges. Discharges which are not continuous, as defined in Section 010 (Definitions), shall be particularly described and limited, considering the following factors, as appropriate: ( )

a. Frequency (for example, a batch discharge shall not occur more than once every three (3) weeks); ( )

b. Total mass (for example, not to exceed one hundred (100) kilograms of zinc and two hundred (200) kilograms of chromium per batch discharge); ( )

c. Maximum rate of discharge of pollutants during the discharge (for example, not to exceed two (2) kilograms of zinc per minute); and ( )

d. Prohibition or limitation of specified pollutants by mass, concentration, or other appropriate measure (for example, shall not contain at any time more than one-tenth (0.1) mg/L zinc or more than two hundred fifty (250) grams (one-fourth (¼) kilogram) of zinc in any discharge). ( )

06. Mass Limitations. ( )

a. All pollutants limited in permits shall have limitations, standards, or prohibitions expressed in terms of mass except: ( )

i. pH, temperature, radiation, or other pollutants which cannot appropriately be expressed by mass; ( )

ii. When applicable standards and limitations are expressed in terms of other units of measurement; or ( )

iii. If in establishing permit limitations on a case-by-case basis under 40 CFR 125.3, limitations

expressed in terms of mass are infeasible because the mass of the pollutant discharged cannot be related to a measure of operation (for example, discharges of TSS from certain mining operations), and permit conditions ensure that dilution will not be used as a substitute for treatment. ( )

b. 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. ( )

07. Pollutant Credits for Intake Water. ( )

a. The following definitions apply to the consideration of intake credits in determining reasonable potential and establishing technology based and water quality based effluent limits for IPDES permits. ( )

i. An intake pollutant is the amount of a pollutant that is present in waters of the United States (including ground water as provided in Subsection 303.07.a.iv.) at the time water is removed from the same body of water by the discharger or other facility supplying the discharger with intake water. ( )

ii. An intake pollutant must be from the same body of water as the discharge in order to be eligible for an intake credit. An intake pollutant is considered to be from the same body of water as the discharge if the Department finds that the intake pollutant would have reached the vicinity of the outfall point in the receiving water within a reasonable period had it not been removed by the permittee. This finding will be established if: ( )

(1) The background concentration of the pollutant in the receiving water (excluding any amount of the pollutant in the facility's discharge) is similar to that in the intake water; ( )

(2) There is a direct hydrological connection between the intake and discharge points; and ( )

(3) Water quality characteristics (e.g., temperature, pH, hardness) are similar in the intake and receiving waters. ( )

iii. The Department may also consider other site-specific factors relevant to the transport and fate of the pollutant to make the finding in a particular case that a pollutant would or would not have reached the vicinity of the outfall point in the receiving water within a reasonable period had it not been removed by the permittee. ( )

iv. An intake pollutant from ground water may be considered to be from the same body of water if the Department determines that the pollutant would have reached the vicinity of the outfall point in the receiving water within a reasonable period had it not been removed by the permittee, except that such a pollutant is not from the same body of water if the ground water contains the pollutant partially or entirely due to human activity, such as industrial, commercial, or municipal operations, disposal actions, or treatment processes. ( )

v. The determinations made under Subsections 303.07.b. and c. will be made on a pollutant-by-pollutant and outfall-by-outfall basis. ( )

vi. These provisions do not alter Department's obligation under Subsection 302.06.a.vii(2) to develop effluent limitations consistent with the assumptions and requirements of any available waste load allocations for the discharge, that is part of a TMDL prepared by the Department and approved by EPA pursuant to 40 CFR 130.7, or prepared by EPA pursuant to 40 CFR 130.7(d). ( )

b. Consideration of intake pollutants for technology based effluent limitations: ( )

i. Upon request of the discharger, technology-based effluent limitations or standards shall be adjusted to reflect credit for pollutants in the discharger's intake water if: ( )

(1) The applicable effluent limitations and standards contained in 40 CFR Part 401 through 471, specifically provide that they shall be applied on a net basis; or ( )

(2) The discharger demonstrates that the control system it proposes or uses to meet applicable technology-based limitations and standards would, if properly installed and operated, meet the limitations and

standards in the absence of pollutants in the intake waters. ( )

ii. Credit for generic pollutants such as BOD or TSS should not be granted unless the permittee demonstrates that the constituents of the generic measure in the effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere. ( )

iii. Credit shall be granted only to the extent necessary to meet the applicable limitation or standard, up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with permit limits. ( )

iv. Credit shall be granted only if the discharger demonstrates that the intake water is drawn from the same body of water into which the discharge is made. The Department may waive this requirement if the Department finds that no environmental degradation will result. ( )

v. This section does not apply to the discharge of raw water clarifier sludge generated from the treatment of intake water. ( )

c. Consideration of intake pollutants for water quality based effluent limitations: ( )

i. The Department will evaluate if there is reasonable potential for the discharge of an identified intake pollutant to cause or contribute to an exceedance of a narrative or numeric water quality criterion. If the Department determines that an intake pollutant in the discharge does not have the reasonable potential to cause or contribute to an exceedance of an applicable water quality standard, the Department is not required to include a water quality-based effluent limit for the identified intake pollutant in the facility's permit. ( )

ii. If a reasonable potential exists, then water quality-based effluent limits may be established that reflect a credit for intake pollutants where a discharger demonstrates that the following conditions are met: ( )

(1) The facility removes the intake water containing the pollutant from the same body of water into which the discharge is made; ( )

(2) The ambient background concentration of the pollutant does not meet the most stringent applicable water quality criterion for that pollutant; ( )

(3) The facility does not alter the identified intake pollutant chemically or physically in a manner that would cause adverse water quality impacts to occur that would not occur if the pollutants had not been removed from the body of water; ( )

(4) The timing and location of the discharge would not cause adverse water quality impacts to occur that would not occur if the identified intake pollutant had not been removed from the body of water; ( )

(5) For the purpose of determining water quality-based effluent limits, the facility does not increase the identified intake pollutant concentration at the point of discharge as compared to the pollutant concentration in the intake water. ( )

iii. Where the conditions in Subsection 303.07.c.i. and ii are met, the Department may establish a water quality-based effluent limitation allowing a facility to discharge a mass and concentration of the intake pollutant that are no greater than the mass and concentration found in the facility's intake water. A discharger may add mass of the pollutant to its waste stream if an equal or greater mass is removed prior to discharge, so there is no net addition of the pollutant in the discharge compared to the intake water. ( )

iv. Where intake water for a facility is provided by a municipal water supply system and the supplier provides treatment of the raw water that removes an intake water pollutant, the concentration of the intake water pollutant will be determined at the point where the water enters the water supplier's distribution system. ( )

v. Where a facility discharges intake pollutants from multiple sources that originate from the

receiving water body and from other water bodies, the Department may derive an effluent limit reflecting the flow-weighted amount of each source of the pollutant provided that conditions in 303.07.c.ii. of this subsection are met and adequate monitoring to determine compliance can be established and is included in the permit. ( )

vi. The permit will specify how compliance with mass and concentration-based limitations for the intake water pollutant will be assessed. This may be done by basing the effluent limitation on background concentration data. Alternatively, the Department may determine compliance by monitoring the pollutant concentrations in the intake water and in the effluent. This monitoring may be supplemented by monitoring internal waste streams or by a Department evaluation of the use of best management practices. ( )

vii. Effluent limitations must be established to comply with all other applicable state and federal laws and regulations including technology-based requirements and anti-degradation policies. ( )

viii. When determining whether water quality based effluent limitations are necessary, information from chemical-specific, whole effluent toxicity and biological assessments will be considered independently. ( )

ix. Permit limits must be consistent with the assumptions and requirement of waste load allocations or other provisions in a TMDL that has been approved by the EPA. ( )

08. Internal Waste Streams. ( )

a. When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by Section 304 (Monitoring and Reporting Requirements) shall also be applied to the internal waste streams. ( )

b. Limits on internal waste streams will be imposed only when the fact sheet sets forth the exceptional circumstances which make such limitations necessary, such as: ( )

i. When the final discharge point is inaccessible (for example, under ten (10) meters of water); ( )

ii. The wastes at the point of discharge are so diluted as to make monitoring impracticable; or ( )

iii. The interferences among pollutants at the point of discharge would make detection or analysis impracticable. ( )

09. Disposal of Pollutants into Wells, into POTWs, or by Land Application. ( )

a. When part of a discharger's process wastewater is not being discharged into waters of the United States because it is disposed into a well, into a POTW, or by land application thereby reducing the flow or level of pollutants being discharged into waters of the United States, applicable effluent standards and limitations for the discharge in an IPDES permit shall be adjusted to reflect the reduced raw waste resulting from such disposal. Effluent limitations and standards in the permit shall be calculated by one (1) of the following methods: ( )

i. If none of the waste from a particular process is discharged into waters of the United States, and effluent limitations guidelines provide separate allocation for wastes from that process, all allocations for the process shall be eliminated from calculation of permit effluent limitations or standards; or ( )

ii. In all cases other than those described in Subsection 303.09.a.i., effluent limitations shall be adjusted by multiplying the effluent limitation derived by applying effluent limitation guidelines to the total waste stream by the amount of wastewater flow to be treated and discharged into waters of the United States, and dividing the result by the total wastewater flow. Effluent limitations and standards so calculated may be further adjusted under 40 CFR Part 125, subpart D, to make them more or less stringent if discharges to wells, POTWs, or by land application change the character or treatability of the pollutants being discharged to receiving waters. This method may be algebraically expressed as:

P=(E x N)/T; where P is the permit effluent limitation, E is the limitation derived by applying effluent guidelines to the total waste stream, N is the wastewater flow to be treated and discharged to waters of the United States, and T is the total wastewater flow.

( )

b. Subsection 303.09.a. does not apply to the extent that promulgated effluent limitations guidelines: ( )

i. Control concentrations of pollutants discharged but not mass; or ( )

ii. Specify a different specific technique for adjusting effluent limitations to account for well injection, land application, or disposal into POTWs. ( )

c. Subsection 303.09.a. does not alter a discharger's obligation to meet any more stringent requirements established under Sections 300 (Conditions Applicable to all Permits), 301 (Permit Conditions for Specific Categories), 40 CFR 122.42(e), and 302 (Establishing Permit Provisions). ( )

d. Disposal of discharge into injection wells is regulated by: ( )

i. Idaho Department of Water Resources, in compliance with the IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells," for a Class I injection well; or ( )

ii. Health District having jurisdiction, in compliance with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules," for a Class V injection well. ( )

e. Disposal of discharge onto the surface of the land is regulated by the Department under IDAPA 58.01.17, "Recycled Water Rules." ( )

304. MONITORING AND REPORTING REQUIREMENTS.

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

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

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

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; ( )

d. The mass (or other measurement specified in the permit) for each pollutant limited in the permit; ( )

e. The volume of effluent discharged from each outfall; ( )

f. Other measurements as appropriate, including: ( )

i. Pollutants in internal waste streams under Subsection 303.08; ( )

ii. Pollutants in intake water for net limitations under Subsection 303.07; ( )

iii. Frequency, rate of discharge, etc., for non-continuous discharges under Subsection 303.05; ( )

iv. Pollutants subject to notification requirements under Subsection 301.01; and ( )

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"; ( )

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 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: ( )

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. ( )

02. Reporting Monitoring Results. ( )

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. ( )

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. ( )

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. ( )

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: ( )

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

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; ( )

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; ( )

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

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. ( )

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. ( )

305. COMPLIANCE SCHEDULES.

01. General. An IPDES permit may, when appropriate, specify a schedule of compliance leading to compliance with the Clean Water Act and these rules. ( )

a. Any schedules of compliance under this section shall require compliance as soon as possible. ( )

b. The first IPDES permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction, but less than three (3) years before commencement of the relevant discharge. ( )

c. For recommencing dischargers, a schedule of compliance shall be available only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three (3) years before recommencement of discharge. ( )

d. If a permit establishes a schedule of compliance under this section that exceeds one (1) year from the date of permit issuance, the schedule must set out interim requirements and dates for achievement of the interim requirements. If the schedule includes interim requirements: ( )

i. The time between interim dates shall not exceed one (1) year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six (6) months; or ( )

ii. If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one (1) year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date. ( )

e. Within fourteen (14) days following each interim and final date of compliance, the permittee shall notify the Department in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports if Subsection 305.01.d.ii. is applicable. ( )

f. Permits may incorporate compliance schedules which allow a discharger to phase in, over time, compliance with water quality-based effluent limitations in accordance with IDAPA 58.01.02.400, "Water Quality Standards." ( )

02. Alternative Schedules of Compliance. An IPDES permit applicant or permittee may cease conducting regulated activities (by terminating direct discharge for point sources) rather than continuing to operate and meet permit requirements as follows: ( )

a. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued: ( )

i. The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or ( )

ii. The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit. ( )

b. If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements no later than the statutory deadline. ( )

c. If the permittee is undecided whether to cease conducting regulated activities, the Department may issue or modify a permit to contain two (2) schedules, as follows: ( )

i. Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities; ( )

ii. One (1) schedule shall lead to timely compliance with applicable requirements, no later than the statutory deadline; ( )

iii. The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements no later than the statutory deadline; and ( )

iv. Each permit containing two (2) schedules shall include a requirement that after the permittee has made a final decision under Subsection 305.02.c., it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities. ( )

d. The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Department, such as a resolution of the board of directors of a corporation. ( )

306. -- 309. (RESERVED)

310. VARIANCES.

01. Variance Requests by non-POTWs. ( )

a. A discharger which is not a POTW may request a variance from otherwise applicable effluent limitations under the following statutory or regulatory provisions, within the times specified in this subsection. ( )

i. A request for a variance based on the presence of fundamentally different factors from those on which the effluent limitations guideline was based must be filed as follows: ( )

(1) For a request from best practicable control technology currently available (BPT), by the close of the public comment period under Section 109 (Public Notification and Comment); or ( )

(2) For a request from best available technology economically achievable (BAT) and/or best conventional pollutant control technology (BCT), by no later than one hundred eighty (180) days after the date on which an effluent limitation guideline is published in the Federal Register for a request based on an effluent limitation guideline promulgated on or after February 4, 1987. ( )

ii. The request must explain how the requirements of the applicable regulatory and/or statutory criteria

have been met. ( )

b. An applicant may request a variance for non-conventional pollutants under this section for the following: ( )

i. A variance from the BAT requirements for Clean Water Act section 301(b)(2)(F) pollutants (commonly called non-conventional pollutants) pursuant to the Clean Water Act section 301(c) because of the economic capability of the owner or operator; or ( )

ii. A variance pursuant to the Clean Water Act section 301(g) provided: ( )

(1) The variance may only be requested for ammonia; chlorine; color; iron; total phenols (4AAP), when determined by the EPA Administrator to be a pollutant covered by the Clean Water Act section 301(b)(2)(F); and ( )

(2) Any other pollutant which the EPA Administrator lists under the Clean Water Act section 301(g)(4). ( )

c. The request for variance as outlined in Subsection 310.01.b. must be made as follows: ( )

i. For those requests for a variance from an effluent limitation based upon an effluent limitation guideline, by submitting an initial request to the Department no later than two hundred seventy (270) days after promulgation of the applicable effluent limitation guideline followed by a completed request no later than the close of the public comment period under Section 109 (Public Notification and Comment). ( )

(1) The initial request to the Department must contain: ( )

(a) The name of the discharger; ( )

(b) The permit number; ( )

(c) The outfall number(s); ( )

(d) The applicable effluent guideline; and ( )

(e) Whether the discharger is requesting a Clean Water Act section 301(c) or section 301(g) modification or both. ( )

(2) The completed request must demonstrate that the applicable requirements of 40 CFR Part 125 have been met. Notwithstanding this provision, the complete application for a request under Clean Water Act section 301(g) must be filed one hundred eighty (180) days before the Department must make a decision (unless the Department establishes a shorter or longer period). ( )

ii. For those requests for a variance from effluent limitations not based on effluent limitation guidelines, the request need only comply with Subsection 310.01.c.i(2) and need not be preceded by an initial request under Subsection 310.01.c.i(1). ( )

d. A modification under the Clean Water Act section 302(b)(2) of requirements under the Clean Water Act section 302(a) for achieving water quality related effluent limitations may be requested no later than the close of the public comment period under Section 109 (Public Notification and Comment) on the permit from which the modification is sought. ( )

e. A variance under the Clean Water Act section 316(a) for the thermal component of any discharge must be filed with a timely application for a permit under Section 105 (Application for an Individual IPDES Permit), except that if thermal effluent limitations are established under the Clean Water Act section 402(a)(1) or are based on water quality standards, the request for a variance may be filed by the close of the public comment period under Section 109 (Public Notification and Comment). ( )

02. Variance Requests by POTWs. A discharger which is a POTW may request a variance from water quality based effluent limitations. A modification under the Clean Water Act section 302(b)(2) of the requirements under the Clean Water Act section 302(a) for achieving water quality based effluent limitations shall be requested no later than the close of the public comment period under Section 109 (Public Notification and Comment) on the permit from which the modification is sought. ( )

03. Permit Variance Decision Process. ( )

a. The Department may deny requests for variances. A variance that has been denied by the Department may be appealed according to the process identified in Section 204 (Appeals Process). ( )

b. The Department may grant (subject to EPA objection under Subsection 103.02 or 40 CFR 123.44): ( )

i. Variances for extensions under the Clean Water Act section 301(i) based on delay in completion of a POTW; ( )

ii. Variances after consultation with EPA, extensions under the Clean Water Act section 301(k) based on the use of innovative technology; ( )

iii. Variances under the Clean Water Act section 316(a) for thermal pollution; or ( )

iv. Variances from water quality standards under IDAPA 58.01.02.260, "Water Quality Rules." ( )

c. The Department may forward to EPA with or without a recommendation: ( )

i. A variance based on the economic capability of the applicant under the Clean Water Act section 301(c); or ( )

ii. A variance based on water quality related effluent limitations under the Clean Water Act section 302(b)(2). ( )

d. The Department may forward to EPA with a written concurrence: ( )

i. A variance based on the presence of fundamentally different factors from those on which an effluent limitations guideline was based (Clean Water Act section 301(n)); or ( )

ii. A variance based upon certain water quality factors under the Clean Water Act section 301(g). ( )

e. The EPA may grant or deny a request for a variance that is forwarded by the Department. If the EPA Administrator (or his delegate) approves the variance, the Department shall prepare a draft permit incorporating the variance. ( )

f. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing that decision under Section 204 (Appeals Process). ( )

04. Expedited Variance Procedures and Time Extensions. ( )

a. Notwithstanding the time requirements in Subsections 310.01 and 310.02, the Department may notify a permit applicant before a draft permit is issued under Section 108 (Draft Permit and Fact Sheet) that the draft permit will likely contain limitations which are eligible for variances. ( )

i. In the notice, the Department may require the applicant, as a condition of consideration of any

potential variance request, to submit a request explaining how the requirements of 40 CFR Part 125, applicable to the variance, have been met and may require its submission within a specified reasonable time after receipt of the notice. ( )

ii. The Department may send the notice before the permit application has been submitted. The draft or final permit may contain the alternative limitations which may become effective upon final grant of the variance. ( )

b. A discharger who cannot file a timely complete request required under Subsections 310.01.c.i.(2) or 310.01.c.ii. may request an extension. ( )

i. The extension may be granted or denied at the discretion of the Department. ( )

ii. The extension shall be no more than six (6) months in duration. ( )

05. Special Procedures for Decisions on Thermal Variances. ( )

a. The only issues connected with issuance of a particular permit on which the Department will make a final decision before the final permit is issued, are whether alternative effluent limitations would be justified under the Clean Water Act section 316(a) or whether cooling water intake structures will use the best available technology under section 316(b). ( )

i. Permit applicants who wish an early decision on these issues should make a request to the Department, furnished with supporting reasons at the time their permit applications are filed. ( )

ii. The Department will then decide whether or not to make an early decision. If it is granted, both the early decision on Clean Water Act section 316 (a) or (b) issues and the grant of the balance of the permit shall be: ( )

(1) Considered permit issuance under these regulations, and ( )

(2) Subject to the same requirements of public notice and comment and the same opportunity for an appeal. ( )

b. If the Department, on review of the administrative record, determines that the information necessary to decide whether or not the Clean Water Act section 316(a) issue is not likely to be available in time for a decision on permit issuance, the Department may issue a permit for a term up to five (5) years. ( )

i. The permit shall require achievement of the effluent limitations initially proposed for the thermal component of the discharge, no later than the date otherwise required by law. ( )

ii. However, the permit shall also afford the permittee an opportunity to file a demonstration under Clean Water Act section 316(a), after conducting such studies as are required under 40 CFR 125.70 through 125.73. ( )

iii. A new discharger may not exceed the thermal effluent limitation which is initially proposed unless and until its Clean Water Act section 316(a) variance request is finally approved. ( )

c. Any proceeding held under Subsection 310.05.a. shall be: ( )

i. Publicly noticed as required by Section 109 (Public Notification and Comment), and ( )

ii. Conducted at a time allowing the permittee to take necessary measures to meet the final compliance date in the event its request for modification of thermal limits is denied. ( )

d. Whenever the Department defers the decision under the Clean Water Act section 316(a), any decision under the Clean Water Act section 316(b) may be deferred. ( )

311. -- 369. (RESERVED)

370. PRETREATMENT STANDARDS.

01. Purpose and Applicability. This section and 40 CFR Part 403 apply to: ( )

a. Pollutants from non-domestic sources covered by Pretreatment Standards which are indirectly discharged into or transported by truck or rail or otherwise introduced into POTWs as defined in Subsection 370.04 and 40 CFR 403.3; ( )

b. POTWs which receive wastewater from sources subject to National Pretreatment Standards; and ( )

c. Any new or existing source subject to Pretreatment Standards. National Pretreatment Standards do not apply to sources which discharge to a sewer which is not connected to a POTW Treatment Plant. ( )

02. Objectives of General Pretreatment Regulations. This section and 40 CFR Part 403 fulfill three (3) objectives: ( )

a. To prevent the introduction of pollutants into POTWs which will interfere with the operation of a POTW, including interference with its use or disposal of municipal sludge; ( )

b. To prevent the introduction of pollutants into POTWs which will pass through the treatment works or otherwise be incompatible with such works; and ( )

c. To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges. ( )

03. Department Program in Lieu of a POTW Program. 40 CFR 403.8(a) requires certain POTWs develop a pretreatment program. The Department may, however, assume responsibility for implementing the POTW pretreatment program requirements set forth in 40 CFR 403.8(f) in lieu of requiring the POTW to develop a pretreatment program. This does not preclude POTWs from independently developing pretreatment programs. ( )

04. Term Interpretation. When used in the context of 40 CFR Part 403, unless the context in which a term is used clearly requires a different meaning, terms 40 CFR Part 403 that are incorporated by reference in these rules have the following meanings: ( )

a. The terms Administrator or Regional Administrator mean the EPA Region 10 Administrator; ( )

b. The term Approval Authority means the Department of Environmental Quality; ( )

c. The term Approved POTW Pretreatment Program or Program or POTW Pretreatment Program means a program administered by a POTW that meets the criteria established in 40 CFR 403.8 and 403.9, and which has been approved by the Department in accordance with 40 CFR 403.1; ( )

d. 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; ( )

e. The term Director means the Department of Environmental Quality with an NPDES permit program approved pursuant to the Clean Water Act section 402(b); ( )

f. The terms National Pretreatment Standard, Pretreatment Standard, or Standard mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act,

which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5; and ( )

g. The term Water Management Division Director means a Director of the Water Management Division within the Region 10 office of the Environmental Protection Agency or this person's delegated representative. ( )

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. ( )

a. 40 CFR 403.4 (State or Local Law). ( )

b. 40 CFR 403.19 (Provisions of Specific Applicability to the Owatonna Wastewater Treatment Facility). ( )

c. 40 CFR 403.20 (Pretreatment Program Reinvention Pilot Projects Under Project XL). ( )

371. -- 379. (RESERVED)

380. SEWAGE SLUDGE.

01. Purpose. The purpose of this section and 40 CFR Part 503 is to: ( )

a. Establish standards, which consist of general requirements, pollutant limits, management practices, and operational standards, for the final use or disposal of sewage sludge. ( )

i. Include standards for sewage sludge applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator. ( )

ii. Include: ( )

(1) Pathogen and alternative vector attraction reduction requirements for sewage sludge applied to the land or placed on a surface disposal site; and ( )

(2) On a case-by-case basis, controls for storm water runoff from lands where sewage sludge or septage has been placed for treatment or disposal. ( )

b. Include the frequency of monitoring and recordkeeping requirements when sewage sludge is: ( )

i. Applied to the land; ( )

ii. Placed on a surface disposal site; or ( )

iii. Fired in a sewage sludge incinerator; and ( )

c. Include reporting requirements for: ( )

i. Class I sludge management facilities; ( )

ii. POTWs with a design flow rate equal to or greater than one million gallons per day (1 MGD); and ( )

iii. POTWs that serve ten thousand (10,000) people or more. ( )

02. Applicability. This section and 40 CFR Part 503 applies to: ( )

a. Any person, who prepares sewage sludge, applies sewage sludge to the land, or fires sewage sludge in a sewage sludge incinerator and to the owner or operator of a surface disposal site; ( )

b. Sewage sludge applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator; ( )

c. The exit gas from a sewage sludge incinerator stack; or ( )

d. Land where sewage sludge is applied, to a surface disposal site, and to a sewage sludge incinerator. ( )

03. Term Interpretation. When used in the context of 40 CFR Part 503, unless the context in which a term is used clearly requires a different meaning, terms in the 40 CFR Part 503 that are incorporated by reference in these rules have the following meanings: ( )

a. The terms Administrator or Regional Administrator mean the EPA Region 10 Administrator; ( )

b. The terms Director or State Program Director mean the Department of Environmental Quality as the agency designated by the Governor as having the lead responsibility for managing or coordinating the approved IPDES program; and ( )

c. The term permitting authority is the Department of Environmental Quality. ( )

04. Exceptions to Incorporation by Reference. 40 CFR 503.1 (Purpose and Applicability) is excluded from the incorporation by reference found in Section 003 (Incorporation by Reference) of these rules. ( )

381. -- 399. (RESERVED)

400. COMPLIANCE EVALUATION.

01. Non-Compliance Actions. When the permittee is not in compliance with any condition of the existing or expired permit that has been administratively continued, the Department may choose to do one (1) or more of the following: ( )

a. Initiate an enforcement action; ( )

b. Issue a notice of intent to deny the new application. If the application is denied and the expired permit is no longer effective as provided in Subsection 101.02, the owner or operator must cease the activities authorized by the permit or be subject to enforcement action for operating without a permit; ( )

c. Issue a new permit with appropriate conditions; or ( )

d. Take other actions authorized by state law. ( )

401. -- 499. (RESERVED)

500. ENFORCEMENT.

01. General Enforcement and Penalties. Any person who violates any permit condition, filing or reporting requirement, duty to allow or carry out inspections, entry or monitoring requirements or any other provision in these rules shall be subject to administrative, civil or criminal enforcement and those remedies authorized in the Environmental Protection and Health Act, Sections 39-101 et seq., Idaho Code, including without limitation, civil and criminal penalties as provided in Sections 39-108 and 39-117, Idaho Code. ( )

02. Truth in Reporting. It is a violation of these rules for any person to falsify, tamper with, or

knowingly render inaccurate any monitoring device or method required to be maintained under an IPDES permit. In addition to any other remedy available to the Department, such a violation is punishable by a fine as provided in Section 39-117, Idaho Code. ( )

03. False Statements. It is a violation of these rules for any person to knowingly make any false statement, representation, or certification in any record or other document submitted or required to be maintained under an IPDES permit, including monitoring reports or reports of compliance or non-compliance. In addition to any other remedy available to the Department, such a violation is punishable by a fine as provided in Section 39-117, Idaho Code. ( )

04. Public Participation in Enforcement. The Department shall provide for public participation in the state enforcement process by: ( )

a. Investigating and providing written responses to citizen complaints; ( )

b. Not opposing intervention by any citizen when permissive intervention may be authorized by statute, rule, or regulation; and ( )

c. Publishing notice of and providing at least thirty (30) days for public comment on any proposed settlement of a state enforcement action. ( )

501. -- 599. (RESERVED)

600. ADMINISTRATIVE RECORDS AND DATA MANAGEMENT.

01. Administrative Record for Draft Permits. ( )

a. The provisions of a draft permit prepared by the Department under Subsection 108.01 shall be based on the administrative record defined in this section. ( )

b. For preparing a draft permit, the record shall consist of: ( )

i. The application, if required, and any supporting data furnished by the applicant; ( )

ii. The draft permit or notice of intent to deny the application or to terminate the permit; ( )

iii. The fact sheet; ( )

iv. All documents cited in the fact sheet; and ( )

v. Other documents contained in the supporting file for the draft permit. ( )

c. Material readily available at the Department or published material that is generally available, and that is included in the administrative record under Subsection 600.01, need not be physically included with the rest of the record as long as it is specifically referred to in the fact sheet. ( )

d. This subsection applies to all draft permits when public notice was given after the effective date of these rules. ( )

02. Administrative Record for Final Permits. ( )

a. The Department shall base final permit decisions on the administrative record defined in this section. ( )

b. The administrative record for any final permit, including issuance, denial, transfer, modification, revocation and reissuance, or termination shall consist of the administrative record for the draft permit and fact sheet, as defined in Subsection 600.01, the proposed permit and associated information, and the following: ( )

i. All comments received during the public comment period provided under Section 109 (Public Notification and Comment); ( )

ii. The record of, and any written materials submitted as part of, any meeting(s) held under Section 109 (Public Notification and Comment); ( )

iii. The application or notice of intent to obtain coverage under a general permit, notice of intent to deny the application, or to terminate the permit, and any supporting data furnished by the applicant; ( )

iv. The response to comments required by Subsections 109.02 and 109.03 and any new material placed in the record under that section; and ( )

v. Any other relevant correspondence and documents. ( )

c. The final permit and fact sheet shall become part of the administrative record after the final permit is issued. ( )

d. The additional documents identified under Subsection 600.02.b., 107.03, and 109.02 should be added to the record as soon as possible after their receipt or publication by the Department. The record shall be complete on the date the final permit is issued. ( )

e. This subsection applies to all IPDES permits when the draft permit was included in a public notice. ( )

f. Material readily available from the Department or published materials which are generally available and which are included in the administrative record under Subsection 600.02 or Section 109 (Public Notification and Comment), need not be physically included in the same file as the rest of the record as long as it is specifically referred to in the fact sheet or in the response to comments. ( )

03. Electronic Submittals. Any information which the Department requires to be submitted electronically, with an electronic signature approved by the Department, will become part of the Administrative Record in accordance with Subsections 600.01 and 02. ( )

601. -- 999. (RESERVED)