

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

Surface and Wastewater Division

58.01.25 – Idaho Pollutant Discharge Elimination System Rules

To whom does this rule apply?

This rule applies to major and minor municipal discharges to surface waters; industrial dischargers to surface waters; facilities, organizations and individuals seeking coverage under a general permit; facilities that currently have or will have a pretreatment permit to a wastewater facility; and other entities interested in point source discharges of pollutants to waters of the United States within Idaho.

What is the purpose of this rule?

This rule establishes 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 shall be referred to in these rules as “IPDES permits” or “permits.”

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statute passed by the Idaho Legislature:

- [Chapter 1, Title 39, Idaho Code](#) – Health and Safety: Environmental Quality

Who do I contact for more information on this rule?

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This rule chapter will be reviewed in compliance with Section [67-5292](#), Idaho Code, and in accordance with the 8-year rule review schedule linked [here](#).

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58.01.25 – IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES

000. LEGAL AUTHORITY.

Sections 39-105, 39-107, and 39-175C, Idaho Code.

(7-1-24)

001. SCOPE.

These rules establish the procedures and requirements for issuing and maintaining IPDES permits for facilities or activities required by Idaho Code and the Clean Water Act (CWA) to obtain authorization to discharge pollutants to waters of the United States.

(7-1-24)

002. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure under the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.” In accordance with Sections 74-101 through 74-119, Idaho Code, information submitted to the Department under these rules may be claimed as confidential by the submitter. The submitter must claim confidentiality on each page or on another portion of the information when submitted and has the burden to demonstrate that the information is confidential.

(7-1-24)

003. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

01. Incorporation by Reference.

(7-1-24)

a. [40 CFR 122.21\(r\)](#), revised as of July 1, 2023 (Application Requirements for Facilities with Cooling Water Intake Structures);

(7-1-24)

b. [40 CFR 122.23](#), revised as of July 1, 2023 (Concentrated Animal Feeding Operations);

(7-1-24)

c. [40 CFR 122.24](#), revised as of July 1, 2023 (Concentrated Aquatic Animal Production Facilities);

(7-1-24)

d. [40 CFR 122.25](#), revised as of July 1, 2023 (Aquaculture Projects);

(7-1-24)

e. [40 CFR 122.26\(a\)](#) through (b) and [40 CFR 122.26\(e\)](#) through (g), revised as of July 1, 2023 (Storm Water Discharges);

(7-1-24)

f. [40 CFR 122.27](#), revised as of July 1, 2023 (Silvicultural Activities);

(7-1-24)

g. [40 CFR 122.29\(d\)](#), revised as of July 1, 2023 (Effect of Compliance with New Source Performance Standards);

(7-1-24)

h. [40 CFR 122.30](#) and [40 CFR 122.32](#) through [40 CFR 122.37](#), revised as of July 1, 2023 (Requirements and Guidance for Small Municipal Separate Storm Sewer Systems);

(7-1-24)

i. [40 CFR 122.42\(e\)](#), revised as of July 1, 2023 (Additional Conditions Applicable to NPDES Permits for Concentrated Animal Feeding Operations);

(7-1-24)

j. [Appendix A to 40 CFR 122](#), revised as of July 1, 2023 (NPDES Primary Industry Categories);

(7-1-24)

k. [Appendix C to 40 CFR 122](#), revised as of July 1, 2023 (Criteria for Determining a Concentrated Aquatic Animal Production Facility);

(7-1-24)

l. [Appendix D to 40 CFR 122](#), revised as of July 1, 2023 (NPDES Permit Application Testing Requirements);

(7-1-24)

m. [Appendix J to 40 CFR 122](#), revised as of July 1, 2023 (NPDES Permit Testing Requirements for Publicly Owned Treatment Works);

(7-1-24)

n. [40 CFR 125.1](#) through [40 CFR 125.3](#) (Subpart A), revised as of July 1, 2023 (Criteria and Standards for Imposing Technology-Based Treatment Requirements Under Sections 301(b) and 402 of the Clean Water Act);

(7-1-24)

o. [40 CFR 125.10](#) through [40 CFR 125.11](#) (Subpart B), revised as of July 1, 2023 (Criteria for

Issuance of Permits to Aquaculture Projects); (7-1-24)

p. 40 CFR 125.30 through 40 CFR 125.32 (Subpart D), revised as of July 1, 2023 (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); (7-1-24)

q. 40 CFR 125.70 through 40 CFR 125.73 (Subpart H), revised as of July 1, 2023 (Criteria for Determining Alternative Effluent Limitations Under Section 316(a) of the Clean Water Act); (7-1-24)

r. 40 CFR 125.80 through 40 CFR 125.89 (Subpart I), revised as of July 1, 2023 (Requirements Applicable to Cooling Water Intake Structures for New Facilities Under Section 316(b) of the Clean Water Act); (7-1-24)

s. 40 CFR 125.90 through 40 CFR 125.99 (Subpart J), revised as of July 1, 2023 (Requirements Applicable to Cooling Water Intake Structures for Phase II Existing Facilities Under Section 316(b) of the Clean Water Act); (7-1-24)

t. 40 CFR 127.11 through 40 CFR 127.16 (Subpart B), revised as of July 1, 2023 (Electronic Reporting of NPDES Information from NPDES-Regulated Facilities); (7-1-24)

u. 40 CFR 129.1 through 40 CFR 129.105 (Subpart A), revised as of July 1, 2023 (Toxic Pollutant Effluent Standards and Prohibitions); (7-1-24)

v. 40 CFR 133.100 through 40 CFR 133.105, revised as of July 1, 2023 (Secondary Treatment Regulation); (7-1-24)

w. 40 CFR Part 136, revised as of July 1, 2023 (Guidelines Establishing Test Procedures for the Analysis of Pollutants, including Appendices A, B, C, and D); (7-1-24)

x. 40 CFR Part 401, revised as of July 1, 2023 (General Provisions); (7-1-24)

y. 40 CFR 403.1 through 40 CFR 403.3; 40 CFR 403.5 through 40 CFR 403.18, revised as of July 1, 2023 (General Pretreatment Regulations for Existing and New Sources of Pollution, including Appendices D, E, and G); (7-1-24)

z. 40 CFR Part 405 through 40 CFR Part 471, revised as of July 1, 2023 (Effluent Limitations and Guidelines); and (7-1-24)

aa. 40 CFR 503.2 through 40 CFR 503.48, revised as of July 1, 2023 (Sewage Sludge, including Appendices A and B). (7-1-24)

bb. The term “Waters of the United States or waters of the U.S.,” as defined in 84 Federal Register 56626, 56669, October 22, 2019 (effective December 23, 2019). (7-1-24)

02. 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 mean: (7-1-24)

a. Administrator or Regional Administrator means the EPA Region 10 Administrator; (7-1-24)

b. Approval Authority means the Department of Environmental Quality; (7-1-24)

c. 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 has been approved by the Department in accordance with 40 CFR 403.1; (7-1-24)

d. 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; (7-1-24)

e. Director, State Director, or State Program Director, means the Director of the Department of Environmental Quality with an NPDES permit program approved pursuant to CWA Section 402(b); (7-1-24)

f. National Pollutant Discharge Elimination System (NPDES) means the Idaho Pollutant Discharge Elimination System (IPDES); (7-1-24)

g. National Pretreatment Standard, Pretreatment Standard, or Standard means a regulation containing pollutant discharge limits promulgated by the EPA in accordance with CWA Sections 307 (b) and (c), which applies to Industrial Users. This term includes prohibited discharge limits established under 40 CFR 403.5 or following procedures outlined in 40 CFR 403.8; (7-1-24)

h. Permitting Authority (preceded by NPDES or State) means the Department of Environmental Quality with an NPDES permit program approved pursuant to CWA Section 402(b); and (7-1-24)

i. Water Management Division Director means a Director of the Water Management Division within the US Environmental Protection Agency Region 10 office or this person's delegated representative. (7-1-24)

004. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal final IPDES permit decisions under Section 204. (7-1-24)

005. -- 009. (RESERVED)

010. DEFINITIONS.

Terms not in this section are defined in IDAPA 58.01.02, "Water Quality Standards," or IDAPA 58.01.16, "Wastewater Rules." (7-1-24)

01. Animal Feeding Operation. As defined in 40CFR 122.23. (7-1-24)

02. Applicable Standards and Limitations. State, interstate, and federal standards and limitations to which a discharge, sewage sludge use or disposal practice, or related activity is subject under the CWA, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices (BMP), pretreatment standards, and standards for sewage sludge use or disposal under CWA Sections 301, 302, 303, 304, 306, 307, 308, 402, and 405. (7-1-24)

03. Application. IPDES forms for applying for a permit or the EPA equivalent forms when deemed acceptable by the Department, including additions, revisions, or modifications to the forms. (7-1-24)

04. Approved Program or Approved State. A state or interstate program approved or authorized by EPA under 40 CFR Part 123. (7-1-24)

05. Aquaculture Project. As defined in CFR 122.25. (7-1-24)

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. (7-1-24)

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. (7-1-24)

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 will be measured. (7-1-24)

09. Best Management Practices (BMP). Scheduled activities, prohibited practices, maintenance

procedures, and other management practices which prevent or reduce the pollution of waters of the United States. BMPs include treatment requirements; operating procedures; and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. (7-1-24)

10. **Biochemical Oxygen Demand (BOD).** As defined in IDAPA 58.01.16. (7-1-24)
11. **Biological Monitoring or Biomonitoring.** As defined in IDAPA 58.01.02. (7-1-24)
12. **Bypass.** The intentional diversion of wastewater from any portion of a treatment facility. (7-1-24)
13. **Chemical Oxygen Demand (COD).** A bulk parameter that measures the oxygen-consuming capacity of organic and inorganic matter present in water or wastewater, expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. (7-1-24)
14. **Class I Sludge Management Facility.** A POTW, identified under 40 CFR 403.8(a), required to have an approved pretreatment program (including POTWs for which the Department has assumed local program responsibilities under 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. (7-1-24)
15. **Clean Water Act (CWA).** 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. (7-1-24)
16. **Compliance Schedule or Schedule of Compliance.** A schedule of remedial measures in a permit, including an enforceable sequence of interim requirements (e.g., actions, operations, or milestones) leading to compliance with the CWA and these rules. (7-1-24)
17. **Concentrated Animal Feeding Operation (CAFO).** As defined in 40 CFR 122.23. (7-1-24)
18. **Concentrated Aquatic Animal Production (CAAP).** As defined in CFR 122.24 (7-1-24)
19. **Continuous Discharge.** A discharge occurring without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities. (7-1-24)
20. **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 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 limits expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant discharged over the day. (7-1-24)
21. **Design Flow.** The average or maximum point source discharge volume per unit time that a facility or system is constructed to accommodate. (7-1-24)
22. **Direct Discharge.** The discharge of a pollutant to waters of the United States. (7-1-24)
23. **Discharge Monitoring Report (DMR).** A required facility or activity report containing monitoring and discharge quality and quantity information and data, submitted periodically, as defined in the discharge permit. These reports must be submitted to the Department in an approved format. (7-1-24)
24. **Discharge.** When used without qualification means the discharge of a pollutant. (7-1-24)
25. **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 an indirect discharger. (7-1-24)

26. 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 termination of 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. 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. (7-1-24)

27. Effluent. Discharge of treated or untreated pollutants into waters of the United States. (7-1-24)

28. Effluent Limitation or Limit. A restriction imposed by the Department on quantities, discharge rates, and concentrations of pollutants that are discharged from point sources into waters of the United States, in accordance with these rules and the CWA. (7-1-24)

29. Effluent Limitations Guidelines (ELG). A regulation published by EPA under CWA Section 304(b) to adopt or revise effluent limitations. (7-1-24)

30. Electronic Signature. Information in digital form that is included in or associated with an electronic document that signifies the same meaning and intention as a handwritten signature. (7-1-24)

31. Equivalent Dwelling Unit (EDU). A measure where one (1) EDU is equivalent to wastewater generated from one (1) single-family residence. For 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 US 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 according to the definition of EDU in IDAPA 58.01.16, "Wastewater Rules." (7-1-24)

32. Existing Source. A source that is not a new source or a new discharger. (7-1-24)

33. Facilities or Equipment. Buildings, structures, process or production equipment or machinery that form a permanent part of the new source and will be used in its operation, if the facilities or equipment are of such value as to represent a substantial commitment to construct. It excludes facilities or equipment used in feasibility, engineering, and design studies regarding the source or water pollution treatment for the source. (7-1-24)

34. Facility or Activity. A point source or other facility or activity (including land or appurtenances) regulated under the IPDES program. (7-1-24)

35. 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 developing the national effluent limits. (7-1-24)

36. General Permit. An IPDES permit issued under Section 130 authorizing a category of discharges within a geographical area. (7-1-24)

37. Hazardous Substance. A substance designated under 40 CFR Part 116 pursuant to CWA Section 311. (7-1-24)

38. 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 CWA Sections 307, 402, 318, and 405. (7-1-24)

39. Indian Country. (7-1-24)

a. Land within the limits of an Indian reservation under the jurisdiction of the US Government, notwithstanding the issuance of a patent, and including rights-of-way running through the reservation; (7-1-24)

b. 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 (7-1-24)

c. Indian allotments, the Indian titles to which have not been extinguished including rights-of-way running through the same. (7-1-24)

40. 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. (7-1-24)

41. Indirect Discharger. A nondomestic discharger introducing pollutants to a privately or publicly owned treatment works. (7-1-24)

42. Infiltration. Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through sources such as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. (7-1-24)

43. Inflow. Water other than wastewater that enters a sewer system (including sewer service connections) from sources including, 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. (7-1-24)

44. Integrated Planning. A voluntary plan developed by the permittee in consultation and coordination with the Department. The plan will be based on USEPA 2012 policy guidance as further codified by the America's Water Infrastructure Act of 2018, Public law: 115-270. Integrated Plans may include wastewater discharges from POTWs, reclaimed or recycled water from municipalities, MS4 storm water, nonpoint source municipal storm water, and municipal owned geothermal water. An Integrated Plan may also incorporate other watershed activities undertaken by municipalities such as beneficial reuse of biosolids, stream and restoration activities, and aquatic and riparian improvements. (7-1-24)

45. 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. (7-1-24)

46. Major Facility. (7-1-24)

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 (7-1-24)

b. A non-municipal facility that equals or exceeds the eighty (80) point accumulation described in the Score Summary of the NPDES Non-municipal Permit Rating Work Sheet (June 27, 1990) or the Department equivalent. (7-1-24)

47. Maximum Daily Discharge Limitation. The highest allowable daily discharge. (7-1-24)

48. 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. (7-1-24)

49. Mixing Zone. As defined in [IDAPA 58.01.02](#). (7-1-24)

50. Municipality. A city, town, county, district, association, or other public body created by or under state law with 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 CWA Section 208. (7-1-24)

51. 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 CWA Sections 307, 402, 318, and 405. (7-1-24)

52. New Discharger. A building, structure, facility, or installation that: (7-1-24)

a. Discharge or may discharge pollutants; (7-1-24)

b. Did not discharge pollutants at a particular site before August 13, 1979; (7-1-24)

c. Is not a new source; and (7-1-24)

d. Has never received an effective NPDES or IPDES permit for discharges at that site. (7-1-24)

e. This includes an indirect discharger which commences discharging into waters of the United States after August 13, 1979, and an existing mobile point source, such as an aggregate plant, that discharges at a site for which it does not have a permit; (7-1-24)

53. New Source. A building, structure, facility, or installation that discharges or may discharge pollutants, and construction has commenced: (7-1-24)

a. After promulgation of performance standards under CWA Section 306 applicable to the source; or (7-1-24)

b. After proposal of performance standards under CWA Section 306 applicable to the source, but only if the standards are promulgated within one hundred twenty (120) days of the proposal. (7-1-24)

54. Notice of Intent to Deny. A draft permit that conveys to a permit applicant or permittee the Department's intent to not issue or renew an IPDES permit. (7-1-24)

55. Notice of Intent to Obtain Coverage under an IPDES General Permit. An applicant seeking discharge coverage under an IPDES general permit must 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: (7-1-24)

a. Storm Water Construction General Permit (CGP); (7-1-24)

b. Multi-sector General Permit (MSGP) for Industrial Storm Water Requirements; (7-1-24)

c. Municipal Separate Storm Sewer System (MS4) General Permit; (7-1-24)

d. Concentrated Animal Feeding Operation (CAFO) General Permit; (7-1-24)

e. Concentrated Aquatic Animal Production (CAAP) Facility General Permit; (7-1-24)

f. Ground Water Remediation General Permit; (7-1-24)

g. Suction Dredge General Permit; or (7-1-24)

h. Pesticide General Permit (PGP). (7-1-24)

56. Notice of Termination. A notice of termination conveys: (7-1-24)

a. To a permittee, the Department's intent to terminate an existing IPDES permit for cause; or (7-1-24)

b. To the Department a permittee's intent to terminate coverage for an activity under an individual or general permit. A construction general permit holder must submit a notice of termination within 30 (thirty) days of

completing construction activities and final stabilization for storm water control. (7-1-24)

57. 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. (7-1-24)

58. Pesticide Discharges. 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. This does not include agricultural storm water discharges and return flows from irrigated agriculture that are excluded by law (33 U.S.C. 1342(l); 33 U.S.C. 1362(14)). (7-1-24)

59. Pesticide Residue. To determine whether an IPDES permit is needed for discharges to waters of the United States from pesticide application, the portion of a pesticide application discharged from a point source to waters of the United States that no longer provides pesticidal benefits. It includes degradation byproducts of the pesticide. (7-1-24)

60. Permit. The authorization, license, or equivalent control document issued by the Department to implement these rules. This does not include a draft permit or a proposed permit. (7-1-24)

61. 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 a legal entity, or an agent or employee recognized by law as the subject of rights and duties. (7-1-24)

62. Point Source. A 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 that discharges or may discharge pollutants. This does not include return flows from irrigated agriculture or agricultural storm water runoff that are excluded by law (33 U.S.C. 1342(l); 33 U.S.C. 1362(14)). (7-1-24)

63. 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: (7-1-24)

a. Sewage from vessels; or (7-1-24)

b. Water, gas, or other material injected into a well to facilitate production of oil or gas, or water resulting from oil and gas production and disposed of in a well, if the well used for production or disposal is approved by authority of the state where the well is located, and if the state determines the injection or disposal will not degrade ground or surface water resources.

NOTE: Radioactive materials covered by the Atomic Energy Act are 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). (7-1-24)

64. Potable Water. As defined in [IDAPA 58.01.16](#). (7-1-24)

65. Pretreatment. As defined in [40 CFR 403.3](#). (7-1-24)

66. Primary Industry Category. An industry category listed in Appendix A of 40 CFR Part 122. (7-1-24)

67. Privately Owned Treatment Works. A device or system used to treat wastes and is not a publicly owned treatment works (POTW). (7-1-24)

68. Process Wastewater. Water that, during manufacturing or processing, comes into direct contact with or results from producing or using a raw material, intermediate product, finished product, byproduct, or waste

product. (7-1-24)

69. Proposed Permit. An IPDES permit prepared after the public comment period closes (and when applicable, any public meeting and administrative appeals) that is sent to EPA for review before final issuance by the Department. A proposed permit is not a draft permit. (7-1-24)

70. Proposed Settlement of a State Enforcement Action. A Department consent order, compliance agreement schedule, or compliance schedule order issued in response to a notice of violation that will be signed by the Director. This does not include amendments or extensions of consent orders, compliance agreement schedules, or compliance schedule orders. (7-1-24)

71. Publicly Owned Treatment Works (POTW). As defined in [40 CFR 403.3](#). (7-1-24)

72. Receiving Waters. Waters of the United States to which there is a discharge of pollutants. (7-1-24)

73. Recommencing Discharger. A source that renews discharges after terminating operations. (7-1-24)

74. Regional Administrator. The Region 10 Administrator of the US Environmental Protection Agency or the authorized representative of the Regional Administrator. (7-1-24)

75. Secondary Industry Category. An industry category that is not a primary industry category. (7-1-24)

76. 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 the minimum level of effluent quality for BOD₅, total suspended solids (TSS), and pH (except for treatment equivalent to secondary treatment and other special considerations). (7-1-24)

77. Secretary. Secretary of the Army, acting through the Chief of Engineers. (7-1-24)

78. Septage. 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. (7-1-24)

79. Severe Property Damage. Substantial physical damage to property, damage to the treatment facilities causing them to become inoperable, or substantial and permanent loss of natural resources that 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. (7-1-24)

80. Sewage. As defined in [IDAPA 58.01.16](#). (7-1-24)

81. Sewage from Vessels. Human body wastes and wastes from toilets and other receptacles intended to receive or retain body wastes that are discharged from vessels and regulated under CWA Section 312. (7-1-24)

82. Sewage Sludge. Solid, semi-solid, or liquid residue removed during municipal wastewater or domestic sewage treatment. 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 sewage sludge incineration. (7-1-24)

83. Sewage Sludge Use or Disposal Practice. The collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge. (7-1-24)

84. Significant Industrial User. Industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Parts 400 through 471 and any other industrial user that: (7-1-24)

a. Discharge 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); (7-1-24)

b. Contribute a process waste stream that makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or (7-1-24)

c. Is designated by the Control Authority based on reasonable potential to adversely affect the POTW's operation or violate a Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)). (7-1-24)

85. Silvicultural Point Source. As defined in [40 CFR 122.27](#). (7-1-24)

86. Site. Land or water area where a facility or activity is physically located or conducted, including adjacent land used with the facility or activity. (7-1-24)

87. Sludge-Only Facility. A TWTDS whose methods of sewage sludge use or disposal is subject to regulations under CWA Section 405(d) and is required to obtain an IPDES permit. (7-1-24)

88. Source. A building, structure, facility, or installation that discharges or may discharge pollutants. (7-1-24)

89. Standards for Sewage Sludge Use or Disposal. Regulations promulgated under CWA 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 a person. (7-1-24)

90. Storm Water. Storm water runoff, snow melt runoff, and surface runoff and drainage. (7-1-24)

91. Technology-Based Effluent Limitation (TBEL). Treatment requirements under the CWA that represent the minimum level of control to be imposed in a permit issued under CWA Section 402. (7-1-24)

92. Total Dissolved Solids. Total dissolved (filterable) solids determined by use of the method specified in 40 CFR Part 136. (7-1-24)

93. Toxic Pollutant. A substance, material or disease-causing agent, or a combination that 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 reproductive malfunctions) 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 under CWA Section 307(a), or, for sewage sludge use or disposal practices, a pollutant identified in regulations implementing CWA Section 405(d). (7-1-24)

94. Treatment. As defined in [IDAPA 58.01.16](#). (7-1-24)

95. Treatment Works Treating Domestic Sewage (TWTDS). A POTW or other sewage sludge or waste water treatment devices or systems, regardless of ownership (including federal facilities), used in storing, treating, recycling, and reclaiming municipal or domestic sewage, including land dedicated for sewage sludge disposal. This does not include septic tanks or similar devices. Domestic sewage includes waste and waste water from humans or household operations that are discharged to or enter a treatment works. (7-1-24)

96. Upset. An exceptional incident resulting in unintentional and temporary noncompliance with technology-based permit effluent limits because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. (7-1-24)

97. User. A person served by a wastewater system. (7-1-24)

98. Variance. A mechanism or provision under CWA Section 301 or 316, 40 CFR Part 125, or in the

ELGs allowing modification to or waiver of the effluent limit requirements or time deadlines of the CWA. This includes provisions allowing the establishment of alternative limits based on fundamentally different factors or on CWA Sections 301(c), 301(g), 301(h), 301(i), or 316(a). (7-1-24)

99. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity allocated to one (1) of its existing or future point sources of pollution. (7-1-24)

100. Wastewater. As defined in [IDAPA 58.01.16](#). (7-1-24)

101. Water Pollution. An alteration of the physical, thermal, chemical, biological, or radioactive properties of waters of the United States, or the discharge of a pollutant into the waters of the United States that will or is likely to create a nuisance or to render 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. (7-1-24)

102. Water Quality-Based Effluent Limit (WQBEL). An effluent limit 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. (7-1-24)

103. 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. (7-1-24)

104. 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 include swamps, marshes, bogs, and similar areas. (7-1-24)

105. Whole Effluent Toxicity (WET). The aggregate toxic effect of effluent measured directly by a toxicity test. (7-1-24)

011. -- 049. (RESERVED)

050. COMPUTATION OF TIME.

01. Computing Time. When computing a period of time scheduled to begin after or before an act or event occurs, the date of the act or event is not included. The last day of the period is included, unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the end of the next day which is neither a Saturday, Sunday, or 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 (7-1-24)

02. Notice by Mail. When 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 by mail, three (3) days will be added to the prescribed time. (7-1-24)

051. -- 089. (RESERVED)

090. SIGNATURE REQUIREMENTS.

01. Permit Applications and Notices of Intent. IPDES permit applications and notices of intent must be signed by a certifying official as follows: (7-1-24)

a. For a corporation, a responsible corporate officer must sign the application or notice of intent. In this subsection, a responsible corporate officer means: (7-1-24)

i. President, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or other person who performs similar policy- or decision-making functions for the corporation; or (7-1-24)

ii. Manager of one (1) or more manufacturing, production, or operating facilities or sites, if the

manager: (7-1-24)

(1) Is authorized to make management decisions that govern the operation of the regulated facility, including the explicit or implicit duty of recommending major capital investments, and initiating and directing other comprehensive measures to ensure long-term environmental compliance with environmental statutes and regulations; (7-1-24)

(2) Ensures the necessary systems are established or actions taken to gather complete and accurate information for IPDES permit application requirements; and (7-1-24)

(3) Has been assigned or delegated authority to sign documents following corporate procedures; (7-1-24)

b. For a partnership or sole proprietorship, the general partner or proprietor, respectively, signs the application; and (7-1-24)

c. For a municipality, state, or other public agency, either a principal executive officer or ranking elected official must sign the application. In this subsection, a principal executive officer of an agency means: (7-1-24)

i. Chief executive officer of the agency; or (7-1-24)

ii. Senior executive officer responsible for the overall operations of a principal geographic unit or agency division. (7-1-24)

02. Reports and Other Information Submitted. A report or information required by an IPDES permit, notice of intent, monitoring and reporting provisions, and 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: (7-1-24)

a. Authorization is made in writing by a person described in Subsection 090.01; (7-1-24)

b. Authorization specifies either: (7-1-24)

i. An individual or a position responsible for the overall operation of the regulated facility or activity, including a manager, operator, superintendent, or position of equivalent responsibility; or (7-1-24)

ii. An individual or position responsible for overall environmental matters for the company; and (7-1-24)

c. The written authorization is submitted to the Department. (7-1-24)

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 with a report, information, or application to be signed by an authorized representative. (7-1-24)

04. Certification. A person signing a document under Subsections 090.01 or 090.02 must 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." (7-1-24)

05. Electronic Signatures. The Department may require signed, certified, or authorized information to be submitted electronically, with an electronic signature approved by the Department. (7-1-24)

06. Electronic Reporting. When documents described in Subsection 090.01 or 090.02 are submitted electronically by or on behalf of the IPDES-regulated facility, persons providing the electronic signature must meet the relevant requirements of this section, and ensure 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. (7-1-24)

091. -- 099. (RESERVED)

100. EFFECT OF A PERMIT.

01. Rights. The issuance of, or coverage under, an IPDES permit does not convey property rights or exclusive privilege nor does it authorize injury to persons or property or invasion of other private rights, or infringement of state or local law or regulations. It does not constitute authorization of the permitted activities by another state or federal agency or private person or entity, and does not excuse the permit holder from the obligation to obtain other necessary approvals, authorizations, or permits. (7-1-24)

02. Compliance. Except for toxic effluent standards and prohibitions imposed under CWA Section 307, and standards for sewage sludge use or disposal under CWA Section 405(d), compliance with an IPDES permit during its term constitutes compliance, for enforcement, with CWA Sections 301, 302, 306, 307, 318, 403, and 405(a) through (b). A permit or coverage under a permit may be modified, revoked and reissued, or terminated during its term for cause as established in Sections 130 (General Permits), 201 (Modification, or Revocation and Reissuance of IPDES Permits), and 203 (Termination of IPDES Permits). (7-1-24)

101. DURATION.

01. Permit Term. IPDES permits will be issued for a duration of five (5) years or less. (7-1-24)

a. The Department may issue a permit for less than five (5) years. The reasoning behind issuing a permit for a shorter period will be provided in the fact sheet. (7-1-24)

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. (7-1-24)

c. A permit may be issued to expire on or after the statutory deadline established in CWA Sections 301(b)(2)(A), (C), and (E), if the permit includes effluent limits required by CWA Sections 301(b)(2)(A), (C), (D), (E) and (F), whether or not ELGs have been promulgated or approved. (7-1-24)

d. A determination that a particular discharger falls within a given industrial category for 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. (7-1-24)

e. A federally-issued NPDES permit transferred to the Department to administer after EPA approval of the IPDES program, continues in effect and is enforceable by the Department, subject to Subsections 101.02 and 101.03. (7-1-24)

02. Continuation of Individual Permits. The conditions of an expired individual federal NPDES permit (except for permits under EPA 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: (7-1-24)

a. The permittee submitted a timely and complete application for a new permit under Section 105; and (7-1-24)

b. The Department, because of time, resources, 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.

(7-1-24)

03. Continuation of General Permits. The conditions of an expired general NPDES permit or a state-issued IPDES permit, will remain fully effective and enforceable (except for permits under EPA authority) until the date the authorization to discharge under the new permit is determined, if:

(7-1-24)

a. The permittee submitted a timely notice of intent to obtain coverage under the new general permit as specified in Section 130; and

(7-1-24)

b. The Department, because of time, resources, 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.

(7-1-24)

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.

(7-1-24)

102. OBLIGATION TO OBTAIN AN IPDES PERMIT.

01. Persons Who Must Obtain a Permit. A person who discharges or proposes to discharge a pollutant from a 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, must submit a complete IPDES permit application to the Department, unless the discharge, proposed discharge, or TWTDS is:

(7-1-24)

a. Covered by one (1) or more general permits in compliance with Section 130. An applicant must complete a notice of intent for a discharge or proposed discharge covered by one (1) or more general permits;

(7-1-24)

b. Excluded from IPDES permit requirements under Subsection 102.05;

(7-1-24)

c. By a user to a privately owned treatment works, and the Department, under Section 370, does not otherwise require the person to apply for a permit; or

(7-1-24)

d. A TWTDS facility that uses or disposes of sewage sludge where a standard applicable to its sewage sludge use or disposal practices has not been published. These facilities must submit limited background information, as specified in Subsection 105.17.o., within one (1) year after publication of applicable standards.

(7-1-24)

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.

(7-1-24)

03. Permits Under CWA 405(f). 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 schedule in Subsection 105.17. The Department may require permit applications from TWTDS at any time if the Department determines that a permit is necessary to protect public health and the environment from potential adverse effects that may occur from toxic pollutants in sewage sludge.

(7-1-24)

04. Designation of Small Municipal Separate Storm Sewer Systems (MS4s). DEQ will designate a small MS4 that is not located in an urbanized area, as determined by the latest decennial census by the US Census Bureau, as a regulated small MS4 that must be covered by an IPDES permit if the Department determines that the storm water discharge:

(7-1-24)

a. Results in or has the potential to result in exceedance of water quality standards or other significant water quality impacts; or

(7-1-24)

b. Contributes substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the IPDES storm water program.

(7-1-24)

05. Exclusions from Permit. A person must not discharge pollutants from a 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 CWA and CWA regulations. Discharges excluded from IPDES permit requirements, but that may be regulated by other state or federal regulations include: (7-1-24)

a. Sewage discharge from vessels and effluent from properly functioning marine engines, laundry, shower and galley sink wastes, or other discharge incidental to the normal operation of a vessel of the US Armed Forces under CWA Section 312, and a recreational vessel under CWA Section 502(25). None of these exclusions apply to: (7-1-24)

i. Rubbish, trash, garbage, or other materials discharged overboard; nor to (7-1-24)
ii. Discharges when the vessel is operating in a capacity other than as a means of transportation such as: (7-1-24)

(1) An energy or mining facility; (7-1-24)
(2) A storage facility, or when secured to a storage facility; or (7-1-24)
(3) When secured to the bed of the waters of the United States for mineral or oil exploration or development; (7-1-24)

b. A discharge of dredged or fill material into waters of the United States regulated under CWA Section 404; (7-1-24)

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 introducing 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; (7-1-24)

d. A 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); (7-1-24)

e. 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; (7-1-24)

f. Return flow from irrigated agriculture; (7-1-24)

g. Discharges into a privately owned treatment works, except as the Department may otherwise require under Subsection 302.15; and (7-1-24)

h. Discharges from a water transfer. This exclusion does not apply to pollutants introduced by the water transfer activity to the transferred water. (7-1-24)

103. PERMIT PROHIBITIONS.
The Department will not issue an IPDES permit for a discharge: (7-1-24)

01. CWA Compliance. Unless the conditions of the permit provide for compliance with the requirements of IDAPA 58.01.02, “Water Quality Standards” and 58.01.25 “Idaho Pollutant Discharge Elimination System Rules”; (7-1-24)

02. EPA Objection. When the Department has received written objection under 40 CFR 123.44 from the EPA Regional Administrator and until the objections are resolved according to the process identified in the Memorandum of Agreement between EPA and the Department; (7-1-24)

03. Water Quality Requirements. When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states; (7-1-24)

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 the waters of the United States will be substantially impaired by the discharge; (7-1-24)

05. Banned Content. Of any radiological, chemical, or biological warfare agent or high level radioactive waste; (7-1-24)

06. Area Wide Waste Treatment Management Plans. That is inconsistent with a plan or plan amendment approved under CWA Section 208(b); or (7-1-24)

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. (7-1-24)

a. When the owner or operator of a new source or new discharge proposes to discharge into a water segment that does not meet water quality standards, or that is not expected to meet those standards even after applying the effluent limit required by CWA 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: (7-1-24)

i. Sufficient remaining pollutant load allocations exist to allow for the discharge; and (7-1-24)

ii. The existing dischargers into the segment are subject to compliance schedules that bring the segment into compliance with water quality standards. (7-1-24)

b. The Department may waive the submission of information by the permit applicant required in Subsection 103.07.a. if the Department determines adequate information exists to evaluate the request. (7-1-24)

c. The development of limits to meet the criteria of this section is explained in the fact sheet to the permit. (7-1-24)

104. PRE-APPLICATION PROCESS.

A person who intends to apply for a permit or who proposes to discharge a pollutant into the waters of the United States may contact the Department to schedule a meeting to discuss an application before submittal: (7-1-24)

01. Permit Applicability. Whether the actions or facility will require an IPDES permit, and whether other suitable permitting options are available; (7-1-24)

02. Application Content. The IPDES permit application requirements; and (7-1-24)

03. Application Schedule. The IPDES permit application submittal schedule. (7-1-24)

105. INDIVIDUAL PERMIT APPLICATIONS.

01. Electronic Submittals. The Department may require an applicant to electronically submit information required by this section using an approved electronic method. (7-1-24)

02. Application Retention Schedule. An applicant must keep records of all data used to complete a permit application and supplemental information submitted for at least three (3) years from the date the application is signed. (7-1-24)

03. Time to Apply. A person required under Subsections 102.01 through 102.03 to obtain an IPDES permit must submit a complete application for a permit to the Department following the requirements of this subsection. A permit application must be signed and certified as required by Section 090. (7-1-24)

a. A person proposing a new discharge must apply at least one hundred eighty (180) days before the discharge will commence, unless the Department grants permission to submit the application on a later date as specified in Subsections 105.03.e. and f. A facility proposing a new storm water discharge from an industrial activity must apply one hundred eighty (180) days before that facility commences activity that may result in a discharge of storm water, unless the Department grants permission to submit the application on a later date as specified in Subsections 105.03.e. and f. (7-1-24)

b. Facilities described under 40 CFR 122.26(b)(14)(x) or (b)(15)(i) must apply at least ninety (90) days before construction commences unless otherwise required by the general permit. (7-1-24)

c. A TWTDS that commences operations after promulgation of a “standard for sewage sludge use or disposal” must apply to the Department at least one hundred eighty (180) days before commencing proposed operations. (7-1-24)

d. A person discharging from a permitted facility with an effective permit must reapply at least one hundred eighty (180) days before the expiration of the existing permit, unless the Department grants permission to submit the application on a later date as specified in Subsections 105.03.e. and f. (7-1-24)

e. The Department may grant permission to apply in less than one hundred eighty (180) days. The Department’s prior approval must be obtained at least one hundred eighty (180) days before the existing permit expires or new discharge commences. (7-1-24)

f. The application will not be accepted as an application for permit renewal after permit expiration. Applications received after the permit expiration will be reviewed as an application for a new source or new discharger. (7-1-24)

04. Individual Permit Application Forms. An applicant must use 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: (7-1-24)

a. Applicants, other than a POTW, TWTDS, and pesticide applicators (Subsection 105.06), EPA Form 1 equivalent and the following forms, if applicable: (7-1-24)

i. CAFO (Subsection 105.09) or CAAP (Subsection 105.10) facility, EPA Form 2B equivalent; (7-1-24)

ii. Existing industrial facility, including manufacturing facilities, commercial facilities, mining activities, and silviculture activities (Subsection 105.07), EPA Form 2C equivalent; (7-1-24)

iii. New industrial facility that discharges process wastewater (Subsection 105.16), EPA Form 2D equivalent; (7-1-24)

iv. New or existing industrial facility that discharges only non-process wastewater (Subsection 105.08.a.), EPA Form 2E equivalent; (7-1-24)

v. New or existing facility with discharge composed entirely of storm water from industrial activity

(Subsection 105.19), EPA Form 2F equivalent 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 (Subsections 105.07, 105.08, and 105.16), EPA Forms 2C, 2D, or 2E equivalent are also required; or (7-1-24)

vi. Operating a sludge-only facility (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 equivalent; (7-1-24)

b. Applicant is a new or existing POTW or privately owned treatment works (Subsections 105.11 through 105.15); (7-1-24)

i. EPA Form 2A equivalent; and (7-1-24)

ii. EPA Form 2S equivalent, if applicable. (7-1-24)

05. Application Information for All Dischargers. In addition to the application information required for specific dischargers, the Department may require the following information to comply with Section 103 and to: (7-1-24)

a. Determine compliance with the antidegradation policy and antidegradation implementation provisions in IDAPA 58.01.02.051 and 052, "Water Quality Standards"; (7-1-24)

b. Determine compliance with the mixing zone provisions in IDAPA 58.01.02.060, "Water Quality Standards"; or (7-1-24)

c. Authorize a compliance schedule under IDAPA 58.01.02.400, "Water Quality Standards." (7-1-24)

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 TWTDS, must provide the following information to the Department, using the forms specified in Subsection 105.04: (7-1-24)

a. Applicant's activity requiring an IPDES permit; (7-1-24)

b. Name, mailing address, e-mail address, and location of the facility for the submitted application; (7-1-24)

c. Up to four (4) Standard Industrial Classification (SIC) or North American Industrial Classification System (NAICS) codes identifying the principal products or services provided by the facility; (7-1-24)

d. Operator's name, mailing address, e-mail address, telephone number, ownership status, and status as federal, state, private, public, or other entity; (7-1-24)

e. Statement that the facility is not in Indian country, if applicable; (7-1-24)

f. List of permits or construction approvals received or applied for under: (7-1-24)

i. Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; (7-1-24)

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"; (7-1-24)

iii. IPDES program under IDAPA 58.01.25 "Idaho Pollutant Discharge Elimination System Rules"; (7-1-24)

iv. Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for Control

of Air Pollution in Idaho”; (7-1-24)

v. Nonattainment program under IDAPA 58.01.01, “Rules for Control of Air Pollution in Idaho”; (7-1-24)

vi. National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, “Rules for Control of Air Pollution in Idaho”; (7-1-24)

vii. Dredge or fill permits under the Clean Water Act section 404; or (7-1-24)

viii. Other relevant environmental permits, programs or activities subject to state jurisdiction, approval, and permits, including IDAPA 58.01.17, “Recycled Water Rules”; and (7-1-24)

g. Topographic map, or other map if a topographic map is unavailable, extending one (1) mile beyond the property boundaries of the source, depicting the: (7-1-24)

i. Facility and each of its intake and discharge structures; (7-1-24)

ii. Location of the facility’s hazardous waste treatment, storage, or disposal areas; (7-1-24)

iii. Location of each well where fluids from the facility are injected underground; and (7-1-24)

iv. Location of wells, springs, other surface water bodies, and drinking water wells listed in public records or known by the applicant to exist in the map area; and (7-1-24)

h. Description of the nature of the business; (7-1-24)

i. Indicate whether the facility uses cooling water and the source of the cooling water; and (7-1-24)

j. Indicate whether the facility is requesting any variances in Subsection 310.01 if known at the time of application. (7-1-24)

07. Application Requirements for Existing Manufacturing, Commercial, Mining and Silviculture Dischargers. (7-1-24)

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 forms specified in Subsection 105.04: (7-1-24)

i. For each outfall: (7-1-24)

(1) Latitude and longitude to the nearest second (or equivalent) and the name of each receiving water; (7-1-24)

(2) Identify 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; (7-1-24)

(3) Average flow that each process contributes and a description of the wastewater treatment received, including the ultimate disposal of solid or fluid wastes other than by discharge; (7-1-24)

(4) For a privately owned treatment works, identify each user of the treatment works; and (7-1-24)

(5) Average flow of point sources composed of storm water. The average flow may be estimated, and the basis for the rainfall event with the method of estimation must be submitted; (7-1-24)

ii. Describe the frequency, duration, and flow rate of each occurrence for any discharge specified in

Subsections 105.07.a.i.(2) through (5) that are intermittent or seasonal, except for storm water runoff, spillage, or leaks; (7-1-24)

iii. Reasonable measure of the applicant's actual production reported in the units used in the ELG if the ELG under CWA Section 304 applies to the applicant and is expressed as production or another measure of operation. The reported measure must reflect the actual production of the facility as required by Subsection 303.02.b.; (7-1-24)

iv. If the applicant is subject to present requirements or compliance schedules for construction, upgrading, or operation of waste treatment equipment, identify the abatement requirement, describe the abatement project, and list the required and projected final compliance dates; (7-1-24)

v. List the toxic pollutants the applicant currently uses or manufactures as an intermediate or final product or byproduct, except the Department may waive or modify this requirement; (7-1-24)

(1) If the applicant demonstrates an undue burden to identify each toxic pollutant; and (7-1-24)

(2) The Department has adequate information to issue the permit; (7-1-24)

vi. Identify biological toxicity tests the applicant knows or believes was made within the last three (3) years on the applicant's discharges or on discharges to a receiving water in relation to a discharge; and (7-1-24)

vii. Identify each laboratory or firm and the analyses performed, if a contract laboratory or consulting firm performed the analyses required by Subsection 105.07.c. through m. (7-1-24)

b. Owner or operator of a facility 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. (7-1-24)

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). (7-1-24)

ii. Water balance must show approximate average flows at intake and discharge points and between units, including treatment units. (7-1-24)

iii. If a water balance cannot be determined for certain activities, the applicant may provide a pictorial description of the nature and amount of sources of water and collection and treatment measures. (7-1-24)

c. In addition to the 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: (7-1-24)

i. Collect, prepare, and submit information on the effluent characteristics and discharge of pollutants specified in this section; and (7-1-24)

ii. When quantitative data for a pollutant are required, collect a sample of effluent and analyze it for the pollutant following the analytical methods approved in 40 CFR Part 136, except when no analytical method is approved, the applicant may use and must describe a suitable method. (7-1-24)

d. An applicant under this subsection must: (7-1-24)

i. Use grab samples to provide information on cyanide, total phenols, residual chlorine, oil and grease, fecal coliform (including *E. coli*), enterococci (previously known as fecal streptococcus), and volatile organics; temperature, pH, and dissolved oxygen. Residual chlorine effluent data may be obtained from grab samples or from calibrated and properly maintained continuous monitors; (7-1-24)

ii. For all other pollutants, use twenty-four (24) hour composite samples, unless specified otherwise at

40 CFR Part 136, with at least four (4) grab samples, except at least 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; (7-1-24)

e. For Subsection 105.07.c., exceptions to testing and data provision requirements for effluent characteristics include: (7-1-24)

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 the quantitative data reported will also apply to the substantially identical outfall; and (7-1-24)

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 resulting from their presence in intake water; however, an applicant must report those pollutants are present. (7-1-24)

f. For storm water discharges, associated with an existing facility described in Subsection 105.07.a., from storm events that yield more than one-tenth (0.1) inch of rainfall: (7-1-24)

i. 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 (7-1-24)

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: (7-1-24)

(1) Sampling may be conducted with a continuous sampler or a combination of at least 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 separated by at least 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; (7-1-24)

(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 (7-1-24)

(3) For a flow-weighted composite sample, only one (1) analysis of the composite of aliquots is required; (7-1-24)

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 after as practicable, of the discharge for pollutants specified in Subsection 105.19 except for all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for 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); (7-1-24)

iv. The Department may, on a case-by-case basis, allow or establish appropriate site-specific sampling procedures or requirements, including: (7-1-24)

(1) Sampling locations; (7-1-24)

(2) Season in which the sampling takes place; (7-1-24)

(3) Minimum duration between the previous measurable storm event and the sampled storm event; (7-1-24)

(4) Minimum or maximum level of precipitation required for an appropriate storm event; (7-1-24)

(5) Form of precipitation sampled, whether snow melt or rain fall; (7-1-24)

- (6) Protocols for collecting samples under 40 CFR Part 136; and (7-1-24)
- (7) Additional time for submitting data; and (7-1-24)
- v. An applicant knows or believes a pollutant is present in an effluent if an evaluation of the expected use, production, or storage of the pollutant, or previous analyses for the pollutant, shows the pollutant's presence. (7-1-24)
- g. Unless a reporting requirement is waived under Subsection 105.07.h., applicants subject to this subsection must report quantitative data for the following pollutants for every outfall: (7-1-24)
 - i. 5-day biochemical oxygen demand (BOD₅); (7-1-24)
 - ii. Chemical oxygen demand (COD); (7-1-24)
 - iii. Total organic carbon (TOC); (7-1-24)
 - iv. Total suspended solids (TSS); (7-1-24)
 - v. Ammonia, as N; (7-1-24)
 - vi. Temperature (both winter and summer); and (7-1-24)
 - vii. pH. (7-1-24)
- 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 issuing a permit can be obtained with less stringent requirements. (7-1-24)
- 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: (7-1-24)
 - 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. In this subsection: (7-1-24)
 - (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 using gas chromatography/mass spectrometry; and (7-1-24)
 - (2) If the Department determines an applicant falls within an industrial category for selecting fractions for testing, the determination does not establish the applicant's category for another purpose (Notes 2 and 3 to 40 CFR 122.21); and (7-1-24)
 - ii. Data for the toxic metals, cyanide, and total phenols listed in Table III of Appendix D to 40 CFR Part 122. (7-1-24)
- j. An applicant must disclose whether he knows or believes 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 ELG limits the pollutant either directly or indirectly by express limits on an indicator, the applicant must report quantitative data. For every pollutant discharged that is not limited in an ELG, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged. (7-1-24)
- k. An applicant must disclose whether he knows or believes 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 qualified as a small business under Subsection 105.07.o., the applicant must: (7-1-24)

i. Report quantitative data for every pollutant expected to be discharged in concentrations of ten (10) parts per billion or greater; (7-1-24)

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 (7-1-24)

iii. For every pollutant expected to be discharged in concentrations less than ten (10) parts per billion, or for 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 describe the reasons the pollutant is expected to be discharged and submit supporting documentation. (7-1-24)

l. An applicant must disclose whether he knows or believes that asbestos or 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 describe the reasons the pollutant is expected to be discharged and report quantitative data for any pollutant. (7-1-24)

m. An applicant 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: (7-1-24)

i. Uses or manufactures: (7-1-24)

(1) 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); (7-1-24)

(2) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); (7-1-24)

(3) 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); (7-1-24)

(4) o,o-dimethyl o-(2,4,5-trichlorophenyl) phosphorothioate (Ronnell); (7-1-24)

(5) 2,4,5-trichlorophenol (TCP); or (7-1-24)

(6) Hexachlorophene (HCP); or (7-1-24)

ii. Knows or believes that TCDD is or may be present in an effluent. (7-1-24)

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 application, provided all: (7-1-24)

i. Data requirements are met; sampling was performed, collected, and analyzed no more than four and one-half (4 ½) years before submission; (7-1-24)

ii. Data represent the discharge; and (7-1-24)

iii. Available representative data are considered in the values reported. (7-1-24)

o. An applicant 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 he qualifies as a small business under one (1) of the following criteria: (7-1-24)

i. Coal mine with an expected total annual production of less than one hundred thousand (100,000) tons per year; or (7-1-24)

ii. Gross total annual sales average less than two hundred eighty-seven thousand, three hundred dollars (\$287,300) per year in 2014 dollars. (7-1-24)

p. In addition to the information reported on the application, an applicant must provide at the Department's request, other information required to assess the discharges of the facility and to determine whether to issue an IPDES permit. This information may include quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and to determine the cause of the toxicity. (7-1-24)

08. Application Requirements for New or Existing Manufacturing, Commercial, Mining, and Silviculture Facilities that Discharge only Non-process Wastewater. (7-1-24)

a. An applicant that is a manufacturing, commercial, mining, or silvicultural discharger that discharges only non-process wastewater not regulated by an ELG or new source performance standard must provide the following information to the Department for all discharges, except for storm water discharges, using the forms specified in Subsection 105.04: (7-1-24)

i. Number of each outfall, latitude and longitude to the nearest second (or equivalent), and name of each receiving water; (7-1-24)

ii. For a new discharger, the date of expected commencement of discharge; (7-1-24)

iii. Identify 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; (7-1-24)

iv. Identify cooling water additives that are used or expected to be used upon commencement of operations, with their composition if existing composition is available; (7-1-24)

v. Effluent characteristics prepared and submitted as described in Subsections 105.08.b. and 105.08.c.; (7-1-24)

vi. Describe the frequency of flow and duration of seasonal or intermittent discharge, except for storm water runoff, leaks, or spills; (7-1-24)

vii. Describe the treatment system used or to be used; (7-1-24)

viii. Additional information the applicant wants considered, such as influent data for obtaining net credits under Subsection 303.07; and (7-1-24)

ix. Signature of the certifying official under Section 090. (7-1-24)

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: (7-1-24)

i. 5-day biochemical oxygen demand (BOD₅); (7-1-24)

ii. Total suspended solids (TSS); (7-1-24)

iii. Fecal coliform (including *E. coli*), if believed present or if sanitary waste is or will be discharged; (7-1-24)

iv. Total residual chlorine (TRC), if chlorine is used; (7-1-24)

v. Oil and grease; (7-1-24)

vi. Chemical oxygen demand (COD), if non-contact cooling water is or will be discharged; (7-1-24)

vii. Total organic carbon (TOC), if non-contact cooling water is or will be discharged; (7-1-24)

- viii. Ammonia, as N; (7-1-24)
 - ix. Discharge flow; (7-1-24)
 - x. pH; and (7-1-24)
 - xi. Temperature, both in winter and summer. (7-1-24)
 - c. Data required under Subsection 105.08.b.: (7-1-24)
 - 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; (7-1-24)
 - 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 in 40 CFR Part 136. Twenty-four (24) hour composite samples must comprise at least four (4) grab samples unless specified otherwise in 40 CFR Part 136. For a composite sample, only one (1) analysis of the composite aliquots is required; (7-1-24)
 - iii. The quantitative data may be collected over the past three hundred sixty-five (365) days, if the data represents current operations, and must include maximum daily value, average daily value, and number of measurements taken; and (7-1-24)
 - iv. The applicant must collect and analyze samples in accordance with 40 CFR Part 136. (7-1-24)
 - d. The Department may waive the testing and reporting requirements for the pollutants or flow listed in Subsection 105.08.c. if the applicant requests a waiver before or with its application, and demonstrates that information adequate to support permit issuance can be obtained through less stringent requirements. (7-1-24)
 - e. If the applicant is a new discharger, the applicant must: (7-1-24)
 - i. Complete and submit Item IV of EPA Form 2E equivalent, in accordance with Subsection 105.04.a.iv., by providing quantitative data that complies with the section no later than two (2) years after the discharge commences, except the applicant does not need to complete the portions of Item IV requiring tests already performed and reported under the discharge monitoring requirements of the IPDES or NPDES permit; and (7-1-24)
 - ii. Include estimates and the source of each estimate instead of sampling data for the pollutants or parameters listed in Subsection 105.08.b.; (7-1-24)
 - f. For the required data, pollutant levels must be reported or estimated as concentration and as total mass, except for flow, pH, and temperature. Submittal of estimated data must be accompanied by documents supporting the estimated value. (7-1-24)
 - 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 resulting from their presence in intake water. 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. (7-1-24)
- 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 forms specified in Subsection 105.04: (7-1-24)
- a. Name of the owner and operator; (7-1-24)
 - b. Facility location and mailing addresses; (7-1-24)

c. Latitude and longitude of the production area to the nearest second (or equivalent), measured at the entrance to the production area; (7-1-24)

d. Topographic map of the geographic area where the CAFO is located, showing the specific location of the production area; (7-1-24)

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; (7-1-24)

f. 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; (7-1-24)

g. Total number of acres available and under the applicant's control for land application of manure, litter, or process wastewater; (7-1-24)

h. Estimated amounts of manure, litter, and process wastewater generated per year in tons or gallons; (7-1-24)

i. Estimated amounts of manure, litter, and process wastewater transferred to other persons per year in tons or gallons; and (7-1-24)

j. A completed nutrient management plan that 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, including 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). (7-1-24)

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 forms specified in Subsection 105.04: (7-1-24)

a. Maximum daily and average monthly flow from each outfall; (7-1-24)

b. Number of ponds, raceways, and similar structures; (7-1-24)

c. Name of the receiving water and the source of intake water; (7-1-24)

d. Total yearly and maximum harvestable weight for each species of aquatic animal,; and (7-1-24)

e. Calendar month of maximum feeding and the total mass of food fed during that month. (7-1-24)

11. Application Requirements for New and Existing POTWs and Other Dischargers Designated by the Department. (7-1-24)

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 forms specified in Subsection 105.04.b. An applicant must submit all information available at the time of application and may reference information previously submitted to the Department. (7-1-24)

b. The Department may waive a 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 the 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 a

- state-issued permit issued in the absence of the required information. (7-1-24)
- c. An applicant under this subsection must provide: (7-1-24)
- i. Name, mailing address, and location of the facility; (7-1-24)
- ii. Name, mailing address, e-mail address, and telephone number of the applicant, and whether the applicant is the facility's owner, operator, or both; (7-1-24)
- iii. List of environmental permits or construction approvals received or applied for, including dates, under: (7-1-24)
- (1) Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; (7-1-24)
- (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"; (7-1-24)
- (3) IPDES program under IDAPA 58.01.25, "Idaho Pollutant Discharge Elimination System Rules"; (7-1-24)
- (4) Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; (7-1-24)
- (5) Nonattainment program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; (7-1-24)
- (6) National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; (7-1-24)
- (7) Dredge or fill permits under CWA Section 404; (7-1-24)
- (8) Sludge Management Program under IDAPA 58.01.16.650, "Wastewater Rules," and Section 380 of these rules; and (7-1-24)
- (9) Other relevant environmental permits, programs, or activities, including those subject to state jurisdiction, approval, and permits; (7-1-24)
- iv. Name, population, and EDUs of each municipal entity served by the facility, including unincorporated connector districts, 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; (7-1-24)
- v. Statement whether the facility is in Indian country and whether the facility discharges to a receiving stream that flows through Indian country; (7-1-24)
- vi. 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; (7-1-24)
- vii. 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 each type comprises; (7-1-24)
- viii. Information for outfalls to waters of the United States and other discharge or disposal methods: (7-1-24)

- (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; (7-1-24)
- (2) For wastewater discharged to surface impoundments, the location of each surface impoundment, the average daily volume discharged to each surface impoundment, and whether the discharge is continuous or intermittent; (7-1-24)
- (3) For wastewater applied to the land, the location of each application site, the size in acres of each application site, the average daily volume in gallons per day applied to each application site, and whether the application is continuous or intermittent; (7-1-24)
- (4) For effluent sent to another facility for treatment before discharge, the method the effluent is transported; 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; name, mailing address, e-mail address, contact person, phone number, and IPDES or NPDES permit number, if any, of the receiving facility; and average daily flow rate from this facility into the receiving facility in million gallons per day (MGD); and (7-1-24)
- (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 whether disposal by this method is continuous or intermittent; and (7-1-24)
 - ix. Name, mailing address, e-mail address, telephone number, and responsibilities of contractors responsible for operating or maintaining the POTW facility. (7-1-24)
 - x. Indicate 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. (7-1-24)
 - d. In addition to the information described in Subsection 105.11.c., an applicant with a design flow greater than or equal to zero point one (0.1) million gallons per day (MGD) must provide: (7-1-24)
 - i. Current average daily volume in gallons per day of inflow and infiltration, and describe steps the facility is taking to minimize inflow and infiltration; (7-1-24)
 - ii. 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 unit processes, and showing: (7-1-24)
 - (1) Treatment plant area and unit processes; (7-1-24)
 - (2) 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; (7-1-24)
 - (3) Each well where fluids from the treatment plant are injected underground; (7-1-24)
 - (4) Wells, springs, and other surface water bodies listed in public records or known to the applicant within one-quarter (1/4) mile of the property boundaries of the treatment works; (7-1-24)
 - (5) Sewage sludge management facilities including on-site treatment, storage, and disposal sites; and (7-1-24)
 - (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; (7-1-24)
 - iii. Process flow diagram or schematic as follows: (7-1-24)

- (1) Diagram showing the processes of the treatment plant, including bypass piping and backup power sources or redundancy in the system, a water balance showing treatment units and disinfection, and daily average flow rates at influent and discharge points and approximate daily flow rates between treatment units; and (7-1-24)
- (2) Narrative description of the diagram; and (7-1-24)
- iv. Information regarding scheduled improvements: (7-1-24)
 - (1) Outfall number of each affected outfall; (7-1-24)
 - (2) Narrative description of each required improvement; (7-1-24)
- (3) Scheduled dates for commencing and completing construction, commencing discharge and attaining operational level, and actual completion date for events listed; and (7-1-24)
- (4) Description of permits and authorizations for other federal and state requirements. (7-1-24)
- e. An applicant must provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable: (7-1-24)
 - i. For each outfall: (7-1-24)
 - (1) Outfall number; (7-1-24)
 - (2) County, and city or town in which the outfall is located; (7-1-24)
 - (3) Latitude and longitude, to the nearest second; (7-1-24)
 - (4) Distance from shore and depth below surface; (7-1-24)
 - (5) Average daily flow rate, in million gallons per day (MGD); (7-1-24)
 - (6) If the outfall has a seasonal or periodic discharge, the number of times per year the discharge occurs, duration of each discharge, flow of each discharge, and months when discharge occurs; and (7-1-24)
 - (7) Statement whether the outfall is equipped with a diffuser and the type of diffuser used, such as high-rate; (7-1-24)
 - ii. For each outfall discharging effluent to waters of the United States, the following receiving water information, if available: (7-1-24)
 - (1) Name of each receiving water; (7-1-24)
 - (2) Critical flow of each receiving water; and (7-1-24)
 - (3) Total hardness of the receiving water at critical low flow; and (7-1-24)
 - iii. For each outfall discharging to waters of the United States, the following information describing the treatment of the discharges: (7-1-24)
 - (1) Highest level of treatment, including primary, equivalent to secondary, secondary, advanced, or other treatment level provided for: (7-1-24)
 - (a) Design biochemical oxygen demand removal percentage; (7-1-24)
 - (b) Design suspended solids removal percentage; (7-1-24)

- (c) Design phosphorus removal percentage; (7-1-24)
- (d) Design nitrogen removal percentage; and (7-1-24)
- (e) Other removals that an advanced treatment system is designed to achieve; and (7-1-24)
- (2) Type of disinfection used, and whether the treatment plant de-chlorinates, if disinfection is accomplished through chlorination. (7-1-24)
- f.** In addition to Subsection 105.11.a., and except as provided in Subsection 105.11.h., an applicant must undertake sampling and analysis and submit effluent monitoring information for samples taken from each outfall where effluent is discharged to waters of the United States, except for combined sewer overflows, including: (7-1-24)
 - i. Pollutants listed in Appendix J, Table 1A to 40 CFR Part 122; (7-1-24)
 - ii. For an applicant with a design flow greater than or equal to zero point one (0.1) million gallons per day (MGD), pollutants listed in Appendix J, Table 1 to 40 CFR Part 122, except 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; (7-1-24)
 - iii. Pollutants listed in Appendix J, Table 2 to 40 CFR Part 122 and other pollutants the state or EPA has established water quality standards for the receiving waters if the facility is a POTW: (7-1-24)
 - (1) With a design flow rate equal to or greater than one (1) million gallons per day (MGD); (7-1-24)
 - (2) With an approved pretreatment program; (7-1-24)
 - (3) Required to develop a pretreatment program; or (7-1-24)
 - (4) The Department re compliance with these rules; (7-1-24)
 - iv. Sampling and analysis for additional pollutants, as the Department may require, on a case-by-case basis; (7-1-24)
 - v. Data from at least three (3) samples taken within four and one-half (4 ½) years before the date of the permit application; to meet this requirement: (7-1-24)
 - (1) Samples must represent the seasonal variation in the discharge from each outfall; (7-1-24)
 - (2) Existing data may be used, if available, in lieu of sampling done solely for this application; and (7-1-24)
 - (3) Additional samples may be required by the Department on a case-by-case basis; and (7-1-24)
 - vi. 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 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. (7-1-24)
- g.** To meet the information requirements of Subsection 105.11.f., an applicant must: (7-1-24)
 - i. Collect samples of effluent and analyze the samples for pollutants following the analytical methods approved under 40 CFR Part 136 unless an alternative is specified in the existing IPDES or NPDES permit; (7-1-24)
 - ii. Use the following methods: (7-1-24)

(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; (7-1-24)

(2) Twenty-four (24) hour composite samples for other pollutants, unless specified otherwise at 40 CFR Part 136, using at least four (4) grab samples; for a composite sample, only one (1) analysis of the composite of aliquots is required; and (7-1-24)

iii. Provide at least the following information for each parameter: (7-1-24)

(1) Maximum daily discharge, expressed as concentration or mass, based upon actual sample values; (7-1-24)

(2) Average daily discharge for all samples, expressed as concentration or mass, and the number of samples used to obtain this value; (7-1-24)

(3) Analytical method used; and (7-1-24)

(4) Threshold level, such as the method detection limit, minimum level, or other designated method endpoint for the analytical method used; and (7-1-24)

iv. Report metals as total recoverable, unless the Department requires otherwise. (7-1-24)

h. When an applicant 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, under IDAPA 58.01.02, "Water Quality Standards." For POTWs applying before commencing discharge, data must be submitted no later than twenty-four (24) months after discharge commences. (7-1-24)

12. Whole Effluent Toxicity (WET) Monitoring for POTWs. (7-1-24)

a. An applicant for a permit under Subsection 105.11 must submit information on effluent monitoring for WET by identifying WET tests conducted during the four and one-half (4 ½) years before the application date on the discharges or on receiving water near the discharge. For POTWs applying before discharge commences, data must be submitted no later than twenty-four (24) months after discharge commences. (7-1-24)

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 where effluent is discharged to surface waters, except for combined sewer overflows, if the applicant: (7-1-24)

i. Has a design flow rate greater than or equal to one (1) million gallons per day (MGD); (7-1-24)

ii. Has an approved pretreatment program or is required to develop a pretreatment program; or (7-1-24)

iii. Is required to comply with this subsection by the Department, based on consideration of: (7-1-24)

(1) Variability of the pollutants or pollutant parameters in the POTW effluent based on chemical-specific information, type of treatment plant, and types of industrial contributors; (7-1-24)

(2) Ratio of effluent flow to receiving stream flow; (7-1-24)

(3) Existing controls on point or non-point sources, including total maximum daily load (TMDL) calculations for the receiving stream segment and the relative contribution of the POTW; (7-1-24)

(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 (7-1-24)

(5) Other considerations, including the history of toxic impacts and compliance problems at the POTW that the Department determines may cause or contribute to adverse water quality impacts. (7-1-24)

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 WET 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. (7-1-24)

d. An applicant under Subsection 105.12.b. that is required to perform WET testing must provide: (7-1-24)

i. Results of at least 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; (7-1-24)

ii. Number of chronic or acute WET tests conducted since the last permit reissuance; (7-1-24)

iii. Results using the form provided by the Department, or test summaries, if available and comprehensive, for each WET test conducted if the information has not been reported previously to the Department. (7-1-24)

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 (7-1-24)

v. Information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if WET tests conducted within the past four and one-half (4 ½) years revealed toxicity. (7-1-24)

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: (7-1-24)

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; (7-1-24)

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 (7-1-24)

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. (7-1-24)

f. For the WET testing required by this section, an applicant must conduct testing using methods approved under 40 CFR Part 136. (7-1-24)

13. Application Requirements for POTWs Receiving Industrial Discharges. (7-1-24)

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: (7-1-24)

i. Name and mailing address of the SIU; (7-1-24)

- ii. Description of all industrial processes that affect or contribute to the SIU's discharge; (7-1-24)
- iii. Principal products and raw materials of each SIU that affects or contributes to that SIU's discharge; (7-1-24)
- iv. Average daily volume of wastewater discharged by the SIU, indicating the amount attributable to process flow and non-process flow; (7-1-24)
- v. Whether the SIU is subject to local limits; (7-1-24)
- vi. Whether the SIU is subject to one (1) or more categorical standards, and if so, under which category and subcategory; and (7-1-24)
- vii. Whether 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. (7-1-24)

b. The Department may waive information required in Subsection 105.13.a. for a POTW with a pretreatment program if the applicant submitted either of the following that contains information substantially identical to the information required in Subsection 105.13.a.: (7-1-24)

- i. Annual report submitted within one (1) year of the application; or (7-1-24)
- ii. Pretreatment program. (7-1-24)

14. Application Requirements for POTWs Receiving Discharges from Hazardous Waste Generators and from Waste Cleanup or Remediation Sites. (7-1-24)

a. POTWs receiving hazardous or corrective action wastes or wastes generated at another type of cleanup or remediation site must provide: (7-1-24)

i. If a POTW receives, or has been notified that it will receive by truck, rail, or dedicated pipe, wastes regulated as hazardous wastes under 40 CFR Part 261 and IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," the applicant must report: (7-1-24)

- (1) How waste is delivered, including by truck, rail, or dedicated pipe; and (7-1-24)
- (2) 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 (7-1-24)

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: (7-1-24)

- (1) Identity and description of each site or facility at which the wastewater originates; (7-1-24)
- (2) The identity of known hazardous constituents specified in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," in the wastewater; and (7-1-24)
- (3) Extent of treatment the wastewater receives or will receive before entering the POTW. (7-1-24)

b. An applicant is exempt from the requirements of Subsection 105.14.a.ii. if he 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." (7-1-24)

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: (7-1-24)

- a.** System map indicating the location of: (7-1-24)
 - i. Combined sewer overflow discharge points; (7-1-24)
 - ii. Sensitive use areas potentially affected by combined sewer overflows including beaches, drinking water supplies, shellfish beds, and sensitive aquatic ecosystems; (7-1-24)
 - iii. Outstanding national resource waters potentially affected by combined sewer overflows; and (7-1-24)
 - iv. Waters supporting threatened and endangered species potentially affected by combined sewer overflows; (7-1-24)
 - b.** System diagram of the combined sewer collection system including the locations of: (7-1-24)
 - i. Major sewer trunk lines, both combined and separate sanitary; (7-1-24)
 - ii. Points where separate sanitary sewers feed into the combined sewer system; (7-1-24)
 - iii. In-line and off-line storage structures; (7-1-24)
 - iv. Flow-regulating devices; and (7-1-24)
 - v. Pump stations; (7-1-24)
 - c.** Information on each outfall for each combined sewer overflow discharge point covered by the permit application, including: (7-1-24)
 - i. Outfall number; (7-1-24)
 - ii. County and city or town where the outfall is located; (7-1-24)
 - iii. Latitude and longitude, to the nearest second (or equivalent); and (7-1-24)
 - iv. Distance from shore and depth below surface; (7-1-24)
 - d.** Statement whether the applicant monitored the following in the past year for a combined sewer overflow: (7-1-24)
 - i. Rainfall; (7-1-24)
 - ii. Overflow volume; (7-1-24)
 - iii. Overflow pollutant concentrations; (7-1-24)
 - iv. Receiving water quality; (7-1-24)
 - v. Overflow frequency; and (7-1-24)
 - vi. Number of storm events monitored in the past year; (7-1-24)
 - e.** Information about the number of combined sewer overflows from each outfall in the past year and, if available: (7-1-24)

- i. Average duration per event; (7-1-24)
 - ii. Average volume for each event; and (7-1-24)
 - iii. Minimum rainfall that caused a combined sewer overflow event in the last year; (7-1-24)
 - f. Name of each receiving water; (7-1-24)
 - g. Description of 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 state water quality standards, on the receiving water; and (7-1-24)
 - h. Applicants must provide the name, mailing address, e-mail address, telephone number, and responsibilities of contractors responsible for operating or maintaining the facility. (7-1-24)
- 16. Application Requirements for New Sources and New Discharges.** (7-1-24)
- 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 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 forms specified in Subsection 105.04.b.: (7-1-24)
 - i. Latitude and longitude to the nearest second (or equivalent) of the expected outfall location and the name of each receiving water; (7-1-24)
 - ii. Expected date the discharge will commence; (7-1-24)
 - iii. Information on flows, sources of pollution, and treatment technologies: (7-1-24)
 - (1) Describe treatment the wastewater will receive, identify operations contributing wastewater to the effluent, state the average flow contributed by each operation, and describe the ultimate disposal of solid or liquid wastes not discharged; (7-1-24)
 - (2) Line drawing of the water flow through the facility with a water balance as described in Subsection 105.07.b.; and (7-1-24)
 - (3) If the expected discharges will be intermittent or seasonal, describe the frequency, duration, and maximum daily flow rate of each discharge occurrence, except for storm water runoff, spillage, or leaks; (7-1-24)
 - iv. If a new source performance standard promulgated under CWA Section 306 or an ELG applies to the applicant and is expressed by production or another measure of operation, a reasonable calculation of the applicant's expected actual production reported in the units used in the ELG 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; (7-1-24)
 - v. Effluent characteristics as described in Subsection 105.16.b.; (7-1-24)
 - vi. Existence of technical evaluations concerning the applicant's wastewater treatment, with the name and location of similar plants of which the applicant has knowledge; (7-1-24)
 - vii. Optional information the permittee wishes the Department to consider. (7-1-24)
 - b. Applicant must provide the following effluent characteristics information: (7-1-24)
 - i. Estimated daily maximum, daily average, and the source of that information for each outfall for:

- (7-1-24)
- (1) Five (5)-day biochemical oxygen demand (BOD₅); (7-1-24)
 - (2) Chemical oxygen demand (COD); (7-1-24)
 - (3) Total organic carbon (TOC); (7-1-24)
 - (4) Total suspended solids (TSS); (7-1-24)
 - (5) Flow; (7-1-24)
 - (6) Ammonia, as N; (7-1-24)
 - (7) Temperature, in both winter and summer; and (7-1-24)
 - (8) pH. (7-1-24)
- ii. Estimated daily maximum, daily average, and the source of that information for each outfall for all conventional and nonconventional pollutants in Table IV of Appendix D to 40 CFR Part 122, if the applicant knows or believes the pollutants will be present or if the pollutants are limited by an ELG or new source performance standard either directly or indirectly through limits on an indicator pollutant; (7-1-24)
- iii. Estimated daily maximum, daily average, and the source of that information for the following pollutants for each outfall, if the applicant knows or believes the pollutants will be present in the discharge from an outfall: (7-1-24)
- (1) Pollutants in Table IV of Appendix D to 40 CFR Part 122; (7-1-24)
 - (2) Toxic metals, total cyanide, and total phenols listed in Table III of Appendix D to 40 CFR Part 122; (7-1-24)
 - (3) 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: (7-1-24)
 - (a) 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 (Subsection 105.07.o.ii.); or (7-1-24)
 - (b) Coal mine with expected average production of less than one hundred thousand (100,000) tons of coal per year (Subsection 105.07.o.i.); (7-1-24)
- 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 believes that TCDD will or may be present in an effluent: (7-1-24)
- (1) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); Chemical Abstract Service (CAS) #93-76-5; (7-1-24)
 - (2) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #93-72-1); (7-1-24)
 - (3) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136-25-4); (7-1-24)
 - (4) o,o-dimethyl o-(2,4,5-trichlorophenyl) phosphorothioate (Ronnell) (CAS #299-84-3); (7-1-24)
 - (5) 2,4,5-trichlorophenol (TCP) (CAS #95-95-4); or (7-1-24)
 - (6) Hexachlorophene (HCP) (CAS #70-30-4); and (7-1-24)

v. The potential presence of the pollutants listed in 40 CFR Part 122, Appendix D, Table V if the applicant believes these pollutants will be present in an outfall, except quantitative estimates are not required unless already available when the applicant applies for the permit. (7-1-24)

c. No later than twenty-four (24) months after commencing discharge from the proposed facility, the applicant must complete and submit Items V and VI of EPA application Form 2C 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. (7-1-24)

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 based solely on their presence in intake water. An applicant must report that a pollutant is present. 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. (7-1-24)

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 issuing the permit can be obtained through less stringent reporting requirements. (7-1-24)

17. Application Requirements for Treatment Works Treating Domestic Sewage (TWTDS). TWTDS with a currently effective NPDES or IPDES permit must submit a permit application during the next IPDES permit renewal, using EPA Form 2S equivalent. 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. (7-1-24)

a. The Department may waive requirements of this subsection if there is access to substantially identical information. The Department may also waive requirements of this subsection that are 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. An EPA Regional Administrator's disapproval of the Department's proposed waiver does not constitute final agency action but does notify the state and permit applicant that EPA may object to a state-issued permit in the absence of the required information. (7-1-24)

b. Applicants must submit: (7-1-24)

i. Name, mailing address, and location of the TWTDS where the application is submitted; (7-1-24)

ii. Name, mailing address, e-mail address, and telephone number of the applicant, indicating whether the applicant is the owner, operator, or both; (7-1-24)

iii. Whether the facility is a Class I Sludge Management Facility; (7-1-24)

iv. Design flow rate in million gallons per day (MGD); (7-1-24)

v. Total population and (EDUs) served; and (7-1-24)

vi. TWTDS status as federal, state, private, public, or other entity. (7-1-24)

c. Applicants must submit the facility's NPDES or IPDES permit number, if applicable, and a list of federal, state, and local permits or construction approvals received or applied for under: (7-1-24)

i. Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; (7-1-24)

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"; (7-1-24)

- iii. IPDES program under IDAPA 58.01.25, “Idaho Pollutant Discharge Elimination System Rules”; (7-1-24)
- iv. Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho”; (7-1-24)
- v. Nonattainment program under IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho”; (7-1-24)
- vi. National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho”; (7-1-24)
- vii. Dredge or fill permits under CWA Section 404; (7-1-24)
- viii. Sludge Management Program under IDAPA 58.01.16.650, “Wastewater Rules,” and Section 380 of these rules; and (7-1-24)
- ix. Other relevant environmental permits, programs, or activities, subject to state jurisdiction, approval, and permits. (7-1-24)
- d.** Applicants must identify the generation, treatment, storage, land application, or disposal of sewage sludge that occurs in Indian country. (7-1-24)
- e.** 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: (7-1-24)
 - i. Sewage sludge management facilities, including on-site treatment, storage, and disposal sites; and (7-1-24)
 - ii. Wells, springs, and other surface water bodies that are within one-quarter ($\frac{1}{4}$) mile of the property boundaries and listed in public records or known to the applicant. (7-1-24)
- f.** Applicants must submit a line drawing and/or a narrative description identifying 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 of liquids and solids leaving each unit, and all processes used for pathogen reduction and vector attraction reduction. (7-1-24)
- g.** Applicant must submit sewage sludge monitoring data quantifying pollutants with limits in sewage sludge established in 40 CFR Part 503 for the applicant's use or disposal practices on the date of permit application. (7-1-24)
 - i. The Department may require sampling for additional pollutants, as appropriate, on a case-by-case basis; (7-1-24)
 - ii. Applicants must provide data from at least three (3) samples taken within four and one-half ($4\frac{1}{2}$) years before the date of the permit application. Samples must represent the sewage sludge and be collected at least one (1) month apart. Existing data may be used in lieu of sampling done solely for this application; (7-1-24)
 - iii. Applicants must collect and analyze samples following analytical methods approved under SW-846 (Test Methods for Evaluating Solid Waste, Physical/Chemical Methods) unless an alternative was specified in an existing sewage sludge permit; and (7-1-24)
 - iv. Monitoring data provided must include at least the following information for each parameter: (7-1-24)
 - (1) Average monthly concentration for all samples (mg/kg dry weight), based upon actual sample

values; (7-1-24)

(2) Analytical method used; and (7-1-24)

(3) Method detection level. (7-1-24)

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: (7-1-24)

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; (7-1-24)

ii. If the applicant's facility receives sewage sludge from another facility, the following information for each facility from which sewage sludge is received: (7-1-24)

(1) Name, mailing address, and location of the other facility; (7-1-24)

(2) Total dry metric tons per three hundred sixty-five (365)-day period received from the other facility; and (7-1-24)

(3) Description of treatment processes occurring at the other facility, including blending activities and treatment to reduce pathogens or vector attraction characteristics; (7-1-24)

iii. If the applicant's facility changes the quality of sewage sludge through blending, treatment, or other activities, the following information must be submitted: (7-1-24)

(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 treatment processes used to reduce pathogens in sewage sludge; (7-1-24)

(2) Whether the vector attraction reduction options of 40 CFR 503.33(b)(1) through (b)(8) are met, and a description of treatment processes used to reduce vector attraction properties in sewage sludge; and (7-1-24)

(3) Description of blending, treatment, or other activities that change the quality of sewage sludge; (7-1-24)

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; (7-1-24)

v. If sewage sludge from the applicant's facility is sold or given away in a bag or other container for land application, and the sewage sludge is not subject to Subsection 105.17.h.iv., the applicant must provide: (7-1-24)

(1) 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 land application; and (7-1-24)

(2) Copy of labels or notices that accompany the sewage sludge sold or given away; and (7-1-24)

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: (7-1-24)

- (1) Name, e-mail address, and mailing address of the receiving facility; (7-1-24)
- (2) 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; (7-1-24)
- (3) Description of treatment processes occurring at the receiving facility, including blending activities and treatment to reduce pathogens or vector attraction characteristic; (7-1-24)
- (4) Copy of the notice and necessary information that the applicant is required to provide the receiving facility under 40 CFR 503.12(g); and (7-1-24)
- (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. (7-1-24)
 - 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: (7-1-24)
 - i. 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; (7-1-24)
 - ii. If land application sites are 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 where the land application sites are located; (7-1-24)
 - iii. The following information for each land application site identified at the time of permit application: (7-1-24)
 - (1) Name (if any), and location for the land application site; (7-1-24)
 - (2) Latitude and longitude to the nearest second (or equivalent), and method of determination; (7-1-24)
 - (3) Topographic map (or another map if a topographic map is unavailable) showing the site's location; (7-1-24)
 - (4) Name, mailing address, e-mail address, and telephone number of the site owner, if different from the applicant; (7-1-24)
 - (5) Name, mailing address, e-mail address, and telephone number of the person who applies sewage sludge to the site, if different from the applicant; (7-1-24)
 - (6) Whether the site is agricultural land, forest, a public contact site, or a reclamation site, as defined under 40 CFR 503.11; (7-1-24)
 - (7) Type of vegetation grown on the site, if known, and the nitrogen requirement for the vegetation; (7-1-24)
 - (8) Whether the vector attraction reduction options of 40 CFR 503.33(b)(9) or (b)(10) are met at the site, and a description of procedures employed during use to reduce vector attraction properties in sewage sludge; and (7-1-24)
 - (9) Other information describing how the site will be managed, as specified by the permitting authority. (7-1-24)
 - iv. The following information for each land application site identified during 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: (7-1-24)

(1) Whether the applicant 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; (7-1-24)

(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; (7-1-24)

v. If all land application sites have not been identified during permit application, the applicant must submit a land application plan that, at a minimum: (7-1-24)

(1) Describes the geographical area covered by the plan; (7-1-24)

(2) Identifies the site selection criteria; (7-1-24)

(3) Describes how the site will be managed; (7-1-24)

(4) Provides for advance notice to the permit authority of specific land application sites and reasonable time for the permit authority to object before land applying the sewage sludge; and (7-1-24)

(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 that informs the public of the planned land application. (7-1-24)

j. If sewage sludge from the applicant's facility is placed on a surface disposal site, the applicant must provide: (7-1-24)

i. 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; (7-1-24)

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: (7-1-24)

(1) Site name or number, contact person, mailing address, e-mail address, and telephone number for the surface disposal site; and (7-1-24)

(2) Total dry metric tons from the applicant's facility per three hundred sixty-five (365)-day period placed on the surface disposal site; (7-1-24)

iii. The following information for each active sewage sludge unit at each surface disposal site that the applicant owns or operates: (7-1-24)

(1) Name or number and location of the active sewage sludge unit; (7-1-24)

(2) Latitude and longitude to the nearest second (or equivalent), and method of determination; (7-1-24)

(3) If not already provided, a topographic map (or other map if a topographic map is unavailable) that shows the unit's location; (7-1-24)

(4) Total dry metric tons placed on the active sewage sludge unit per three hundred sixty-five (365)-day period; (7-1-24)

(5) Total dry metric tons placed on the active sewage sludge unit over the life of the unit; (7-1-24)

- (6) Description of the liner for the active sewage sludge unit, including whether it has a maximum permeability of 1×10^{-7} cm/sec; (7-1-24)
- (7) Description of a leachate collection system for the active sewage sludge unit, including the method used for leachate disposal, and federal, state, and local permit number(s) for leachate disposal; (7-1-24)
- (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; (7-1-24)
- (9) Remaining capacity (dry metric tons) for the active sewage sludge unit; (7-1-24)
- (10) Date on which the active sewage sludge unit is expected to close, if a date has been identified; (7-1-24)
- (11) The following information for other facilities that sends sewage sludge to the active sewage sludge unit: (7-1-24)
- (a) Name, contact person, and mailing address of the facility; and (7-1-24)
- (b) Information about the quality of the sewage sludge received from the facility, including any treatment at the facility to reduce pathogens or vector attraction characteristics; (7-1-24)
- (12) Whether the vector attraction reduction options of 40 CFR 503.33(b)(9) through (b)(11) are met at the active sewage sludge unit, and a description of procedures employed at the time of disposal to reduce vector attraction properties in sewage sludge; (7-1-24)
- (13) The following information, as applicable to ground water monitoring occurring at the active sewage sludge unit: (7-1-24)
- (a) Description of ground water monitoring occurring at the active sewage sludge unit; (7-1-24)
- (b) Ground water monitoring data describing the well locations and approximate depth to ground water; (7-1-24)
- (c) Copy of a ground water monitoring plan prepared for the active sewage sludge unit; and (7-1-24)
- (d) Copy of a certification obtained from a qualified ground water scientist that the aquifer has not been contaminated; and (7-1-24)
- (14) If site-specific pollutant limits are sought for the sewage sludge placed on this active sewage sludge unit, information to support the request. (7-1-24)
- k.** If sewage sludge from the applicant's facility is fired in a sewage sludge incinerator, the applicant must provide: (7-1-24)
- i. 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; (7-1-24)
- ii. The following information for each sewage sludge incinerator firing the applicant's sewage sludge that the applicant does not own or operate: (7-1-24)
- (1) Name or number, contact person, mailing address, e-mail address, and telephone number of the sewage sludge incinerator; and (7-1-24)
- (2) Total dry metric tons from the applicant's facility per three hundred sixty-five (365)-day period fired in the sewage sludge incinerator; (7-1-24)

- iii. The following information for each sewage sludge incinerator that the applicant owns or operates:
(7-1-24)
 - (1) Name or number and the location of the sewage sludge incinerator; (7-1-24)
 - (2) Latitude and longitude to the nearest second (or equivalent), and method of determination; (7-1-24)
 - (3) Total dry metric tons per three hundred sixty-five (365)-day period fired in the sewage sludge incinerator; (7-1-24)
 - (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; (7-1-24)
 - (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; (7-1-24)
 - (6) Dispersion factor for the sewage sludge incinerator and modeling results and supporting documentation; (7-1-24)
 - (7) Control efficiency for parameters regulated in 40 CFR 503.43, and performance test results and supporting documentation; (7-1-24)
 - (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; (7-1-24)
 - (9) Whether the applicant monitors total hydrocarbons (THC) or carbon monoxide (CO) in the exit gas for the sewage sludge incinerator; (7-1-24)
 - (10) Type of sewage sludge incinerator; (7-1-24)
 - (11) Maximum performance test combustion temperature, obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies; (7-1-24)
 - (12) The following information on the sewage sludge feed rate used during the performance test:
(7-1-24)
 - (a) Sewage sludge feed rate in dry metric tons per day; (7-1-24)
 - (b) Identify whether the feed rate submitted is average use or maximum design; and (7-1-24)
 - (c) Describe how the feed rate was calculated; (7-1-24)
 - (13) Incinerator stack height in meters for each stack and identify whether actual or creditable stack height was used; (7-1-24)
 - (14) Operating parameters for the sewage sludge incinerator air pollution control device obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies; (7-1-24)
 - (15) Identify the monitoring equipment in place including, but not limited to, equipment to monitor:
(7-1-24)
 - (a) Total hydrocarbons or carbon monoxide; (7-1-24)
 - (b) Percent oxygen; (7-1-24)

- (c) Percent moisture; and (7-1-24)
- (d) Combustion temperature; and (7-1-24)
- (16) List of air pollution control equipment used with this sewage sludge incinerator. (7-1-24)
- 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: (7-1-24)
 - i. Name, contact person, mailing address, e-mail address location, and MSWLF permit numbers; (7-1-24)
 - ii. Total dry metric tons per three hundred sixty-five (365)-day period sent from this facility to the MSWLF; (7-1-24)
 - iii. Determination of whether the sewage sludge meets the requirements for MSWLF disposal of sewage sludge, including the results of the paint filter liquids test and additional requirements that apply on a site-specific basis; and (7-1-24)
 - iv. Information, if known, indicating whether the MSWLF complies with criteria in 40 CFR Part 258. (7-1-24)
- m.** Name, mailing address, e-mail address, telephone number, and responsibilities of contractors that operate or maintain a facility related to sewage sludge generation, treatment, use, or disposal. (7-1-24)
- n.** At the request of the Department, the applicant must provide information necessary to determine the appropriate standards for permitting under 40 CFR Part 503 and to assess the sewage sludge use and disposal practices, determine whether to issue a permit, or identify appropriate permit requirements. (7-1-24)
- o.** TWTDS facilities using or disposing of sewage sludge where a standard applicable to its sewage sludge use or disposal practices has been published must submit the following information on EPA Form 2S, Part I equivalent form: (7-1-24)
 - i. TWTDS's name, mailing address, location, and status as federal, state, private, public, or other entity; (7-1-24)
 - ii. Applicant's name, address, e-mail address, telephone number, and ownership status; (7-1-24)
 - iii. 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 facilities where sewage sludge is sent for treatment or disposal, and the locations of land application sites; (7-1-24)
 - iv. Annual amount of sewage sludge generated, treated, used or disposed (estimated dry weight basis); and (7-1-24)
 - v. Most recent data the TWTDS may have on the quality of the sewage sludge. (7-1-24)
- 18. Application Requirements for Municipal Separate Storm Sewer (MS4) Discharges.** The operator of a discharge from a large or medium MS4 or an MS4 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 an MS4 within a geographic area (including adjacent or interconnected MS4s), an operator may be co-applicant to the same application. Permit applications for discharges from large and medium MS4s or MS4s designated under 40 CFR 122.26 (a)(1)(v) must include: (7-1-24)
 - a.** In Part 1 of the application: (7-1-24)
 - i. Applicant's name, address, e-mail address, telephone number of contact person, ownership status

and status as a state or local government entity; (7-1-24)

ii. Description of existing legal authority to control discharges to the MS4. When existing legal authority is not sufficient to meet the criteria provided in Subsection 105.18.b.i., the description must list additional authorities and include a schedule and commitment to seek the additional authority that will be needed to meet the criteria; (7-1-24)

iii. Description of the historic use of ordinances, guidance or other controls that limited the discharge of non-storm water discharges to a POTW serving the same area as the MS4, including: (7-1-24)

(1) 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 MS4 covered by the permit application; (7-1-24)

(2) Location of known MS4 outfalls discharging to waters of the United States; (7-1-24)

(3) Description of the land use activities (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 MS4 and an estimate of an average runoff coefficient for each land use type; (7-1-24)

(4) Location and description of the activities of each currently operating or closed municipal landfill or other treatment, storage, or disposal facility for municipal waste; (7-1-24)

(5) Location and permit number of known discharges to the MS4 that have been issued a NPDES or IPDES permit; (7-1-24)

(6) Location of major structural controls for storm water discharge (retention basins, detention basins, and major infiltration devices); and (7-1-24)

(7) Identification of publicly owned parks, recreational areas, and other open lands. (7-1-24)

iv. Description of the discharge including: (7-1-24)

(1) Monthly mean rain and snow fall estimates (or summary of weather bureau data) and the monthly average number of storm events; (7-1-24)

(2) Existing quantitative data describing the volume and quality of discharges from the MS4, including a description of the outfalls sampled, sampling procedures and analytical methods used; (7-1-24)

(3) List of water bodies that receive discharges from the MS4, including downstream segments, lakes, and estuaries where pollutants from the system discharges may accumulate and cause water degradation, and a description of known water quality impacts. At a minimum, the description of impacts must include whether the water bodies receiving the discharges have been: (7-1-24)

(a) Assessed for CWA 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 CWA goals (fishable and swimmable waters), and causes of nonsupport of designated uses; (7-1-24)

(b) Listed under CWA 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; (7-1-24)

(c) Listed in state Nonpoint Source Assessments required by CWA 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); (7-1-24)

(d) Identified and classified according to eutrophic condition of publicly owned lakes listed in state reports required under CWA Section 314(a) (including a description of those publicly owned lakes for which uses are known to be impaired, description of procedures, processes and methods to control the discharge of pollutants from MS4s into lakes, and description of methods and procedures to restore the lakes' quality); (7-1-24)

(e) Recognized by the applicant as highly valued or sensitive waters; (7-1-24)

(f) Defined by the state as wetlands; and (7-1-24)

(g) Found to have pollutants in bottom sediments, fish tissue, or biosurvey data. (7-1-24)

(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 flow is observed, two (2) grab samples will be collected during a twenty-four (24)-hour period with at least four (4) hours between samples. For the samples, a narrative description of the color, odor, turbidity, presence of an oil sheen or surface scum and other relevant observations about 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 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 with the range and accuracy of the test. Field screening points are either major outfalls or other outfall points (or another 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 that contain a segment of the storm sewer system or major outfall. The field screening points are established using the following guidelines and criteria: (7-1-24)

(a) Overlay a grid system consisting of perpendicular north-south and east-west lines spaced one-quarter ($\frac{1}{4}$) mile apart on a map of the MS4, creating a series of cells; (7-1-24)

(b) Identify cells that contain a segment of the MS4; select one (1) field screening point in each cell; major outfalls may be used as field screening points; (7-1-24)

(c) Locate field screening points downstream of sources of suspected illegal or illicit activity; (7-1-24)

(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, consider the safety of personnel and accessibility of the location in making this determination; (7-1-24)

(e) Hydrologic 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; (7-1-24)

(f) For medium MS4s, no more than two hundred fifty (250) cells need to have identified field screening points; in large MS4s, 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 those cells that contain a segment of the sewer system are subject to field screening (unless access to the separate storm sewer system is impossible); and (7-1-24)

(g) Large or medium MS4s that 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 major outfalls in the system, if less). In these circumstances, the applicant must establish a grid system consisting of north-south and east-west lines spaced one-quarter ($\frac{1}{4}$) mile apart as an overlay to the boundaries of the MS4, thereby creating a series of cells. The applicant will 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 (7-1-24)

(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 when sampling is intended, and a description of the sampling equipment. The proposed sampling locations of outfalls or field screening points must reflect water quality concerns (Subsection 105.18.a.iv(3)); (7-1-24)

v. Description of the existing management programs to control pollutants from the MS4 including existing source controls and operation and maintenance measures for structural controls that are currently implemented. The controls may include, but are not limited to: procedures to control pollution resulting from construction activities; floodplain management controls; wetland protection measures; BMPs for new subdivisions; and emergency spill response programs. The description may address controls established under state law and local requirements; (7-1-24)

vi. Description of the existing program to identify illicit connections to the MS4 that includes inspection procedures and methods for detecting and preventing illicit discharges and describes areas where this program has been implemented; and (7-1-24)

vii. 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. (7-1-24)

b. In Part 2 of the application: (7-1-24)

i. Demonstrate the applicant can operate under legal authority established by statute, ordinance, or series of contracts that authorizes or enables the applicant at a minimum to: (7-1-24)

(1) Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the MS4 by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity; (7-1-24)

(2) Prohibit through ordinance, order or similar means, illicit discharges to the MS4; (7-1-24)

(3) Control through ordinance, order or similar means the discharge to an MS4 of spills, dumping or disposal of materials other than storm water; (7-1-24)

(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; (7-1-24)

(5) Require compliance with conditions in ordinances, permits, contracts or orders; and (7-1-24)

(6) Complete inspection, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including prohibiting illicit discharges to the MS4. (7-1-24)

ii. Location of major outfall discharges to waters of the United States that were not reported under Subsection 105.18.a.iii(2). Provide an inventory, organized by watershed, of the name, address, and a description (Standard Industrial Classification [SIC] codes) that best reflects the principal products or services provided by each facility that may discharge, to the MS4, and the storm water associated with industrial activity; (7-1-24)

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 following the analytical methods approved under 40 CFR Part 136. When no analytical method is approved, the applicant may use a 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: (7-1-24)

(1) Quantitative data from representative outfalls designated by the Department and 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): (7-1-24)

(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 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 the exemptions); (7-1-24)

(b) A narrative description must be provided of the date and duration of the storm event sampled, rainfall estimates of the storm event that 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; (7-1-24)

(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 40 CFR Part 122, Appendix D, and for the following pollutants: (7-1-24)

(i) Total suspended solids (TSS); (7-1-24)

(ii) Total dissolved solids (TDS); (7-1-24)

(iii) Chemical oxygen demand (COD); (7-1-24)

(iv) Five (5)-day biochemical oxygen demand (BOD5); (7-1-24)

(v) Oil and grease; (7-1-24)

(vi) Fecal coliform (including *E. coli*); (7-1-24)

(vii) Enterococci (previously known as fecal streptococcus); (7-1-24)

(viii) pH; (7-1-24)

(ix) Total Kjeldahl nitrogen; (7-1-24)

(x) Nitrate plus nitrite; (7-1-24)

(xi) Total ammonia plus organic nitrogen; (7-1-24)

(xii) Dissolved phosphorus; and (7-1-24)

(xiii) Total phosphorus; (7-1-24)

(d) Additional 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 ensure representativeness); (7-1-24)

(2) Estimates of the annual pollutant load of the cumulative discharges to waters of the United States from identified municipal outfalls and the event mean concentration of the cumulative discharges to waters of the United States from 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 modelling, data analysis, and calculation methods; (7-1-24)

(3) A proposed schedule to provide estimates for each major outfall identified in 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 constituents detected in samples required under Subsection 105.18.b.iii(1); and (7-1-24)

(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; (7-1-24)

iv. A proposed management program covering the duration of the permit, that includes a comprehensive planning process with 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 other appropriate provisions. 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: (7-1-24)

(1) A description of structural and source control measures, implemented during the life of the permit, to reduce pollutants in runoff from commercial and residential areas that are discharged from the MS4 with an estimate of the expected reduction of pollutant loads, and a proposed schedule for implementing the controls. At a minimum, the description must include: (7-1-24)

(a) Maintenance activities and a schedule for structural controls to reduce pollutants (including floatables) in discharges from MS4s; (7-1-24)

(b) Planning procedures including a comprehensive master plan to develop, implement, and enforce controls to reduce the discharge of pollutants from MS4s that receive discharges from areas of new development and significant redevelopment. The plan must address controls to reduce pollutants in discharges from MS4s after construction is completed (controls to reduce pollutants in discharges MS4s containing construction site runoff are addressed in Subsection 105.18.b.iv(4)); (7-1-24)

(c) Practices for operating and maintaining public streets, roads, and highways and procedures for reducing the impact on receiving waters of discharges from MS4s, including pollutants discharged from deicing activities; (7-1-24)

(d) Procedures to ensure flood management projects assess the impacts on the water quality of receiving water bodies and existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible; (7-1-24)

(e) 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 establishes control measures for the discharges (this program can be coordinated with the program developed under Subsection 105.18.b.iv(3)); and (7-1-24)

(f) Program to reduce, to the maximum extent practicable, pollutants in discharges from MS4s from pesticides, herbicides, and fertilizer application, including controls such as educational activities, permits, certifications, and other measures for commercial applicators and distributors, and for public right-of-ways and municipal facilities; (7-1-24)

(2) Program, including a schedule, to detect and remove (or require the discharger to the MS4 to obtain a separate IPDES permit for) illicit discharges and improper disposal into the storm sewer, including: (7-1-24)

(a) Program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the MS4. This program description must address all illicit discharges; however, the following categories of non-storm water discharges or flows must be addressed where 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 (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 the discharges or flows are identified as significant sources of pollutants to waters of the United States);

(7-1-24)

(b) Procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by the field screens;

(7-1-24)

(c) Procedures to investigate portions of the MS4 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 (procedures may include: sampling procedures for constituents such as fecal coliform (including *E. coli*), enterococci (previously known as fecal streptococcus), surfactants (methylene blue active substance [MBAS]), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting storm sewer inspections where safety and other considerations allow. Such description must include the location of storm sewers identified for evaluation);

(7-1-24)

(d) Procedures to prevent, contain, and respond to spills that may discharge into the MS4;

(7-1-24)

(e) Program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from MS4s;

(7-1-24)

(f) 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

(7-1-24)

(g) Description of controls to limit infiltration of seepage from municipal sanitary sewers to MS4s where necessary;

(7-1-24)

(3) 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 MS4. The program must:

(7-1-24)

(a) Identify priorities and procedures for inspections and establish and implement control measures for the discharges; and

(7-1-24)

(b) Describe a monitoring program for storm water discharges from industrial facilities identified in Subsection 105.18.b.iv(3), implemented during the term of the permit, including submitting quantitative data on the following constituents: pollutants limited in ELGs subcategories, where applicable; 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 information on discharges required under Subsections 105.07.j. through l.;

(7-1-24)

(4) Description of a program to implement and maintain structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites to the MS4 that includes:

(7-1-24)

(a) Procedures for site planning that considers potential water quality impacts;

(7-1-24)

(b) Requirements for nonstructural and structural BMPs;

(7-1-24)

(c) Procedures for identifying priorities for site inspections and enforcing control measures that consider the nature of the construction activity, topography, and characteristics of soils and receiving water quality; and

(7-1-24)

- (d) Educational and training measures for construction site operators; (7-1-24)
- v. Estimated reductions in pollutant loadings from the constituents discharged from MS4s 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; (7-1-24)
- 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. The analysis must describe the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of the funds; (7-1-24)
- vii. When more than one (1) legal entity submits an application, the application must describe the roles and responsibilities of each legal entity and procedures to ensure effective coordination; and (7-1-24)
- 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 applicable, the Department may exclude an operator of a discharge from an MS4 designated under 40 CFR 122.26(a)(1)(v), (b)(4)(ii) or (b)(7)(ii) from the requirements. The Department may not exclude the operator of a discharge from an MS4 identified in 40 CFR Part 122, Appendix F, G, H or I, from the permit application requirements under this subsection except where authorized under this section. (7-1-24)

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. (7-1-24)

a. Dischargers of storm water associated with industrial activity and small construction activity must apply for an individual permit or seek coverage under a storm water general permit. Facilities required to obtain an individual permit or a discharge of storm water that the Department is evaluating for designation (Section 130) under 40 CFR 122.26(a)(1)(v) and is not an MS4, must submit an IPDES application following the requirements of Section 105. (7-1-24)

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: (7-1-24)

i. 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: (7-1-24)

- (1) Each of its drainage and discharge structures; (7-1-24)
- (2) Drainage area of each storm water outfall; (7-1-24)
- (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 for accumulating hazardous waste under 40 CFR 262.34); (7-1-24)

(4) Each well where fluids from the facility are injected underground; and (7-1-24)

(5) Springs, and other surface water bodies receiving storm water discharges from the facility; (7-1-24)

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: (7-1-24)

- (1) Significant materials that in the three (3) years before the submittal of this application have been treated, stored, or disposed in a manner to allow exposure to storm water; (7-1-24)
- (2) Method of treatment, storage, or disposal of materials; materials management practices employed, in the three (3) years before the submittal of this application, to minimize contact by these materials with storm water runoff; (7-1-24)
- (3) Materials loading and access areas; (7-1-24)
- (4) Location, manner, and frequency in which pesticides, herbicides, soil conditioners, and fertilizers are applied; (7-1-24)
- (5) Location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and (7-1-24)
- (6) Description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge; (7-1-24)
- iii. Certification that outfalls containing storm water discharges associated with industrial activity have been tested or evaluated for the presence of non-storm water discharges not covered by an IPDES permit, including a description of the method used, the date of testing, and the on-site drainage points that were directly observed during a test. Tests for non-storm water discharges may include smoke tests, fluorometric dye tests, and analysis of accurate schematics; (7-1-24)
- iv. Existing information about significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three (3) years before application submittal; (7-1-24)
- v. Quantitative data based on samples collected during storm events and collected in accordance with Subsection 105.07 from outfalls containing a storm water discharge associated with industrial activity for: (7-1-24)
 - (1) Pollutants limited in an ELG to which the facility is subject; (7-1-24)
 - (2) Pollutants 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); (7-1-24)
 - (3) Oil and grease, pH, BOD5, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen; (7-1-24)
 - (4) Information on the discharge required under Subsections 105.07.j. through l.; (7-1-24)
 - (5) Flow measurements or estimates of the flow rate, and the total amount of discharge for the storm event sampled, and the method of flow measurement or estimation; and (7-1-24)
 - (6) Date and duration (in hours) of storm event sampled, rainfall measurements or estimates of the storm event (in inches) that 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; (7-1-24)
- vi. Operators of a discharge 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 (7-1-24)
- vii. Operators of new sources or new discharges (Section 010, Definitions) 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 discharge commences, unless the data has already been reported under the monitoring requirements of the IPDES permit for the discharge. Operators of a new source or new discharge composed entirely

of storm water are exempt from the requirements of Subsections 105.16.a.iii.(2) and (3), and 105.16.b. (7-1-24)

c. Operator of an existing or new storm water discharge associated with industrial activity solely under 40 CFR 122.26(b)(14)(x) or 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. The operator must provide a narrative description of: (7-1-24)

i. Location (including a map) and the nature of the construction activity; (7-1-24)

ii. Total area of the site and the area of the site that is expected to undergo excavation during the life of the permit; (7-1-24)

iii. Proposed measures, including BMPs, to control pollutants in storm water discharges during construction, including a description of state and local erosion and sediment control requirements; (7-1-24)

iv. Proposed measures to control pollutants in storm water discharges that will occur after construction operations are completed, including a description of state or local erosion and sediment control requirements; (7-1-24)

v. 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 (7-1-24)

vi. Name of the receiving water. (7-1-24)

d. 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 under Subsection 105.19.b., unless the facility: (7-1-24)

i. Discharge of storm water occurred resulting in a reportable quantity for which notification is or was required under 40 CFR 117.21 or 40 CFR 302.6 at any time since November 16, 1987; or (7-1-24)

ii. Discharge of storm water occurred resulting in a reportable quantity for which notification is or was required under 40 CFR 110.6 at any time since November 16, 1987; or (7-1-24)

iii. Contributes to a violation of a water quality standard. (7-1-24)

e. 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 was in contact with, overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site. (7-1-24)

f. Applicants must provide information the Department may require under Subsection 105.07.o. to determine whether to issue a permit and may require facilities subject to Subsection 105.19.c. to comply with Subsection 105.19.b. (7-1-24)

20. Requirements for Integrated Plans. Integrated planning is a voluntary process for municipalities to identify efficiencies from separate wastewater and storm water programs to best prioritize capital investments and achieve human health and water quality objectives. (7-1-24)

a. The Department may incorporate integrated plans into IPDES permits, compliance agreement schedules, consent orders, and compliance schedule orders. (7-1-24)

b. Integrated plans considered by the Department should contain: (7-1-24)

i. A description of the water quality, human health, and regulatory issues to be addressed in the plan; (7-1-24)

- ii. A description of the existing wastewater and storm water systems under consideration and a summary of information describing the systems' current performance; (7-1-24)
- iii. A communications plan describing how community stakeholders are given consideration in the planning and implementation of the plan; (7-1-24)
- iv. A process for identifying, evaluating, and selecting alternatives and proposing implementation schedules; (7-1-24)
- v. A process for evaluating the performance of projects identified in the plan; and (7-1-24)
- vi. A process for identifying, evaluating, and selecting proposed new projects or modifications to ongoing or planned projects based on changed circumstances. (7-1-24)

106. INDIVIDUAL PERMIT APPLICATION REVIEW.

01. Completeness Criteria. The Department will not process or issue an individual IPDES permit application before receiving a complete application. The application form and supplemental information are complete when submitted to the Department's satisfaction. The Department will not consider a permit application to be complete until applicable fees required under Section 110 are paid. (7-1-24)

02. Sufficiently Sensitive Methods. Except as specified in Subsection 106.02.c., a permit application will not be considered complete unless all required quantitative data are collected following sufficiently sensitive analytical methods approved under 40 CFR Part 136 or required under 40 CFR Parts 400 through 471 and 501 through 503. (7-1-24)

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: (7-1-24)

i. The method minimum level (ML) is at or below the level of the water quality criterion for the measured pollutant or pollutant parameter; or (7-1-24)

ii. The method ML is above the 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 (7-1-24)

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. (7-1-24)

b. For Subsection 106.02.a., consistent with 40 CFR Part 136, applicants may opt to provide matrix- or sample- specific MLs rather than the published levels. When an applicant can demonstrate, despite a good faith effort to use a method that meets the definition of "sufficiently sensitive," the analytical results are not consistent with the QA/QC specifications for that method, then the Department may determine the method is not performing adequately and the applicant will select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with Subsection 106.02.a. When no other EPA-approved methods exist, the applicant will select a method consistent with Subsection 106.02.c. (7-1-24)

c. When there is no analytical method 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 must describe 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. (7-1-24)

03. Independence. The Department will judge the completeness of an IPDES permit application independently of other permit application or permit. (7-1-24)

04. Schedule. The Department will notify an applicant in writing whether the application is complete

within: (7-1-24)

or **a.** Thirty (30) days if the application is for a new source or new discharger under the IPDES program, (7-1-24)

b. Sixty (60) days if the application is for an existing source or sludge-only facility. (7-1-24)

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. (7-1-24)

a. Requests for additional information will not render an application incomplete. (7-1-24)

b. While processing the application, if the Department decides a site visit is necessary, the Department will notify the applicant and schedule a date. Failure to schedule or refusal of a requested site visit are grounds for permit denial. (7-1-24)

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. (7-1-24)

06. Incomplete Due to Waiver Denial. The Department will not consider a permit application complete if the Department waived application requirements under Subsection 105.11 or 105.17 and the EPA has disapproved the waiver. (7-1-24)

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 complete without the information subject to the waiver request. (7-1-24)

08. Application Completeness Date. The application is complete when the Department notifies the applicant. (7-1-24)

107. DECISION PROCESS.

After the Department has determined a permit application is complete, the Department will decide whether to tentatively deny the application, or prepare an IPDES draft permit. (7-1-24)

01. Application Denial. If the Department decides to tentatively deny the application: (7-1-24)

a. A notice of intent to deny the permit application will be issued. A notice of intent to deny the permit application follows the same procedures as a draft permit and will be made available for public comment. The Department will give notice of opportunity for a public meeting, as specified in Section 109; (7-1-24)

b. The Department will generate a response to public comment; and (7-1-24)

c. Issue a final decision that may: (7-1-24)

 i. Withdraw the notice of intent to deny the application, and proceed to prepare a draft permit and fact sheet as defined in Section 108; or (7-1-24)

 ii. Confirm the decision to deny the application. (7-1-24)

d. The applicant may appeal the final decision to deny the application by adhering to the requirements of Section 204. (7-1-24)

02. Draft Permit. If the Department decides to generate a draft permit and fact sheet, it will comply with Section 108. (7-1-24)

a. Upon completion of the draft permit and fact sheet, the Department will issue a public notification as required in Subsection 109.01. (7-1-24)

b. An opportunity for the public to comment and request a public meeting will be provided. (7-1-24)

c. The Department will generate a response to public comment as stipulated in Subsection 109.03. (7-1-24)

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. (7-1-24)

04. Final Permit. After the public comment period closes on a draft permit, and after receiving comments on the proposed permit from EPA, the Department will issue a final permit decision and fact sheet. The final permit decision will issue, deny, modify, revoke and reissue, or terminate a permit. (7-1-24)

a. The Department will notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. (7-1-24)

b. A final permit decision shall become effective twenty-eight (28) days after the service of notice of the decision unless: (7-1-24)

i. A later effective date is specified in the decision; or (7-1-24)

ii. A Petition for Review is filed with the Department as specified in Section 204. (7-1-24)

108. DRAFT PERMIT AND FACT SHEET.

01. Draft Permit. (7-1-24)

a. If the Department decides to prepare a draft permit, it will contain: (7-1-24)

i. Conditions established under Section 300; (7-1-24)

ii. Conditions for specific categories established under Section 301 and 40 CFR 122.42(e); (7-1-24)

iii. Conditions established under Section 302; (7-1-24)

iv. Conditions established under Section 303; (7-1-24)

v. Monitoring requirements established under Section 304; (7-1-24)

vi. Schedules of compliance established under Section 305; and (7-1-24)

vii. Approved variances. (7-1-24)

b. General and individual proposed permits will be available to the EPA Region 10 Administrator for comment as specified in Subsections 107.03 (Proposed Permit) and 107.04 (Final Permit). (7-1-24)

02. Fact Sheets. (7-1-24)

a. A fact sheet containing the information required in Subsection 108.02.b. must accompany the draft permit prepared for: (7-1-24)

i. Major IPDES facility or activity; (7-1-24)

ii. Class I sludge management facility; (7-1-24)

- iii. IPDES general permit; (7-1-24)
- iv. Permit that incorporates a variance or requires an explanation under Subsection 108.02.b.ix. through 108.02.b.x.; (7-1-24)
- v. Permit that includes a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix); and (7-1-24)
- vi. Permit that the Department finds is the subject of wide-spread public interest or raises major issues. (7-1-24)
- b.** A fact sheet must describe the principal facts and significant factual, legal, methodological, and policy questions considered in preparing the draft permit and must include, if applicable: (7-1-24)
 - i. Brief description of the type of facility or activity that is the subject of the draft permit; (7-1-24)
 - ii. Type and quantity of wastes, fluids, or pollutants that are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged; (7-1-24)
 - iii. Summary of the basis for the draft permit conditions, including references to applicable statutes or regulations and appropriate supporting references to the administrative record; (7-1-24)
 - iv. Reasons for the Department's tentative decision on requested variances or alternatives to required standards; (7-1-24)
 - v. Description of the procedures for reaching a final decision on the draft permit, including: (7-1-24)
 - (1) Beginning and ending dates of the comment period under Subsection 109.02 and the address where comments are submitted; (7-1-24)
 - (2) Procedure for requesting a public meeting and the nature of that meeting; and (7-1-24)
 - (3) Other procedures by which the public may participate in the final decision; (7-1-24)
 - vi. Name and telephone number of a person to contact for additional information; (7-1-24)
 - vii. Justification for waiver of application requirements under Section 105 for new and existing POTWs; (7-1-24)
 - viii. Calculations or other explanations of the derivation of specific effluent limits and conditions, including a citation to the ELG or performance standard as required by Section 302, and reasons why the effluent limits and conditions apply, or an explanation of how an alternate effluent limit was developed; (7-1-24)
 - ix. If applicable, an explanation of why the draft permit contains: (7-1-24)
 - (1) Limits to control toxic pollutants under Subsection 302.07; (7-1-24)
 - (2) Limits on internal waste streams under Section 304; (7-1-24)
 - (3) Limits on indicator pollutants under 40 CFR 125.3(g); (7-1-24)
 - (4) Limits established on a case-by-case basis under 40 CFR 125.3 (c)(2) or (c)(3) or CWA Section 405(d)(4); (7-1-24)
 - (5) Limit to meet the criteria for permit issuance under Subsection 103.07; or (7-1-24)

- (6) Waivers from monitoring requirements granted under Subsection 302.03; (7-1-24)
- 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; (7-1-24)
- xi. If appropriate, a sketch or description of the location of the discharge or regulated activity described in the application; and (7-1-24)
- xii. For permits that include a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), a description of how each of the required elements of the land application plan are addressed in the permit. (7-1-24)

109. PUBLIC NOTIFICATION AND COMMENT.

- 01. Public Notification.** (7-1-24)
 - a.** The Department will give notice to the public that: (7-1-24)
 - i. A draft permit has been prepared under Subsection 108.01; (7-1-24)
 - ii. The Department intends to deny a permit application under Subsection 107.01; (7-1-24)
 - iii. A public meeting is scheduled; or (7-1-24)
 - iv. An IPDES new source determination has been made. (7-1-24)
 - b.** A public notice may describe more than one (1) permit or permit action. (7-1-24)
 - c.** The Department will allow at least thirty (30) days for public comment on the items in the notice, and provide at least thirty (30) days' notice before the public meeting. Notice of the draft permit and meeting may be combined and given at the same time. (7-1-24)
 - d.** Public notice that a draft permit has been prepared and a public meeting on the draft permit will be given by: (7-1-24)
 - i. Mailing a copy of the notice to the following persons, unless person entitled to receive notice under this subsection waives the right to receive notice for any classes and categories of permits: (7-1-24)
 - (1) The applicant, unless there is no applicant for an IPDES general permit; (7-1-24)
 - (2) An agency (including EPA when the draft permit is prepared by the state) the Department knows has issued or is required to issue a permit for the same facility or activity under: (7-1-24)
 - (a) Resource Conservation and Recovery Act, under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; (7-1-24)
 - (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"; (7-1-24)
 - (c) Clean Air Act, under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; (7-1-24)
 - (d) Idaho Pollution Discharge Elimination System Program, under IDAPA 58.01.25, "Idaho Pollutant Discharge Elimination System Rules"; or (7-1-24)
 - (e) Sludge Management Program, under IDAPA 58.01.16.650, "Wastewater Rules"; and (7-1-24)
 - (f) Dredge and Fill Permit Program (CWA Section 404); (7-1-24)

- (3) Affected federal and state agencies with jurisdiction over fish, shellfish, wildlife, and other natural resources, state historic preservation officers, and any affected Indian tribes; (7-1-24)
- (4) State agency responsible for plan development under CWA Sections 208(b)(2), 208(b)(4), or 303(e), and the US Army Corps of Engineers, the US Fish and Wildlife Service, and National Marine Fisheries Service; (7-1-24)
- (5) User identified in the permit application of a privately owned treatment works; (7-1-24)
- (6) Persons on a mailing list developed by: (7-1-24)
 - (a) Recording those who request in writing to be on the list; (7-1-24)
 - (b) Soliciting persons for area lists from participants in past permit proceedings in that area; and (7-1-24)
 - (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 by requesting written indication of continued interest from those listed, and may delete from the list the name of a person who fails to respond to the Department's request; (7-1-24)
- (7) A unit of local government with jurisdiction over the area where the facility is proposed to be located; and (7-1-24)
- (8) Each state agency with authority under state law for construction or operation of the facility; (7-1-24)
 - ii. For a major facility permit, general permit, and 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 (7-1-24)
 - iii. By a method that provides notice of the action to persons potentially affected by it, including press releases or another 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 interested communities and allow access to the permitting process for those seeking to participate. (7-1-24)
 - e. A public notice issued under this subsection will contain at least: (7-1-24)
 - i. Name and address of the office processing the permit action for which notice is given and where comments may be submitted; (7-1-24)
 - ii. Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit, except for IPDES draft general permits; (7-1-24)
 - iii. 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; (7-1-24)
 - iv. Name, address, and telephone number of a person from whom interested persons may obtain information, including copies of the draft permit or draft general permit, fact sheet, and application; (7-1-24)
 - v. Description of the comment and public meeting procedures required by this subsection and the time

and place of any meetings that will be held; if no meeting has been scheduled, procedures to request a meeting and by which the public may participate in the final permit decision; (7-1-24)

vi. Description of the location of each existing or proposed discharge point and the name of the receiving water; (7-1-24)

vii. Sludge use and disposal practices and the location of each sludge TWTDS and use or disposal sites known during permit application; (7-1-24)

viii. Description of requirements applicable to cooling water intake structures under CWA Section 316(b), in accordance with 40 CFR 125.80 through 89, 125.90 through 99, and 125.130 through 139; and (7-1-24)

ix. Link to the Department's website where interested parties can obtain copies of the draft permit, fact sheet, and the permit application, if any; and (7-1-24)

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 CWA Section 316(a) will include: (7-1-24)

i. Statement that the thermal component of the discharge is subject to effluent limits under CWA Sections 301 or 306, and a description, including a quantitative statement, of the thermal effluent limits proposed under CWA Section 301 or 306; (7-1-24)

ii. Statement that a request has been filed under CWA Section 316(a), that alternative less stringent effluent limits may be imposed on the thermal component of the discharge under CWA Section 316(a), and a description, including a quantitative statement, of the alternative effluent limits, if any, included in the request; and (7-1-24)

iii. If the applicant has filed an early screening request under 40 CFR 125.72 for a variance under CWA Section 316(a), a statement that the applicant has submitted an early screening request. (7-1-24)

g. In addition to the public notice described in Subsection 109.01.e., the public notice of a meeting must contain: (7-1-24)

i. Reference to the date of previous public notices relating to the permit; (7-1-24)

ii. Date, time, and place of the meeting; and (7-1-24)

iii. Description of the nature and purpose of the meeting, including the applicable rules and procedures. (7-1-24)

h. The Department will mail a copy of the public notice described in Subsection 109.01.e. to persons identified in Subsections 109.01.d.i.(1), (2), (3), and (4). (7-1-24)

i. The Department will hold a public meeting whenever the Department finds, based on 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 another reason in the Department's discretion. (7-1-24)

02. Public Comment. (7-1-24)

a. During the public comment period, an 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. (7-1-24)

b. During the public comment period, an 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. (7-1-24)

i. A request for a public meeting must be in writing and submitted to the Department within fourteen (14) days after the date of the public notice required by Subsection 109.01. (7-1-24)

ii. If a public meeting is held to receive 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. (7-1-24)

c. If, during the comment period for an IPDES draft permit, the district engineer of the US Army Corps of Engineers advises the Department in writing that anchorage and navigation of the waters of the United States will be substantially impaired by granting 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 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 procedures of the US Army Corps of Engineers and not through the state procedures. If a court of competent jurisdiction stays the conditions or if procedures of the US 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. (7-1-24)

d. If, during the comment period for an IPDES draft permit, the US Fish and Wildlife Service, the National Marine Fisheries Service, or another 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 CWA. (7-1-24)

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 state an agency's view in the fact sheet or the draft permit. (7-1-24)

f. The Department will consider all comments in making the final decision and will answer the comments as provided in this subsection. (7-1-24)

g. Requests for extending a public comment period must be received in writing by the Department before the last day of the comment period. (7-1-24)

h. After the public comment period closes and before issuing the final permit decision, the Department will allow the permit applicant to provide additional information to respond to public comments. To respond to comments, the Department may request the applicant provide additional information. (7-1-24)

03. Response to Comments. When issuing a final permit, the Department will issue a response to comments that will be available to the public. The response must: (7-1-24)

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 (7-1-24)

b. Describe and respond to significant comments on the draft permit raised during the public comment period or meetings. (7-1-24)

110. IPDES FEE SCHEDULE.

01. Fee Schedule. (7-1-24)

a. Publicly and privately owned treatment works, and other dischargers designated by the Department (Subsection 105.11.a.), must pay an annual fee based on the number of 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: (7-1-24)

- i. The Department calculates facility EDUs; or (7-1-24)
 - ii. Existing facilities may annually report to the Department the number of EDUs served; or (7-1-24)
 - 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. (7-1-24)
- b.** Other permitted IPDES dischargers must pay an annual fee, an application fee, or both according to:

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

¹This 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. (7-1-24)

02. Fee Assessment. (7-1-24)

a. An annual fee assessment will be generated for each IPDES-permitted facility for which an annual fee is required under Subsection 110.01. Annual fees will be determined based on the twelve (12) months between October 1 and September 30 each year. (7-1-24)

b. Application Fees and Annual Fees. (7-1-24)

i. Application fees, as identified in Subsection 110.01.b., are assessed upon application submittal for coverage under an individual permit, or notice of intent for coverage or waiver under a general permit. (7-1-24)

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) following the receipt of the application or notice of intent for coverage. (7-1-24)

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 year (October through September of each 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. (7-1-24)

03. Billing. For permitted facilities subject to an annual fee, the annual fee will be assessed, and the Department will send a statement on or before October 1 of each year. The Department will also assess and send annual fee statements when permit coverage is terminated. (7-1-24)

04. Payment. (7-1-24)

a. Payment of the annual fee is due on December 31, unless it is a Saturday, Sunday, or legal holiday, in which event the payment is due on the successive business day. Payment of annual fees for terminated permit coverage is due at the time of termination. (7-1-24)

b. Payment of the application fee is due with the application for an individual permit or notice of intent for coverage under a general permit. The Department will not authorize IPDES permit payments upon receipt of the billing statement. (7-1-24)

c. A POTW may request, in writing, monthly or quarterly installment payments upon receipt of the billing statement. The Department will approve or deny the request and inform the POTW within ten (10) business days. (7-1-24)

05. Delinquent Unpaid Fees. A permittee covered under a general or individual permit will be delinquent in payment if the Department does not receive the assessed annual fee by January 1; or if the permittee opted to pay monthly or quarterly, its monthly or quarterly installment is not received by the Department by the last day of the month the payment is due. (7-1-24)

06. Suspension of Services and Disapproval Designation. Permittees delinquent in payment of fees assessed under Subsections 110.01 and 110.05: (7-1-24)

a. After ninety (90) days, the Department will suspend all technical services provided. The permittee will receive a warning letter identifying administrative enforcement actions the Department may pursue if the permittee does not comply with the terms of the permit. (7-1-24)

b. After 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. (7-1-24)

07. Reinstatement of Suspended Services and Approval Status. Permittees for which delinquency of fee payment under Subsection 110.06 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. (7-1-24)

08. Enforcement Action. Nothing in Section 110 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. (7-1-24)

09. Responsibility to Comply. Subsection 110.06 does not relieve a permittee from its obligation to comply with the state and federal statutes, rules, regulations, permits, or orders. (7-1-24)

111. -- 119. (RESERVED)

120. NEW SOURCES AND NEW DISCHARGES.

01. New Source Determination. Except as provided in a new source performance standard, a source is a new source if it meets the definition in Section 010, and: (7-1-24)

a. Is constructed at a site at which no other source is located; or (7-1-24)

b. Totally replaces the process or production equipment that causes the discharge of pollutants at an

existing source; or (7-1-24)

c. Its processes are substantially independent of an existing source at the same site. In determining whether these processes are substantially independent, the Department will consider factors including the: (7-1-24)

i. Extent the new facility is integrated with the existing plant; and (7-1-24)

ii. Extent the new facility is engaged in the same general type of activity as the existing source. (7-1-24)

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 independently applies to it. If no independent standard applies, the source is a new discharger, as defined in Section 010. (7-1-24)

03. Modification vs. New Source/Discharger. Construction on a site where 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. (7-1-24)

04. New Source Construction. Construction of a new source commences when the owner or operator: (7-1-24)

a. Begins a new or restarts a continuous on-site construction program: (7-1-24)

i. Places, assembles, or installs facilities or equipment; or (7-1-24)

ii. Significantly prepares the site, including clearing, excavation, or removal of existing buildings, structures, or facilities for the placement, assembly, or installation of new source facilities or equipment; or (7-1-24)

b. Enters into a binding contractual obligation for purchasing facilities or equipment intended for use in its operation within a reasonable time. Items that do not constitute contractual obligations under this section include: (7-1-24)

i. Options to purchase or contracts that can be terminated or modified without substantial loss; (7-1-24)

ii. Contracts for feasibility engineering; and (7-1-24)

iii. Design studies. (7-1-24)

121. -- 129. (RESERVED)

130. GENERAL PERMITS.

01. Coverage. The Department may issue a general permit in accordance with the following: (7-1-24)

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 will correspond to existing geographic or political boundaries such as: (7-1-24)

i. Designated planning areas under CWA Sections 208 and 303; (7-1-24)

ii. Sewer districts or sewer authorities; (7-1-24)

iii. City, county, or state political boundaries; (7-1-24)

- iv. State highway systems; (7-1-24)
- v. Standard metropolitan statistical areas as defined by state or federal agencies; (7-1-24)
- vi. Urbanized areas as designated by the U.S. Census Bureau; or (7-1-24)
- vii. Another appropriate division or combination of boundaries. (7-1-24)
- 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: (7-1-24)
 - i. Storm water point sources; or (7-1-24)
 - ii. One (1) or more categories or subcategories of point sources other than storm water point sources or TWTDS, if all: (7-1-24)
 - (1) Involve the same or substantially similar types of operations; (7-1-24)
 - (2) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices; (7-1-24)
 - (3) Require the same effluent limits, operating conditions, or standards for sewage sludge use or disposal; (7-1-24)
 - (4) Require the same or similar monitoring; and (7-1-24)
 - (5) In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits. (7-1-24)
- c.** Where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed under Section 302, the sources in that specific category or subcategory are subject to the same water quality-based effluent limits. (7-1-24)
- d.** Other requirements: (7-1-24)
 - i. The general permit will clearly identify the applicable conditions for each category or subcategory of dischargers or TWTDS covered by the permit; and (7-1-24)
 - ii. The general permit may exclude specified sources or areas from coverage. (7-1-24)
 - iii. For general permits issued under Subsection 130.01.b. for small MS4s, the Department will 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 will indicate in the permit or fact sheet the approach used. (7-1-24)
 - (1) Comprehensive general permit. The Department includes all required permit terms and conditions in the general permit; or (7-1-24)
 - (2) Two-step general permit. The Department includes required permit terms and conditions in the general permit applicable to 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. (7-1-24)
- (a)** The general permit will require that a 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 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 other steps necessary to obtain permit authorization. (7-1-24)

(b) The Department will 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 will give the public notice of and opportunity to comment and request a public meeting on its proposed authorization and the NOI, proposed additional terms and conditions, and basis for these additional requirements. The public notice, process for submitting public comments and meeting requests, and meeting process if a request for a meeting is granted, will follow the procedures applicable to draft permits in Sections 108 and 109 except Subsection 109.01.d. The Department will respond to significant comments received during the comment period as provided in Subsection 109.03. (7-1-24)

(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 will 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. (7-1-24)

02. Electronic Submittals. As of December 21, 2020, 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 under 40 CFR 127.15. (7-1-24)

03. Information Retention Schedule. An applicant must keep records of all data used to complete a notice of intent and supplemental information submitted for a period of at least three (3) years from the date the notice of intent is signed. (7-1-24)

04. Notice of Intent. (7-1-24)

a. A 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 required in Subsection 130.05. (7-1-24)

b. A notice of intent must be signed and certified as required in Section 090. (7-1-24)

05. Administration. (7-1-24)

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). (7-1-24)

b. Authorization to discharge or engage in sludge use and disposal practices will follow these procedures: (7-1-24)

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 to fulfill the requirements for permit applications; (7-1-24)

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 for a sludge disposal permit, to engage in a sludge use or disposal practice) under the terms of the general permit unless: (7-1-24)

(1) The general permit, in accordance with Subsections 130.05.b.xi., contains a provision that a notice of intent is not required; or (7-1-24)

(2) The Department notifies a discharger (or TWTDS) that it is covered by a general permit in accordance with Subsection 130.05.b.xii.; (7-1-24)

- iii. Notices of intent must be signed as required in Section 090; (7-1-24)
- iv. The general permit will specify the contents of the notice of intent and require submitting information necessary for adequate program implementation, including at a minimum: (7-1-24)
 - (1) Legal name and address of the operator; (7-1-24)
 - (2) Facility name and address; (7-1-24)
 - (3) Type of facility, site, or discharges; and (7-1-24)
 - (4) Receiving stream; (7-1-24)
- v. Coverage under a general permit may be terminated or revoked in accordance with Subsection 130.05.c. through e.; (7-1-24)
- 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; (7-1-24)
- vii. 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); (7-1-24)
- 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; (7-1-24)
- ix. General permits will 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; (7-1-24)
- x. General permits will 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 (for a sludge disposal permit, to engage in a sludge use or disposal practice) in accordance with the permit: (7-1-24)
 - (1) Upon receipt of the notice of intent by the Department; (7-1-24)
 - (2) After a waiting period specified in the general permit; (7-1-24)
 - (3) On a date specified in the general permit; or (7-1-24)
 - (4) Upon receipt of notification of inclusion by the Department; (7-1-24)
- xi. Discharges other than discharges from POTWs, combined sewer overflows, MS4s, 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 when the Department finds that a notice of intent requirement is inappropriate. The Department will provide in the public notice of the general permit the reasons for not requiring a notice of intent. The Department will consider: (7-1-24)
 - (1) Type of discharge; (7-1-24)
 - (2) Expected nature of the discharge; (7-1-24)
 - (3) Potential for toxic and conventional pollutants in the discharges; (7-1-24)
 - (4) Expected volume of the discharges; (7-1-24)
 - (5) Other means of identifying discharges covered by the permit; and (7-1-24)

- (6) Estimated number of discharges to be covered by the permit; and (7-1-24)
- 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. (7-1-24)
- 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. An interested person may petition the Department to take action under this subsection. Cases where an individual IPDES permit may be required include: (7-1-24)
- i. Discharger or TWTDS is not in compliance with the conditions of the general permit; (7-1-24)
- ii. 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; (7-1-24)
- iii. ELGs are promulgated for point sources covered by the general permit; (7-1-24)
- iv. Water Quality Management plan containing requirements for point sources is approved; (7-1-24)
- 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; (7-1-24)
- 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 (7-1-24)
- vii. Discharge is a significant contributor of pollutants. For this determination, the Department may consider: (7-1-24)
- (1) Location of the discharge with respect to waters of the United States; (7-1-24)
- (2) Size of the discharge; (7-1-24)
- (3) Quantity and nature of the pollutants discharged to waters of the United States; and (7-1-24)
- (4) Other relevant factors. (7-1-24)
- 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. (7-1-24)
- i. The owner or operator must submit an application under Section 105, with reasons supporting the request, to the Department no later than ninety (90) days after the publication of the general permit. (7-1-24)
- ii. The Department must 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). (7-1-24)
- iii. The Department will grant a request by issuing an individual permit if the reasons cited by the owner or operator are adequate to support the request. (7-1-24)
- 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. (7-1-24)
- 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 will apply to the source. (7-1-24)

06. Case-by-Case Requirements for Individual Permits. (7-1-24)

a. The Department may require an 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 will include a 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 automatically terminates, and a statement that the owner or operator may appeal the Department's decision as provided in Section 204. The Department may grant additional time upon request of the applicant. (7-1-24)

b. Before a case-by-case determination that an individual permit is required for a storm water discharge under this section (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 CWA Section 308. (7-1-24)

i. When requiring information, the Department will notify the discharger in writing and send an application with the notice. (7-1-24)

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. (7-1-24)

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 limit, standards or conditions must be at least as stringent as the final effluent limits, standards, or conditions in the previous permit unless the circumstances on which the previous permit: (7-1-24)

a. Materially and substantially changed since the time the permit was issued; and (7-1-24)

b. Constitute cause for permit modification or revocation and reissuance under Subsection 201.02. (7-1-24)

02. Final CWA Section 402(a)(1)(B) Effluent Limits. For effluent limits established by the Department based on CWA Section 402(a)(1)(B), a permit may not be renewed, reissued, or modified based on ELGs promulgated under CWA Section 304(b) after the original issuance of a permit, to contain effluent limit that are less stringent than the comparable effluent limits in the previous permit, except a permit may be renewed, reissued, or modified to contain a less stringent effluent limit applicable to a pollutant, if: (7-1-24)

a. Material and substantial alterations or additions to the permitted facility occurred after permit issuance justifying the application of a less stringent effluent limit; (7-1-24)

b. Information is available that: (7-1-24)

i. Was not available during permit issuance (other than revised regulations, guidance, or test methods) and justifies the application of a less stringent effluent limit during permit issuance; or (7-1-24)

ii. The Department determines technical mistakes or mistaken interpretations of law were made in issuing the permit under CWA Section 402(a)(1)(b); (7-1-24)

c. A less stringent effluent limit is necessary because of events over which the permittee has no control and there is no reasonably available remedy; (7-1-24)

d. The permittee received a permit modification under CWA Sections 301(c), 301(g), 301(i), 301(k), 301(n), or 316(a); or (7-1-24)

e. The permittee installed the treatment facilities required to meet the effluent limits in the previous permit and properly operated and maintained the facilities but has not achieved the previous effluent limits. The limits in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but will not be less stringent than required ELGs in effect during permit renewal, reissuance, or modification). (7-1-24)

03. Final CWA Section 301(b)(1)(C) or 303 Effluent Limits. For effluent limits based on CWA Sections 301(b)(1)(C), 303(d), or (e), a permit may not be renewed, reissued, or modified to contain effluent limits less stringent than the comparable effluent limits in the previous permit except when: (7-1-24)

a. One of the exceptions in Subsection 200.02 apply; or (7-1-24)

b. The water where the discharge occurs is identified as impaired on Idaho's Integrated Report and the effluent limit is based on a TMDL or other waste load allocation established under CWA Section 303, if the cumulative effect of all revised effluent limits based on the TMDL or waste load allocation will ensure attainment of applicable water quality standards; or (7-1-24)

c. The water quality where the discharge occurs meets or exceeds levels required by the water quality standards, and the effluent limit is based on a TMDL or other waste load allocation established under the CWA Section 303, any water quality standard, or permitting standard, if the revision is subject to and consistent with the antidegradation policy and implementation procedures in the water quality standards. (7-1-24)

04. Effluent Limits and Water Quality Standards. In no event may a permit to which Subsection 200.02 or 200.03 applies be renewed, reissued, or modified to contain an effluent limit less stringent than required by ELGs 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 limit if implementing the limit results in a violation of a water quality standard under IDAPA 58.01.02, "Water Quality Standards." (7-1-24)

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

01. Procedures to Modify, or Revoke and Reissue Permits. (7-1-24)

a. Permits may be modified, or revoked and reissued, at the request of an interested person (including the permittee) or upon the Department's initiative. Permits may only be modified, or revoked and reissued, for reasons in Subsection 201.02. Requests must be in writing and contain facts or reasons supporting the request. (7-1-24)

b. If the Department tentatively decides to modify, or revoke and reissue, a permit, the Department will prepare a draft permit under Section 108, incorporating the proposed changes. (7-1-24)

i. The Department may request additional information, and for a modified permit, may require submittal of an updated application. If the tentative decision is to revoke and reissue a permit, the Department will require submittal of a new application. (7-1-24)

ii. In a permit modification, only those conditions to be modified will be reopened when a new draft permit is prepared. All other aspects of the existing permit remain in effect for the duration of the unmodified permit. (7-1-24)

iii. When a permit is revoked and reissued, the entire permit is reopened as if the permit had expired and is being reissued. During a revocation and reissuance proceeding, the permittee must comply with the conditions of the existing permit until a new final permit is reissued. (7-1-24)

iv. Minor modifications, defined in Subsection 201.03, do not require development of a draft permit, and fact sheet, and are not subject to public notification and comment. (7-1-24)

02. Causes to Modify, or Revoke and Reissue Permits. When the Department receives pertinent information (e.g., facility inspection, information submitted as required by the permit, a request for modification or revocation and reissuance under Subsection 201.01, or permit file review), the Department may determine whether 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. (7-1-24)

a. If cause exists, the Department may modify or revoke and reissue the permit, subject to the limits of Subsection 201.01.b., and may request a new or updated application, if necessary. (7-1-24)

b. If cause does not exist, the Department will not modify or revoke and reissue the permit. (7-1-24)

c. The following are causes for modification but not revocation and reissuance of permits except when the permittee requests or agrees: (7-1-24)

i. Material and substantial alterations or additions to the permitted facility or activity (including a change in the permittee's sludge use or disposal practice) occurred after permit issuance and justify permit conditions that are different or absent in the existing permit. (7-1-24)

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 justifies the application of different permit conditions at the time of issuance: (7-1-24)

(1) For IPDES general permits (Section 130), cause includes information indicating that cumulative effects on the environment are unacceptable; and (7-1-24)

(2) For new source or new discharger IPDES permits (Section 120), cause includes significant information derived from effluent testing required under Subsection 105.08 or 105.16 after issuance of the permit. (7-1-24)

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: (7-1-24)

(1) For promulgation of amended standards or regulations, when: (7-1-24)

(a) The requested modification was based on a promulgated ELG, EPA approved or promulgated water quality standards, or the Secondary Treatment Regulations under 40 CFR Part 133; (7-1-24)

(b) The EPA revised, withdrew, or modified that portion of the regulation or ELG on which the permit condition was based, or approved a state action for a water quality standard on which the permit condition was based; and (7-1-24)

(c) A permittee requests modification under Subsection 201.01 or 203.01 within ninety (90) days after notice of the action on which the request is based. (7-1-24)

(2) For judicial decisions, a court of competent jurisdiction remanded and stayed EPA or Idaho promulgated regulations or ELGs, 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 under Subsection 201.01 or 203.01 within ninety (90) days of judicial remand. (7-1-24)

iv. The Department determines good cause exists for modifying a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events that the permittee has little or no control and no reasonably available remedy exists. A compliance schedule must not be modified to extend beyond the CWA statutory deadline. (7-1-24)

v. When the permittee has filed a request for a variance under CWA Sections 301(c), 301(g), 301(i),

301(k), or 316(a) or for fundamentally different factors within the time specified in Section 310. (7-1-24)

vi. When required to incorporate an a CWA Section 307(a) toxic effluent standard or prohibition, under Subsection 302.04. (7-1-24)

vii. When required by the reopener conditions in a permit, established in the permit under Subsection 302.05 or 40 CFR 403.18(e) (Pretreatment Standards). (7-1-24)

viii. Upon request of a permittee who qualifies for effluent limits on a net basis, or when a discharger is no longer eligible for net limits, as provided in Subsection 303.07. (7-1-24)

ix. As necessary under 40 CFR 403.8(e) (Pretreatment Program Requirements: Development and Implementation by POTW). (7-1-24)

x. Upon failure of an approved state to notify, as required by CWA Section 402(b)(3), another state whose waters may be affected by a discharge from the approved state. (7-1-24)

xi. When the level of discharge of pollutants not limited in the permit exceeds the level that can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c). (7-1-24)

xii. To establish a notification level as provided in Subsection 302.08. (7-1-24)

xiii. To modify a compliance schedule to reflect the time lost during construction of an innovative or alternative facility, for a POTW that received a loan under IDAPA 58.01.12, "Rules for Administration of Water Pollution Control Loans." The compliance schedule must not be modified to extend beyond the CWA statutory deadline. (7-1-24)

xiv. For a small MS4, to include an effluent limit requiring implementation of minimum control measures as specified in 40 CFR 122.34(b) when: (7-1-24)

(1) The permit does not include measure(s) based upon the determination that another entity was responsible for implementing the requirement, and (7-1-24)

(2) The other entity fails to implement measure that satisfy the requirement. (7-1-24)

xv. To correct technical errors in calculation, or mistaken interpretations of law made in determining permit conditions. (7-1-24)

xvi. When the discharger has installed the treatment technology considered by the permit writer in setting effluent limits imposed under CWA Section 402(a)(1) and has properly operated and maintained the facilities but has not achieved those effluent limits. The limits in the modified permit may reflect the level of pollutant control achieved (but must not be less stringent than required by a subsequently promulgated ELG). (7-1-24)

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 is not a cause for modification under the requirements of this section. (7-1-24)

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. (7-1-24)

d. The following are causes to modify or revoke and reissue a permit: (7-1-24)

i. Cause exists for termination under Subsection 203.03, and the Department determines that modification or revocation and reissuance is appropriate; (7-1-24)

ii. The Department has received notification, as required in the permit, of a proposed transfer of the permit; or (7-1-24)

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. (7-1-24)

03. Minor Modifications of Permits. Upon the consent of the permittee, the Department may modify a permit to correct or allow 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. A permit modification not processed as a minor modification under this subsection must be made for cause and meet the requirements of Section 108 and Section 109. Minor modifications may: (7-1-24)

a. Correct typographical errors; (7-1-24)

b. Require more frequent or not less frequent monitoring or reporting by the permittee; (7-1-24)

c. Change an interim compliance date in a compliance schedule, 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 attaining the final compliance date requirement; (7-1-24)

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; (7-1-24)

e. Change the construction schedule for a discharger that is a new source. No change affects a discharger's obligation to have pollution control equipment installed and in operation before discharge under Section 120, and 40 CFR 122.29(d); (7-1-24)

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 under permit limits; (7-1-24)

g. Incorporate conditions of a POTW pretreatment program approved in accordance with 40 CFR 403.11 or a modification approved in accordance with 40 CFR 403.18 as enforceable conditions of the POTW's permits; (7-1-24)

h. Incorporate changes to the terms of a CAFO's nutrient management plan that were revised in accordance with 40 CFR 122.42(e)(6); or (7-1-24)

i. Require electronic reporting requirements (to replace paper reporting requirements) specified in 40 CFR Part 127 (NPDES Electronic Reporting). (7-1-24)

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 was modified or revoked and reissued under Subsection 201.02.d., or a minor modification was made under Subsection 201.03, to identify the new permittee and incorporate other requirements necessary under the CWA. (7-1-24)

02. Automatic Transfers. As an alternative to transfers by modification, an IPDES permit may be automatically transferred to a new permittee if the: (7-1-24)

a. Current permittee notifies the Department at least thirty (30) days before the proposed transfer date; (7-1-24)

b. 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 (7-1-24)

c. 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 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. (7-1-24)

203. TERMINATION OF IPDES PERMITS.

01. Request to Terminate or Termination Initiated by the Department. Permits may be terminated either at the request of an interested person (including the permittee) or upon the Department's own initiative. Permits may only be terminated for the reasons specified in Subsection 203.03 or 203.04. (7-1-24)

a. Request for termination by persons other than the permittee must be submitted in writing to the Department. (7-1-24)

b. As of December 21, 2020, NOTs must be submitted electronically by the permittee to the Department to comply with this section and 40 CFR Part 127 unless waived under 40 CFR 127.15. 40 CFR Part 127 does not eliminate existing requirements for electronic reporting. Independent of 40 CFR Part 127, the permittee may be required to report electronically if specified by a particular permit. (7-1-24)

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 termination. A notice of termination will be available for public comment, and the Department will give notice of an opportunity for public meetings, as specified in Section 109. (7-1-24)

03. Cause to Terminate Permits. The following are causes for terminating a permit during its term, or for denying a permit renewal application: (7-1-24)

a. Noncompliance by the permittee with conditions of the permit; (7-1-24)

b. Permittee's failure in the application or during the permit issuance process to fully disclose relevant facts, or the permittee's misrepresentation of relevant facts at any time; (7-1-24)

c. 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 (7-1-24)

d. Change in a condition that requires either a temporary or permanent reduction or elimination of a discharge or sludge use or disposal practice controlled by the permit (e.g., plant closure or termination of discharge by connection to a POTW), or other situations where the Department has sufficient basis for determining discharge will cease. (7-1-24)

04. Expedited Termination Process for Terminated or Eliminated Discharge. If the entire discharge is permanently terminated by eliminating flow or connecting to a POTW (but not by land application or disposal into a well), the Department may terminate the permit by notice to the permittee. (7-1-24)

a. Termination by notice becomes effective thirty (30) days after notice is sent (expedited permit termination), unless the permittee objects within that time. (7-1-24)

b. If the permittee objects during that period, the Department will follow procedures for termination in Subsection 203.02. (7-1-24)

c. Expedited permit termination procedures are not available to permittees 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 it is not subject to pending state or federal enforcement actions including citizen suits brought under federal law. (7-1-24)

204. APPEALS PROCESS.

01. Petition for Review of a Permit Decision. Appeal of a final IPDES permit decision, issued under Section 107, 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" will be a Hearing Officer appointed by the Director from a pool of Hearing Officers approved by the Board. (7-1-24)

a. A 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 a person or entity who filed comments or who participated in the public meeting on the draft permit. (7-1-24)

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. A petition is filed when it is received by the Department's Hearing Coordinator at the address specified in Subsection 204.13. (7-1-24)

c. In addition to meeting the requirements in Subsection 204.06, a Petition for Review must: (7-1-24)

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; (7-1-24)

ii. Identify the permit condition or other specific aspect of the permit decision being challenged; (7-1-24)

iii. State the legal and factual basis for the petitioner's contentions; (7-1-24)

iv. State the relief sought; and (7-1-24)

v. State the basis for asserting the petitioner is an aggrieved person. (7-1-24)

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. (7-1-24)

03. Administrative Record Filed By the Department. The Department will file a certified copy of the administrative record, as identified in Section 600, with an index within twenty-eight (28) days of the date the Petition for Review was filed. (7-1-24)

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. (7-1-24)

05. Petition to Intervene. A person who has a direct and substantial interest in the outcome of the Petition for Review may file a Petition to Intervene. (7-1-24)

a. The Petition to Intervene must state the interest of the intervener, and why intervention will not unduly broaden the issues and cause delay or prejudice to the parties. (7-1-24)

b. Petitions to Intervene must be filed within fourteen (14) days of the notice of filing of the Petition for Review. (7-1-24)

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. (7-1-24)

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 must grant intervention. (7-1-24)

06. Content and Form Requirements for Petitions and Briefs. Petitions and briefs filed under this section must: (7-1-24)

a. Identify, in the caption, the permit applicant or holder, permitted facility, and permit number. In the caption, include the case number, if available during filing, and title of the document, and (7-1-24)

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. (7-1-24)

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: (7-1-24)

a. Good reasons exist for failure to present the information during the permitting proceeding; or (7-1-24)

b. Alleged irregularities exist in the permitting proceeding and the party wishes to introduce evidence of the alleged irregularities. (7-1-24)

08. Brief of the Petitioner. Once requests to augment the record and motions to intervene have been determined, the Hearing Authority must issue an order notifying the parties that the administrative record has been settled and the date the petitioner must file a brief in support of the Petition for Review. In addition to meeting the requirements of Subsection 204.06, the brief must include: (7-1-24)

a. Legal arguments and citations to legal authority supporting the allegations in the Petition for Review; and (7-1-24)

b. Factual support for the allegations in the Petition for Review, including citations to the administrative record. (7-1-24)

c. Statement whether the party requests an opportunity for oral argument. (7-1-24)

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: (7-1-24)

a. Response to the arguments and assertions in the petitioner's brief (either in support or opposed); (7-1-24)

b. Citation to legal authorities and facts in the administrative record relied upon; and (7-1-24)

c. Statement whether the party requests an opportunity for oral argument. (7-1-24)

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. (7-1-24)

11. Representation of Parties. Unless otherwise authorized or required by law, appearances and representation of parties or other persons are as follows: (7-1-24)

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; (7-1-24)

b. General partnership may be represented by a partner or an attorney; (7-1-24)

c. Corporation, or any other business entity other than a general partnership, must be represented by an attorney; (7-1-24)

d. Municipal corporation, local government agency, unincorporated association or nonprofit organization must be represented by an attorney; or (7-1-24)

e. State, federal, or tribal governmental entity or agency must be represented by an attorney. (7-1-24)

12. Substitution and Withdrawal of Representatives. A party's representative may change and a new representative may be substituted by notice to all parties if 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. (7-1-24)

13. Filing and Service Requirements. (7-1-24)

a. Documents must be filed with the Hearing Coordinator and may be filed by email, US mail, hand-delivery, or fax. The Hearing Coordinator assigns case docket numbers, maintains case records, and issues notices on behalf of the Department. Information for filing documents is 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. (7-1-24)

b. Documents filed after the petition must be served on all parties or representatives, unless otherwise directed by the Hearing Authority. (7-1-24)

c. Service of documents on the named representative is valid service upon the party for all purposes in the proceeding. (7-1-24)

14. Proof of Service. Every document meeting conditions for service must be attached to or accompanied by proof of service. A certificate of service template is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders> (7-1-24)

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. (7-1-24)

a. A motion must specifically state the grounds for the motion, the relief sought, and the legal argument supporting the motion. Before filing a motion, parties must attempt to ascertain whether the other parties concur or object to the motion and indicate in the motion the attempt made and the response obtained. (7-1-24)

b. A party may file a response to a motion. Responses must specifically state the grounds for opposition and the legal argument supporting 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. (7-1-24)

c. A reply to a response must be filed within ten (10) days after service of the response. A reply must not introduce new issues or arguments and may respond only to matters presented in the response. (7-1-24)

d. The Hearing Authority may act on a motion for a procedural order at any time without a response. (7-1-24)

e. Parties must file motions for extensions of time before the due date to allow other parties reasonable opportunity to respond to the request for more time and to provide the Hearing Authority with a reasonable opportunity to issue an order before the due date. (7-1-24)

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. (7-1-24)

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 addressing the portions withdrawn. The new draft permit will proceed through the same process of public comment and opportunity for a public meeting as other draft permits. If applicable, 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). For those portions of the permit that DEQ does not withdraw that are part of the appeal, the appeal will continue. (7-1-24)

18. Request to Dismiss Petition. The petitioner, by motion, may request the Hearing Authority to dismiss its appeal. The motion must state the reason for its request. (7-1-24)

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. (7-1-24)

20. Appointment of Hearing Officers. The Hearing Authority will 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 will be served on all parties. No Hearing Officer will be appointed who has a conflict of interest as defined in 40 CFR 123.25(c). (7-1-24)

21. Scope of Authority of the Hearing Authority. The Hearing Authority has authority: (7-1-24)

a. To set schedules and take other actions to ensure an efficient and orderly adjudication of the issues raised in the Petition for Review; (7-1-24)

b. To hear and decide motions; and (7-1-24)

c. To issue an order that decides the issues raised in the appeal, including findings of fact and conclusions of law. The required contents of an order are stated in Subsection 204.24. (7-1-24)

22. Ex Parte Communications. The Hearing Authority must not communicate, directly or indirectly, regarding substantive issues 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 a 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 case file 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. (7-1-24)

23. Alternative Dispute Resolution. Parties to the permit appeal may agree to use alternative dispute resolution. (7-1-24)

24. Final Orders. Final orders are issued by the Hearing Authority upon review of the petitions, briefs, and the administrative record on appeal. Motions for reconsideration of a final order will not be considered. Final orders must contain: (7-1-24)

a. A reasoned statement in support of the decision; (7-1-24)

b. 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; (7-1-24)

c. Conclusions of law with respect to legal issues raised in the appeal; (7-1-24)

d. The final order must either affirm the permitting decision, or vacate and remand the decision to the Department with instructions; and (7-1-24)

e. A statement of the right to judicial review as stated in Section 204.26. (7-1-24)

25. Final Agency Action for Purposes of Judicial Review. (7-1-24)

a. Filing a Petition for Review is a prerequisite to seeking judicial review of the Department's permitting decision. (7-1-24)

b. For 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. (7-1-24)

c. An order that vacates and remands the decision to the Department with instructions is not a final agency action for judicial review. (7-1-24)

26. Petition for Judicial Review. (7-1-24)

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. (7-1-24)

b. The petition for judicial review must be: (7-1-24)

i. Filed with the Hearing Coordinator in accordance with Subsection 204.13 and with the district court pursuant to Section 67-5272, Idaho Code; and (7-1-24)

ii. Served on the Hearing Authority, all parties, the Director of the Department, and the Attorney General of the State of Idaho. (7-1-24)

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. (7-1-24)

27. IPDES General Permits. (7-1-24)

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: (7-1-24)

i. Challenge the conditions in a general permit by filing an action in court; or (7-1-24)

ii. Apply for an individual IPDES permit under Section 105, as authorized in Section 130, and may then petition the Hearing Authority to review the individual permit. (7-1-24)

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. (7-1-24)

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 under Section 204. (7-1-24)

28. Appeals of Variances. (7-1-24)

a. When the Department issues a permit on which EPA has made a variance decision, separate appeals of the Department permit and 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. (7-1-24)

b. Variance decisions made by EPA may be appealed under the provisions of 40 CFR 124.19. (7-1-24)

c. Stays for variances other than CWA Section 301(g) variances are governed by Section 205 and 206. (7-1-24)

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, the force and effect of the contested conditions of the permit are stayed until final Department action. The Department will notify the discharger and interested parties of the uncontested conditions of the permit that are enforceable obligations of the discharger in accordance with Subsection 206.01.c. (7-1-24)

02. Control Technologies. When effluent limitations are contested, but the underlying control technology is not, the notice will identify the installation of the technology in accordance with the compliance schedules as an uncontested, enforceable obligation of the permit. (7-1-24)

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. (7-1-24)

04. Inseverable Conditions. Uncontested conditions, if inseverable from a contested condition, must be considered contested. (7-1-24)

05. Enforceable Dates. Uncontested conditions become enforceable thirty (30) days after the date of notice under Subsection 205.01. (7-1-24)

06. Uncontested Conditions. Uncontested conditions include: (7-1-24)

a. Preliminary design and engineering studies or other requirements necessary to achieve the final permit conditions that do not entail substantial expenditures; and (7-1-24)

b. Permit conditions that must be met regardless of the outcome of the appeal under Section 204. (7-1-24)

206. STAYS OF CONTESTED PERMIT CONDITIONS.

01. Stays. (7-1-24)

a. If a Petition for Review of an IPDES permit under Section 204 is filed, 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. (7-1-24)

b. Uncontested conditions that are not severable from those contested are stayed together with the contested conditions. The Department will identify the stayed provisions of permits for existing facilities, injection wells, and sources. 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. (7-1-24)

c. As soon as possible after receiving notification from the Hearing Coordinator of the filing of a Petition for Review, the Department will notify the Hearing Authority, applicant, and other parties of the uncontested (and severable) conditions of the final permit that will become fully effective, enforceable obligations of the permit on the date specified in Subsection 206.01.b., and the notice must comply with the requirements of Section 205. (7-1-24)

02. Stays Based on Cross Effects. (7-1-24)

a. The Department may grant a stay based on the grounds that an appeal to the Hearing Authority under Section 204 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. (7-1-24)

b. No stay of an EPA-issued NPDES permit may be granted based on the stay of a Department-issued IPDES permit except at the discretion of the EPA Region 10 Administrator and only upon written request from the Department. (7-1-24)

03. Permittee Responsibilities. Any facility or activity holding an existing permit must: (7-1-24)

a. Comply with the conditions of the permit during any modification or revocation and reissuance proceeding under Section 201; and (7-1-24)

b. To the extent conditions of a new permit are stayed, comply with the conditions of the existing permit correspond to the stayed conditions, unless compliance with the existing conditions is technologically incompatible with compliance with other new permit conditions that have not been stayed. (7-1-24)

207. -- 299. (RESERVED)

300. CONDITIONS APPLICABLE TO ALL PERMITS.

The following conditions apply to all IPDES permits. Additional conditions are in Sections 301 (Permit Conditions for Specific Categories), 302 (Establishing Permit Provisions), and 40 CFR 122.42(e). All applicable conditions will be incorporated into IPDES permits expressly or by reference. If incorporated by reference, a specific citation must be given in the permit. (7-1-24)

01. Duty to Comply. The permittee must comply with all conditions of the permit. (7-1-24)

a. Permit noncompliance constitutes a violation of Idaho law, the CWA, and is grounds for: (7-1-24)

i. Enforcement action; (7-1-24)

ii. Permit termination, revocation and reissuance, or modification; or (7-1-24)

iii. Denial of a permit renewal application. (7-1-24)

b. The permittee must comply with effluent standards or prohibitions established under CWA Section 307(a) for toxic pollutants and with standards for sewage sludge use or disposal established under CWA Section 405(d), Section 380 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 been modified to incorporate the requirement. (7-1-24)

02. Duty to Reapply. If the permittee wishes to continue an activity regulated by the permit after the permit's expiration date, the permittee must apply for and obtain a new permit. If the permittee complies with the application requirements of Section 105, or the notice of intent requirements of Section 130 for a general permit, and a permit is not issued before the permit's expiration date, the permit remains in force as stipulated in Subsections 101.02 and 101.03. (7-1-24)

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 requires the permittee to halt or reduce the permitted activity. (7-1-24)

04. Duty to Mitigate. The permittee must take all reasonable steps to minimize or prevent discharge or sludge use or disposal in violation of the permit that has a reasonable likelihood of adversely affecting human health or the environment. (7-1-24)

05. Proper Operation and Maintenance. At all times, permittee must properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of the permit. (7-1-24)

a. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. (7-1-24)

b. This provision requires operating back-up or auxiliary facilities or similar systems, installed by a permittee, only when needed to achieve compliance with the conditions of the permit or required by IDAPA 58.01.16 "Wastewater Rules." (7-1-24)

06. Permit Actions. The permit may be modified, revoked and reissued, or terminated for cause. The permittee filing a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. (7-1-24)

07. Property Rights. The permit does not convey any property rights of any sort or exclusive privilege. (7-1-24)

08. Duty to Provide Information. The permittee must furnish information, within a reasonable time, that the Department requests to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. The permittee must furnish upon Department request, copies of records required by the permit. (7-1-24)

09. Inspection and Entry. The permittee must provide the Department's inspectors, or authorized representatives, including authorized contractors acting as representatives of the Department, upon presenting credentials required by law, access to: (7-1-24)

a. Enter the permittee's premises where a regulated facility or activity is located or conducted, or where records are kept under the permit conditions; (7-1-24)

b. Records that must be kept under the permit conditions and, at reasonable times, to copy the records; (7-1-24)

c. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and (7-1-24)

d. Sample or monitor at reasonable times, to ensure permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location. (7-1-24)

10. Monitoring and Records. A permittee must comply with the following: (7-1-24)

a. Samples and measurements must represent the monitored activity. (7-1-24)

b. Permittee must retain: (7-1-24)

i. Monitoring information for at least three (3) years from the date of the sample, measurement, report or application. This may be extended by request of the Department at any time; and (7-1-24)

ii. Records of sewage sludge use and disposal activities for at least five (5) years or longer as required by 40 CFR Part 503. (7-1-24)

c. Records of monitoring information must include: (7-1-24)

i. Calibration and maintenance records; (7-1-24)

ii. Original strip chart recordings for continuous monitoring instrumentation or other forms of data

approved by the Department; (7-1-24)

iii. Copies of reports required by the permit; (7-1-24)

iv. Records of all data used to complete the application or notice of intent for the permit; (7-1-24)

v. Date, exact place, and time of sampling or measurements; (7-1-24)

vi. Names of individuals who performed the sampling or measurements; (7-1-24)

vii. Dates analyses were performed; (7-1-24)

viii. Names of any individuals who performed the analyses; (7-1-24)

ix. Analytical techniques or methods used; and (7-1-24)

x. Results of the analysis. (7-1-24)

d. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another test method is required by 40 CFR Parts 401 through 471 or 501 through 503. (7-1-24)

11. Signatory Requirements. Applications, reports, or information submitted to the Department must be signed and certified in accordance with Section 090. (7-1-24)

12. Reporting Requirements. (7-1-24)

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: (7-1-24)

i. The alteration or addition to a permitted facility meets one (1) of the criteria for determining whether a facility is a new source as defined in Section 120 and 010; (7-1-24)

ii. The alteration or addition may significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants not subject to effluent limits in the permit or to notification requirements under Subsection 301.01.a.; or (7-1-24)

iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and the 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: (7-1-24)

(1) Not reported during the permit application process, or (7-1-24)

(2) Not reported under an approved land application or sludge disposal plan. (7-1-24)

b. The permittee must give advance notice to the Department of planned changes in the permitted facility or activity that may result in noncompliance with permit requirements. (7-1-24)

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 other requirements necessary under Section 202. (7-1-24)

d. Monitoring results must be reported at the intervals specified in the permit and meet the following requirements: (7-1-24)

i. Monitoring results will be reported on a Discharge Monitoring Report (DMR) or forms (may be electronic) provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices. Reports and forms must be submitted electronically by the permittee to the Department to comply with this

section and 40 CFR Part 127 unless waived under 40 CFR 127.15. 40 CFR Part 127 does not eliminate existing requirements for electronic reporting. Independent of 40 CFR Part 127, permittees may be required to report electronically if specified by a particular permit. (7-1-24)

ii. If the permittee monitors a 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 Parts 401 through 471 or 501 through 503, the results must be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department. (7-1-24)

iii. Calculations for all limits that require averaging of measurements will utilize an arithmetic mean unless otherwise specified by the Department in the permit. (7-1-24)

e. A permittee must submit reports of compliance or noncompliance with, or progress reports on, interim and final requirements contained in the compliance schedule no later than fourteen (14) days following each schedule date of each requirement. Reports related to combined sewer overflows, sanitary sewer overflows, or bypass events must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived under 40 CFR 127.15. 40 CFR Part 127 does not eliminate existing requirements for electronic reporting. 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. (7-1-24)

f. The permittee must report to the Department any noncompliance that may endanger health or the environment as follows: (7-1-24)

i. Within twenty-four (24) hours from the time the permittee becomes aware of the circumstances, provide any information orally; (7-1-24)

ii. Within five (5) days from the time the permittee becomes aware of the circumstances, provide a written submission that contains a description of: (7-1-24)

(1) Noncompliance and its cause; (7-1-24)

(2) Period of noncompliance, including exact dates and times; (7-1-24)

(3) If the noncompliance has not been corrected, the anticipated time it is expected to continue; and (7-1-24)

(4) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; (7-1-24)

(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), 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. (7-1-24)

(6) Reports related to combined sewer overflows, sanitary sewer overflows, or bypass events must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived under 40 CFR 127.15. 40 CFR Part 127 does not eliminate existing requirements for electronic reporting. 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. (7-1-24)

- iii. The following information must be reported within twenty-four (24) hours: (7-1-24)
 - (1) Unanticipated bypass that exceeds effluent limitations in the permit (Subsection 300.07, Property Rights); (7-1-24)
 - (2) Upset that exceeds effluent limits in the permit; and (7-1-24)
 - (3) Violation of a maximum daily discharge limit for the pollutants listed by the Department in the permit to be reported within twenty-four (24) hours (Subsection 302.09, Twenty-Four Hour Reporting); and (7-1-24)
- iv. The Department may waive the written report on a case-by-case basis under Subsection 300.12.f.iii. if the oral report has been received within twenty-four (24) hours. (7-1-24)
 - g.** The permittee must report instances of noncompliance not reported under Subsections 300.12.d., e., and f., when the monitoring reports are submitted. The reports of noncompliance must contain the information listed in Subsection 300.12.f. Reports related to combined sewer overflows, sanitary sewer overflows, or bypass events must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived under 40 CFR 127.15. 40 CFR Part 127 does not eliminate existing requirements for electronic reporting. 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. (7-1-24)
 - h.** When the permittee becomes aware that it failed to submit 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 the facts or correct information. (7-1-24)
- 13. Bypass Terms and Conditions.** (7-1-24)
 - a.** Bypass, as defined in Section 010, is prohibited, and the Department may take enforcement action against a permittee for bypass, unless: (7-1-24)
 - i. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; (7-1-24)
 - ii. No feasible alternatives to the bypass existed, 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 under reasonable judgment, adequate back-up equipment should have been installed to prevent a bypass from occurring during normal periods of equipment downtime or preventive maintenance; and (7-1-24)
 - iii. The permittee submitted a notice of a bypass to the Department in accordance with Subsections 300.13.c. and d. Notices must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived under 40 CFR 127.15. 40 CFR Part 127 does not eliminate existing requirements for electronic reporting. Independent of 40 CFR Part 127, permittees may be required to report electronically if specified by a particular permit. (7-1-24)
 - b.** The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines it will meet the three (3) conditions listed in Subsection 300.13.a. (7-1-24)
 - c.** If the permittee knows in advance of the need for a bypass, it must submit notice to the Department, if possible, at least ten (10) days before the date of the bypass. (7-1-24)
 - d.** The permittee must submit notice of an unanticipated bypass as required in Subsection 300.12.f. (24-hour notice). (7-1-24)
 - e.** Bypasses not exceeding limits, are allowed to occur, and are not subject to Subsection 300.13.a. or 300.13.d. if: (7-1-24)

i. The bypass does not cause effluent limits to be exceeded, and (7-1-24)

ii. Only if it also is for essential maintenance to ensure efficient operation. (7-1-24)

14. Upset Terms and Conditions. (7-1-24)

a. In any enforcement action for noncompliance with technology-based permit effluent limitations, a permittee may claim upset, as defined in Section 010, as an affirmative defense. A permittee seeking to establish the occurrence of an upset has the burden of proof. (7-1-24)

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. (7-1-24)

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: (7-1-24)

i. An upset occurred and the permittee can identify causes of the upset; (7-1-24)

ii. The permitted facility was properly operated at the time (7-1-24)

iii. The permittee submitted twenty-four (24)-hour notice of the upset as required Subsection 300.12.f.iii(2); and (7-1-24)

iv. The permittee complied with remedial measures required under Subsection 300.04. (7-1-24)

15. Penalties and Fines. Permits will include penalty and fine requirements under Section 500. (7-1-24)

301. PERMIT CONDITIONS FOR SPECIFIC CATEGORIES.

In addition to Section 300, conditions identified in this section apply to all IPDES permits within the categories specified below. (7-1-24)

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: (7-1-24)

a. Any activity has occurred or will occur that results in a discharge, on a routine or frequent basis, of a toxic pollutant that is not limited in the permit if the discharge will exceed the highest of the following notification levels: (7-1-24)

i. One hundred micrograms per liter (100 µg/L); (7-1-24)

ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; (7-1-24)

iii. Five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and (7-1-24)

iv. One milligram per liter (1 mg/L) for antimony; (7-1-24)

v. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Subsection 105.07; or (7-1-24)

vi. The level established by the Department in accordance with Subsection 302.08; and (7-1-24)

b. Any activity has occurred or will occur that results in a discharge, on a non-routine or infrequent basis, of a toxic pollutant that is not limited in the permit if the discharge will exceed the highest of the following notification levels: (7-1-24)

- i. Five hundred micrograms per liter (500 µg/L); (7-1-24)
- ii. One milligram per liter (1 mg/L) for antimony; (7-1-24)
- iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Subsection 105.07; or (7-1-24)
- iv. The level established by the Department in accordance with Subsection 302.08. (7-1-24)

02. Publicly Owned Treatment Works. POTWs must provide adequate notice to the Department of: (7-1-24)

a. New introduction of pollutants into the POTW from an indirect discharger subject to CWA Section 301 or 306 if it were directly discharging those pollutants; and (7-1-24)

b. Substantial change in the volume or character of pollutants introduced into the POTW by a source introducing pollutants into the POTW during permit issuance. For this subsection, adequate notice must include: (7-1-24)

- i. Quality and quantity of effluent introduced into the POTW, and (7-1-24)
- ii. Anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW. (7-1-24)

03. Municipal Separate Storm Sewer Systems (MS4s). The operator of a large or medium MS4 or an MS4 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. All reports 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 under 40 CFR 127.15. 40 CFR Part 127 does not eliminate existing requirements for electronic reporting. 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 must include: (7-1-24)

a. Status of implementing the components of the storm water management program established as permit conditions; (7-1-24)

b. Proposed changes to the storm water management programs established as permit conditions. Proposed changes must be consistent with Subsection 105.18.b.iii.; (7-1-24)

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.; (7-1-24)

d. Summary of data, including monitoring data, accumulated throughout the reporting year; (7-1-24)

e. Annual expenditures and budget for the year following each annual report; (7-1-24)

f. Summary describing the number and nature of enforcement actions, inspections, and public education programs; and (7-1-24)

g. Identification of water quality improvements or degradation. (7-1-24)

04. Storm Water Dischargers. The initial permits for discharges composed entirely of storm water issued under 40 CFR 122.26(e)(7) require compliance with the conditions of the permit as expeditiously as practicable but no later than three (3) years after the date of permit issuance. (7-1-24)

05. Concentrated Animal Feeding Operations (CAFOs). An applicable permit must include provisions under 40 CFR 122.42(e). (7-1-24)

302. ESTABLISHING PERMIT PROVISIONS.

The Department will establish conditions, as required on a case-by-case basis, to provide for and ensure compliance with applicable requirements of the CWA and state rules, including conditions under Section 101, Section 305, Section 304, and electronic reporting requirements identified under 40 CFR Part 127. An IPDES permit will include conditions meeting the following requirements, when applicable. (7-1-24)

01. Incorporation. Permit conditions will be incorporated expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements will be given in the permit. (7-1-24)

02. Applicable Requirements. The Department will establish conditions, as required on a case-by-case basis, to provide for and ensure compliance with applicable requirements of the CWA and Section 101, and Subsections 304.01, and 305.01. Applicable requirements include: (7-1-24)

a. All statutory or regulatory requirements that take effect before final administrative disposition of the permit. (7-1-24)

b. Any requirement that takes effect before the modification or revocation and reissuance of a permit under Section 201. (7-1-24)

c. New or reissued permits, and to the extent allowed under Section 201 for modified or revoked and reissued permits, will 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). (7-1-24)

03. Technology-Based Effluent Limits and Standards. (7-1-24)

a. Technology-based effluent limits and standards shall be based on: (7-1-24)

i. Effluent limits and standards promulgated under CWA Section 301; (7-1-24)

ii. New source performance standards promulgated under CWA Section 306; (7-1-24)

iii. Effluent limits determined on a case-by-case basis under CWA Section 402(a)(1); or (7-1-24)

iv. Combination of the three (3), in accordance with 40 CFR 125.3. (7-1-24)

b. For new sources or new dischargers, these technology-based limits and standards are subject to the provisions of 40 CFR 122.29(d). (7-1-24)

c. The Department may authorize a discharger, subject to technology-based ELGs 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 an increase in the pollutant due to activities of the discharger. (7-1-24)

i. The 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. (7-1-24)

ii. A request for the 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. (7-1-24)

iii. A monitoring waiver approval will be included in the permit as an express permit condition and the reasons supporting the approval will be documented in the permit's fact sheet. (7-1-24)

iv. This provision does not supersede certification processes and requirements already established in existing ELGs and standards. (7-1-24)

04. Other Effluent Limits and Standards. (7-1-24)

a. If toxic effluent limit and standards under CWA Section 301, 302, 303, 307, 318, and 405 or prohibition (including schedules of compliance specified in effluent standard or prohibition) are promulgated under CWA 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 will initiate proceedings under Section 201 to modify or revoke and reissue the permit to conform to the more stringent toxic effluent standard or prohibition (Subsection 300.01). (7-1-24)

b. Standards for sewage sludge use or disposal under CWA Section 405(d), Section 380 of these rules, and IDAPA 58.01.16.650, "Wastewater Rules," will be applied, unless those standards have been included in a permit issued under the appropriate provisions of: (7-1-24)

i. Subtitle C of the Solid Waste Disposal Act; (7-1-24)

ii. Part C of Safe Drinking Water Act; (7-1-24)

iii. The Clean Air Act; or (7-1-24)

iv. State permit programs approved by the EPA. (7-1-24)

c. When no applicable standards exist 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 that may occur from toxic pollutants in sewage sludge. (7-1-24)

d. If an applicable standard for sewage sludge use or disposal is promulgated under CWA Section 405(d), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, "Wastewater Rules," and that standard is more stringent than a limit on the pollutant or practice in the permit, the Department may initiate proceedings under these regulations to modify or revoke and reissue the permit to comply with Section 201, to conform to the standard for sewage sludge use or disposal. (7-1-24)

e. Include requirements applicable to cooling water intake structures under CWA Section 316(b), in accordance with 40 CFR 125.80 through 125.99. (7-1-24)

05. Reopener Clause. For a permit issued to a TWTDS (including sludge-only facilities), the Department will include a reopener clause to incorporate applicable standards for sewage sludge use or disposal promulgated under CWA Section 405(d). The Department may promptly modify or revoke and reissue a permit containing the reopener clause required by this subsection if the standard for sewage sludge use or disposal: (7-1-24)

a. Is more stringent than the requirements for sludge use or disposal in the permit, or (7-1-24)

b. Controls a pollutant or practice not limited in the permit. (7-1-24)

06. Water Quality Standards and Requirements. Requirements in addition to or more stringent than promulgated ELGs or standards under CWA Sections 301, 304, 306, 307, 318 and 405 will be included in a permit if they are necessary to: (7-1-24)

a. Achieve water quality standards established in IDAPA 58.01.02, "Water Quality Standards," including narrative criteria for water quality and antidegradation provisions. (7-1-24)

i. Effluent limits in a permit will control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) the Department determines are or may be discharged at a level that will cause,

have the reasonable potential to cause, or contribute to an excursion above water quality standards, including narrative criteria for water quality. (7-1-24)

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 will use procedures to account for: (7-1-24)

(1) Existing controls on point and nonpoint sources of pollution; (7-1-24)

(2) Variability of the pollutant or pollutant parameter in the effluent; (7-1-24)

(3) Sensitivity of the species to toxicity testing (when evaluating WET); and where appropriate, (7-1-24)

(4) Dilution of the effluent in the receiving water; (7-1-24)

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. (7-1-24)

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 WET, the permit must contain effluent limits for WET. (7-1-24)

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 WET. Limits on WET are not necessary where the Department demonstrates in the IPDES permit fact sheet, 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. (7-1-24)

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 will establish effluent limits using one (1) or more of the following options: (7-1-24)

(1) A calculated numeric water quality target or concentration value for the pollutant that the Department demonstrates will attain and maintain applicable narrative water quality criteria and will fully protect the designated use. A target or concentration value may be derived: (7-1-24)

(a) Using a proposed criterion, or an explicit policy or regulation interpreting its narrative water quality criterion, and (7-1-24)

(b) Supplemented with other relevant information that may include EPA's current Water Quality Standards Handbook, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration (FDA), and current EPA criteria documents; (7-1-24)

(2) EPA's water quality recommended criteria, published under CWA Section 304(a), supplemented where necessary by other relevant information; or (7-1-24)

(3) Indicator parameter for the pollutant of concern, provided the: (7-1-24)

(a) Permit identifies the pollutants intended to be controlled by using the effluent limit; (7-1-24)

(b) Required fact sheet states 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 that are sufficient to attain and maintain applicable water quality standards; (7-1-24)

(c) 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 (7-1-24)

(d) 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. (7-1-24)

vii. When developing water quality-based effluent limits under this subsection, the Department will ensure that the: (7-1-24)

(1) Level of water quality to be achieved by limits on point sources established under this subsection is derived from, and complies with applicable water quality standards; and (7-1-24)

(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 available wasteload allocations for the discharge prepared by the state and approved by EPA under 40 CFR 130.7; (7-1-24)

b. Attain or maintain a specified water quality through water quality related effluent limits established under CWA Section 302; (7-1-24)

c. Conform to applicable water quality requirements under CWA Section 402(b)(5) when the discharge affects a state other than Idaho; (7-1-24)

d. Incorporate more stringent limits, treatment standards, or schedules of compliance requirements established under federal or state law or regulations in accordance with CWA Section 301(b)(1)(C); (7-1-24)

e. Ensure consistency with the requirements of a Water Quality Management plan approved by EPA under CWA Section 208(b); or (7-1-24)

f. Incorporate alternative effluent limits or standards when warranted by fundamentally different factors, under 40 CFR 125.30 through 125.32. (7-1-24)

07. Technology-Based Controls for Toxic Pollutants. (7-1-24)

a. In determining whether to include limits 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, or other relevant information. The fact sheet must explain the development of limits included in the permit. (7-1-24)

b. An IPDES permit will include limits to control all toxic pollutants 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 that can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c). (7-1-24)

c. The requirement that the limits control pollutants meeting the criteria of Subsection 302.07.b. will be satisfied by: (7-1-24)

i. Limits on those toxic pollutants; or (7-1-24)

ii. Limits on other pollutants that, in the judgment of the Department, will treat the pollutants under Subsection 302.07.b. to the levels required by 40 CFR 125.3(c). (7-1-24)

08. Notification Level. An IPDES permit will require a notification level that 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 that can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c). (7-1-24)

09. Twenty-Four (24) Hour Reporting. A permit will list pollutants a permittee is required to report violations of maximum daily discharge limits within twenty-four (24) hours under Subsection 300.12.f.iii(3), including toxic pollutants or hazardous substances, or pollutants identified as the method to control a toxic pollutant or hazardous substance. (7-1-24)

10. Permit Durations. Permits must include permit durations under Subsection 101.01. (7-1-24)

11. Monitoring Requirements. Permits will include monitoring requirements under Section 304. (7-1-24)

12. Pretreatment Program for POTWs. A POTW permit will include pretreatment program conditions requiring the permittee to: (7-1-24)

a. Identify the character and volume of pollutants of Significant Industrial Users discharging into the POTW subject to Pretreatment Standards under CWA Section 307(b) and 40 CFR Part 403; (7-1-24)

b. Submit a local program when required by 40 CFR Part 403, to ensure compliance with pretreatment standards to the extent applicable under CWA Section 307(b); (7-1-24)

i. Incorporate the local program into the permit as described in 40 CFR Part 403, and (7-1-24)

ii. Require indirect dischargers to the POTW to comply with the reporting requirements of 40 CFR Part 403; (7-1-24)

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 (7-1-24)

d. POTWs that are sludge-only facilities, must develop a pretreatment program under 40 CFR Part 403, when the Department determines that a pretreatment program is necessary to ensure compliance with CWA Section 405(d). (7-1-24)

13. Best Management Practices. An IPDES permit will include BMPs to control or abate the discharge of pollutants when: (7-1-24)

a. Authorized under CWA Section 304(e) to control toxic pollutants and hazardous substances from ancillary industrial activities; (7-1-24)

b. Authorized under CWA Section 402(p) to control storm water discharges; (7-1-24)

c. Numeric effluent limits are infeasible; or (7-1-24)

d. Practices are necessary to achieve effluent limits and standards or to carry out the CWA. (7-1-24)

14. Reissued Permits. When a permit is renewed or reissued, it will include provisions under Section 200. (7-1-24)

15. Privately-Owned Treatment Works. For a privately owned treatment works, conditions expressly applicable to users, as a limited co-permittee, may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this section. (7-1-24)

a. Alternatively, the Department may issue separate permits to the treatment works and to its users or may require a separate permit application from a user. (7-1-24)

b. The Department's decision to issue a permit with no conditions applicable to users, to impose conditions on one (1) or more users, to issue separate permits, or to require separate applications, and the basis for that decision, will be stated in the fact sheet for the draft permit for the treatment works. (7-1-24)

16. Grants. An IPDES permit will include conditions imposed in grants made by the EPA to POTWs under CWA Sections 201 and 204, that are reasonably necessary to achieve effluent limits under CWA Section 301. (7-1-24)

17. Sewage Sludge. An IPDES permit will include requirements under CWA Section 405 governing the disposal of sewage sludge from POTWs or other TWTDS for uses where regulations have been established. (7-1-24)

18. Navigation. An IPDES permit will include conditions the Secretary of the Army considers necessary to ensure navigation and anchorage will not be substantially impaired, in accordance with Subsection 103.04 and 109.02. (7-1-24)

19. Qualifying State or Local Programs. (7-1-24)

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. (7-1-24)

b. A qualifying state or local erosion and sediment control program includes requirements for construction site operators to: (7-1-24)

- i. Implement appropriate erosion and sediment control BMPs; (7-1-24)
- ii. 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; (7-1-24)
- iii. Develop and implement a storm water pollution prevention plan, including: (7-1-24)
 - (1) Site descriptions; (7-1-24)
 - (2) Descriptions of appropriate control measures; (7-1-24)
 - (3) Copies of approved state or local requirements; (7-1-24)
 - (4) Maintenance procedures; (7-1-24)
 - (5) Inspection procedures; (7-1-24)
 - (6) Identification of non-storm water discharges; and (7-1-24)
- iv. Requirements to submit a site plan for review that incorporates consideration of potential water quality impacts. (7-1-24)

c. For storm water discharges from a construction activity disturbing five (5) acres or more, including activities that disturb less than five (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 includes the elements listed in Subsections 302.19.a. and b. and additional requirements necessary to achieve the technology-based standards of best available technology and best conventional technology based on the best professional judgment of the permit writer. (7-1-24)

303. CALCULATING PERMIT PROVISIONS.

01. Outfalls and Discharge Points. Permit effluent limits, standards and prohibitions will be established for each outfall or discharge point of the permitted facility, except as otherwise provided under Subsections 302.13, and 303.08. (7-1-24)

02. Production-Based Limits. (7-1-24)

a. For POTWs, permit effluent limitat, standards, or prohibitions will be calculated based on design flow. (7-1-24)

b. Except for POTWs or as provided in Subsection 303.02.b.ii., calculation of permit limits, standards, or prohibitions based on production (or other measure of operation) will be based upon a reasonable measure of actual production of the facility. (7-1-24)

i. For new sources or new dischargers, actual production must be estimated using projected production. The time period of the measure of production must correspond to the time period of the calculated permit limit (e.g., monthly production is used to calculate average monthly discharge limits. (7-1-24)

ii. The Department may include a condition establishing alternate permit limits, standards, or prohibitions based upon anticipated increased (not to exceed maximum production capability) or decreased production levels. (7-1-24)

iii. For the automotive manufacturing industry only, the Department will establish an alternate condition under Subsection 303.02.b.ii., if the applicant satisfactorily demonstrates to the Department, during application submittal, that: (7-1-24)

(1) Actual production, as indicated in Subsections 303.02.b. and 303.02.b.i., is substantially below maximum production capability, and (7-1-24)

(2) Reasonable potential exists for an increase above actual production during the duration of the permit. (7-1-24)

iv. If the Department establishes permit conditions under Subsection 303.02.b.ii.: (7-1-24)

(1) The permit will require the permittee to notify the Department at least two (2) business days before the month the permittee expects to operate at a level higher than the lowest production level identified in the permit. The notice must specify: (7-1-24)

(a) Anticipated level and the period the permittee expects to operate at the alternate level; and (7-1-24)

(b) If the notice covers more than one (1) month, specify the reasons for the anticipated production level increase; and (7-1-24)

(c) New notice of discharge at alternate levels must cover a period or production level not covered by a prior notice or, if during two (2) consecutive months otherwise covered by a notice, the production level at the permitted facility does not meet the higher level designated in the notice; (7-1-24)

(2) The permittee must comply with the limit, 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 must comply with the lower of the actual level of production during each month or the level specified in the notice; and (7-1-24)

(3) The permittee must submit, with the Discharge Monitoring Report, the level of production that occurred during each month and the limits, standards, or prohibitions applicable to that level of production. (7-1-24)

03. Metals. Permit effluent limits, standards, or prohibitions for a metal will be expressed in terms of total recoverable metal as defined in 40 CFR Part 136, unless: (7-1-24)

a. An applicable effluent standard or limit has been promulgated under the CWA and specifies the limit for the metal in the dissolved or valent or total form; (7-1-24)

b. In establishing permit limits on a case-by-case basis under 40 CFR 125.3, specify the limit on the metal in the dissolved or valent or total form to carry out the provisions of the CWA; or (7-1-24)

c. Approved analytical methods for the metal inherently measure only its dissolved form (e.g., hexavalent chromium). (7-1-24)

04. Continuous Discharges. For continuous discharges, permit effluent limits, standards, and prohibitions, including those necessary to achieve water quality standards, will, unless impracticable, state: (7-1-24)

a. Maximum daily and average monthly discharge limits for all dischargers other than POTWs; or (7-1-24)

b. Average weekly and average monthly discharge limits for POTWs. (7-1-24)

05. Noncontinuous Discharges. Discharges that are not continuous, as defined in Section 010, will be described and limited, considering the following factors, as appropriate: (7-1-24)

a. Frequency (e.g., a batch discharge must not occur more than once every three (3) weeks); (7-1-24)

b. Total mass (e.g., not to exceed one hundred (100) kilograms of zinc and two hundred (200) kilograms of chromium per batch discharge); (7-1-24)

c. Maximum rate of discharge of pollutants during the discharge (e.g., not to exceed two (2) kilograms of zinc per minute); and (7-1-24)

d. Prohibition or limit of specified pollutants by mass, concentration, or other appropriate measure (e.g., must 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 a discharge). (7-1-24)

06. Mass Limits. (7-1-24)

a. Pollutants limited in permits will have limits, standards, or prohibitions expressed in terms of mass except: (7-1-24)

i. pH, temperature, radiation, or other pollutants that cannot be expressed by mass; (7-1-24)

ii. When applicable standards and limits are expressed in other units of measurement; or (7-1-24)

iii. If in establishing permit limits on a case-by-case basis under 40 CFR 125.3, limit expressed in mass are infeasible because the mass of the pollutant discharged cannot be related to a measure of operation (e.g., discharges of TSS from certain mining operations), and permit conditions ensure dilution will not be used as a substitute for treatment. (7-1-24)

b. Pollutants limited by mass, may also be limited by other units of measurement, and the permit requires the permittee to comply with both limits. (7-1-24)

07. Pollutant Credits for Intake Water. (7-1-24)

a. The following definitions apply to intake credits in determining reasonable potential and establishing technology- and water quality- based effluent limits for IPDES permits. (7-1-24)

i. An intake pollutant is the amount of a pollutant present in waters of the United States (including ground water as provided in Subsection 303.07.a.iv.) when water is removed from the same body of water by the discharger or other facility supplying the discharger with intake water. (7-1-24)

ii. To be eligible for intake credit, an intake pollutant must be from the same body of water as the discharge, and the Department finds the intake pollutant would have reached the vicinity of the outfall point in the receiving water within a reasonable period if it had not been removed by the permittee. This finding will be established if: (7-1-24)

(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 the intake water; (7-1-24)

(2) A direct hydrological connection exists between the intake and discharge points; and (7-1-24)

(3) Water quality characteristics (e.g., temperature, pH, hardness) are similar in the intake and receiving waters. (7-1-24)

iii. The Department may consider other site-specific factors relevant to the transport and fate of the pollutant to determine in a particular case that a pollutant would have reached the vicinity of the outfall point in the receiving water within a reasonable period if it had not been removed by the permittee. (7-1-24)

iv. An intake pollutant from ground water may be considered from the same body of water if the Department determines the pollutant would have reached the vicinity of the outfall point in the receiving water within a reasonable period if it had not been removed by the permittee, except that the 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. (7-1-24)

v. The determinations made under Subsections 303.07.b. and c. will be made on a pollutant-by-pollutant and outfall-by-outfall basis. (7-1-24)

vi. These provisions do not alter the Department's obligation under Subsection 302.06.a.vii(2) to develop effluent limits consistent with the assumptions and requirements of available waste load allocations for the discharge, that is part of a TMDL prepared by the Department and approved by EPA under 40 CFR 130.7, or prepared by EPA under 40 CFR 130.7(d). (7-1-24)

b. Consideration of intake pollutants for technology-based effluent limits: (7-1-24)

i. Upon request of the discharger, technology-based effluent limitations or standards will be adjusted to reflect credit for pollutants in the discharger's intake water if the: (7-1-24)

(1) Applicable effluent limits and standards contained in 40 CFR Part 401 through 471, specifically provide that they will be applied on a net basis; or (7-1-24)

(2) Discharger demonstrates the control system proposed or used to meet applicable technology-based limits and standards would, if properly installed and operated, meet the limits and standards in the absence of pollutants in the intake waters. (7-1-24)

ii. Credit for generic pollutants such as BOD or TSS will not be granted unless the permittee demonstrates the constituents of the generic measure in the effluent are substantially similar to the constituents of the generic measure in the intake water or appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere. (7-1-24)

iii. Credit will be granted only to the extent necessary to meet the applicable limit or standard, up to a maximum value equal to the influent value. Additional monitoring may determine eligibility for credits and compliance with permit limits. (7-1-24)

iv. Credit will be granted only if the discharger demonstrates the intake water is drawn from the same body of water where the discharge is made. The Department may waive this requirement if the Department finds that no environmental degradation will result. (7-1-24)

v. This section does not apply to the discharge of raw water clarifier sludge generated from the treatment of intake water. (7-1-24)

c. Consideration of intake pollutants for water quality based effluent limits: (7-1-24)

i. The Department will evaluate if reasonable potential exists 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 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. (7-1-24)

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 (7-1-24)

(1) Facility removes the intake water containing the pollutant from the same body of water where the discharge is made; (7-1-24)

(2) Ambient background concentration of the pollutant does not meet the most stringent applicable water quality criterion for that pollutant; (7-1-24)

(3) Facility does not alter the identified intake pollutant chemically or physically to cause adverse water quality impacts that would not occur if the pollutants had not been removed from the body of water; (7-1-24)

(4) Timing and location of the discharge does 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; and (7-1-24)

(5) For determining water quality-based effluent limits, facility does not increase the identified intake pollutant concentration at the point of discharge as compared to the pollutant concentration in the intake water. (7-1-24)

iii. Where the conditions in Subsection 303.07.c.i. and ii are met, the Department may establish a water quality-based effluent limit 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 before discharge, so there is no net addition of the pollutant in the discharge compared to the intake water. (7-1-24)

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. (7-1-24)

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 if conditions in Subsection 303.07.c.ii. are met and adequate monitoring to determine compliance can be established and is included in the permit. (7-1-24)

vi. The permit will specify how compliance with mass and concentration-based limitations for the intake water pollutant will be assessed. This assessment may be based on the effluent limit on background concentration data. Alternatively, the Department may determine compliance by monitoring the pollutant concentrations in the intake water and effluent. Monitoring may be supplemented by monitoring internal waste streams or by a Department evaluation of the use of BMPs. (7-1-24)

vii. Effluent limits will be established to comply with all other applicable state and federal laws and regulations including technology-based requirements and anti-degradation policies. (7-1-24)

viii. When determining whether water quality based effluent limits are necessary, information from chemical-specific, WET and biological assessments will be considered independently. (7-1-24)

ix. Permit limits will be consistent with the assumptions and requirement of waste load allocations or other provisions in a TMDL that has been approved by the EPA. (7-1-24)

08. Internal Waste Streams. (7-1-24)

a. When permit effluent limits or standards imposed at the point of discharge are impractical or infeasible, effluent limits 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 will also be applied to the internal waste streams. (7-1-24)

b. Limits on internal waste streams will be imposed only when the fact sheet states the exceptional circumstances that make the limits necessary, such as: (7-1-24)

i. When the final discharge point is inaccessible (e.g., under ten (10) meters of water); (7-1-24)

ii. Wastes at the point of discharge are so diluted it makes monitoring impracticable; or (7-1-24)

iii. Interferences among pollutants at the point of discharge make detection or analysis impracticable. (7-1-24)

09. Disposal of Pollutants into Wells, into POTWs, or by Land Application. (7-1-24)

a. When part of a discharger's process wastewater is not discharged into waters of the United States because it is disposed into a well, into a POTW, or by land application, reducing the flow or level of pollutants discharged into waters of the United States, applicable effluent standards and limits for the discharge in an IPDES permit will be adjusted to reflect the reduced raw waste resulting from the disposal. Effluent limits and standards in the permit are calculated by one (1) of the following methods: (7-1-24)

i. If none of the waste from a particular process is discharged into waters of the United States, and ELGs provide separate allocation for wastes from that process, allocations for the process are eliminated from calculation of permit effluent limits or standards; or (7-1-24)

ii. In all cases other than those described in Subsection 303.09.a.i., effluent limits are adjusted by multiplying the effluent limitation derived by applying ELGs 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 limits and standards 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 discharged to receiving waters. This method may be algebraically expressed as:

$P = (E \times N) / T$ where P is the permit effluent limit, E is the limit 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.

(7-1-24)

b. Subsection 303.09.a. does not apply to the extent that promulgated ELGs: (7-1-24)

i. Control concentrations of pollutants discharged but not mass; or (7-1-24)

ii. Specify a different specific technique for adjusting effluent limits to account for well injection, land application, or disposal into POTWs. (7-1-24)

c. Subsection 303.09.a. does not alter a discharger's obligation to meet 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). (7-1-24)

- d.** Disposal of discharge into injection wells is regulated by: (7-1-24)

 - 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,”; or (7-1-24)
 - ii. Health District with jurisdiction, in compliance with IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules,” for a Class V injection well. (7-1-24)
- e.** Disposal of discharge onto the surface of the land is regulated by the Department under IDAPA 58.01.17, “Recycled Water Rules.” (7-1-24)

304. MONITORING AND REPORTING REQUIREMENTS.

- 01. Monitoring Requirements.** A permit will include: (7-1-24)

 - a.** Requirements for the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate); (7-1-24)
 - b.** Type, intervals, and frequency of monitoring sufficient to yield data that represent the monitored activity including, when appropriate, continuous monitoring; (7-1-24)
 - 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 must be no less frequent than specified in 40 CFR 122.44; (7-1-24)
 - d.** Mass (or other measurement specified in the permit) for each pollutant limited in the permit; (7-1-24)
 - e.** Volume of effluent discharged from each outfall; (7-1-24)
 - f.** Other measurements as appropriate, including: (7-1-24)

 - i. Pollutants in internal waste streams under Subsection 303.08; (7-1-24)
 - ii. Pollutants in intake water for net limits under Subsection 303.07; (7-1-24)
 - iii. Frequency, rate of discharge, etc., for non-continuous discharges under Subsection 303.05; (7-1-24)
 - iv. Pollutants subject to notification requirements under Subsection 301.01; and (7-1-24)
 - 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 under CWA Section 405(d)(4), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, “Wastewater Rules”; (7-1-24)
 - 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 Parts 401 through 471 or Part 501 through 503. Consistent with 40 CFR Part 136, applicants or permittees may provide matrix- or sample-specific minimum levels rather than the published levels. When an applicant or permittee can demonstrate that, despite a good faith effort to use a method that otherwise meets the definition of “sufficiently sensitive,” the analytical results are not consistent with the QA/QC specifications for the method, then the Department may determine the method is not performing adequately and the Department will 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. method is “sufficiently sensitive” when: (7-1-24)

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 (7-1-24)

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 (7-1-24)

h. For pollutants or pollutant parameters which have 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 must be conducted according to a test procedure specified in the permit for the pollutants or pollutant parameters. (7-1-24)

02. Reporting Monitoring Results. (7-1-24)

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 at least once a year. Results must be electronically reported in compliance with 40 CFR Part 127. (7-1-24)

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 as specified in 40 CFR Part 503, Section 380 of these rules, and Idaho's Wastewater Rules, IDAPA 58.01.16.650, "Wastewater Rules," (where applicable), but at least once a year. Results must be electronically reported in compliance with 40 CFR Part 127. (7-1-24)

c. The Department will establish requirements to report monitoring results for storm water discharges associated with industrial activity subject to an ELG on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but at least once a year. (7-1-24)

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 a discharge will require the discharger to: (7-1-24)

i. Conduct an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity; (7-1-24)

ii. Evaluate whether measures to reduce pollutant loadings identified in a storm water pollution prevention plan are adequate and properly implemented following the terms of the permit or whether additional control measures are needed; (7-1-24)

iii. Maintain for a period of three (3) years a record summarizing the results of the inspection and a certification that the facility is complying with the plan and the permit, and identifying incidents of noncompliance; (7-1-24)

iv. Sign the report and certification in accordance with Section 090; and (7-1-24)

v. For storm water discharges associated with industrial activity from inactive mining operations, where annual inspections are impracticable, may require certification that the facility is complying with the permit, or alternative requirements, once every three (3) years by an Idaho licensed professional engineer. (7-1-24)

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. (7-1-24)

305. COMPLIANCE SCHEDULES.

01. General. An IPDES permit may, when appropriate, specify a schedule leading to compliance with

the CWA and these rules. (7-1-24)

a. Compliance schedules require compliance as soon as possible. (7-1-24)

b. The first IPDES permit issued to a new source or a new discharger will contain a compliance schedule only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after construction commences, but less than three (3) years before discharge commences. (7-1-24)

c. For recommencing dischargers, a compliance schedule will be available only when necessary to allow a reasonable opportunity to comply with requirements issued or revised less than three (3) years before discharge recommences. (7-1-24)

d. If a permit establishes a compliance schedule that exceeds one (1) year from the date of permit issuance, the schedule will state interim requirements and dates for achieving the interim requirements. If the schedule includes interim requirements: (7-1-24)

i. The time between interim dates will not exceed one (1) year, except for a compliance schedule with standards for sewage sludge use and disposal, the time between interim dates will not exceed six (6) months; or (7-1-24)

ii. If the time to complete interim requirements (e.g., construction of a control facility) is more than one (1) year and is not readily divisible into stages for completion, the permit will specify interim dates for submitting reports of progress toward completing the interim requirements and indicate a projected completion date. (7-1-24)

e. Within fourteen (14) days following each interim and final date of compliance, the permittee must 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. applies. (7-1-24)

f. Permits may incorporate compliance schedules allowing a discharger to phase in, over time, compliance with water quality-based effluent limits in accordance with IDAPA 58.01.02.400, "Water Quality Standards." (7-1-24)

02. Alternative Compliance Schedules. 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: (7-1-24)

a. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit that has already been issued: (7-1-24)

i. The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or (7-1-24)

ii. The permittee must cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit. (7-1-24)

b. If the decision to cease conducting regulated activities is made before issuing a permit with a termination date, the permit will contain a schedule leading to termination that will ensure timely compliance with requirements no later than the statutory deadline. (7-1-24)

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: (7-1-24)

i. Both schedules will contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date that ensures sufficient time to comply with requirements in a timely manner if the decision is to continue conducting regulated activities; (7-1-24)

ii. The first schedule will lead to timely compliance with applicable requirements, no later than the

statutory deadline; (7-1-24)

iii. The second schedule will cease regulated activities by a date that will ensure timely compliance with requirements no later than the statutory deadline; and (7-1-24)

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. (7-1-24)

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. (7-1-24)

306. -- 309. (RESERVED)

310. VARIANCES.

01. Variance Requests by non-POTWs. (7-1-24)

a. A discharger that is not a POTW may request a variance from otherwise applicable effluent limitations under the following statutory or regulatory provisions, within the times specified (7-1-24)

i. The presence of fundamentally different factors from which the ELG was based must be filed as follows: (7-1-24)

(1) For a request from best practicable control technology currently available (BPT), by the close of the public comment period under Section 109; or (7-1-24)

(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 ELG is published in the Federal Register for a request based on an ELG promulgated on or after February 4, 1987. (7-1-24)

ii. The request must explain how the regulatory and/or statutory criteria have been met. (7-1-24)

b. An applicant may request for non-conventional pollutants under this section: (7-1-24)

i. A variance from the BAT requirements for CWA Section 301(b)(2)(F) pollutants (i.e., non-conventional pollutants) under CWA Section 301(c) because of the economic capability of the owner or operator; or (7-1-24)

ii. A variance under CWA Section 301(g) provided: (7-1-24)

(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 CWA Section 301(b)(2)(F); and (7-1-24)

(2) Other pollutants the EPA Administrator lists under CWA Section 301(g)(4). (7-1-24)

c. The request for variance as outlined in Subsection 310.01.b. must be made as follows: (7-1-24)

i. For effluent limits based on an ELG, by submitting an initial request to the Department no later than two hundred seventy (270) days after promulgation of the applicable ELG followed by a completed request no later than the close of the public comment period under Section 109. (7-1-24)

(1) The initial request to the Department must contain: (7-1-24)

- (a) Name of the discharger; (7-1-24)
 - (b) Permit number; (7-1-24)
 - (c) Outfall number(s); (7-1-24)
 - (d) Applicable ELG; and (7-1-24)
 - (e) Whether the discharger is requesting a CWA Section 301(c) or 301(g) modification or both. (7-1-24)
- (2) The completed request must demonstrate the applicable requirements of 40 CFR Part 125 have been met. The complete application for a request under CWA Section 301(g) must be filed one hundred eighty (180) days before the Department makes a decision (unless the Department establishes a shorter or longer period). (7-1-24)
- ii. For effluent limits not based on ELGs, 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). (7-1-24)
- d.** A modification under CWA Section 302(b)(2) of requirements under the CWA Section 302(a) for achieving water quality related effluent limits may be requested before the close of the public comment period under Section 109 on the permit from which the modification is sought. (7-1-24)
- e.** A variance under CWA Section 316(a) for the thermal component of a discharge must be filed with a timely application for a permit under Section 105 of these rules, except that if thermal effluent limits are established under CWA 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. (7-1-24)
- 02. Variance Requests by POTWs.** A discharger that is a POTW may request a variance, under CWA Section 302(b)(2), from the water quality-based effluent limits found at CWA Section 302(a). The variance must be requested before the close of the public comment period under Section 109 (7-1-24)
- 03. Permit Variance Decision Process.** (7-1-24)
- 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. (7-1-24)
 - b.** The Department may grant variances (subject to EPA objection under Subsection 103.02 or 40 CFR 123.44): (7-1-24)
 - i. For extensions under CWA Section 301(i) based on delay in completing a POTW; (7-1-24)
 - ii. After consultation with EPA, extensions under CWA Section 301(k) based on the use of innovative technology; (7-1-24)
 - iii. Under CWA Section 316(a) for thermal pollution; or (7-1-24)
 - iv. From water quality standards under IDAPA 58.01.02.260. (7-1-24)
 - c.** The Department may forward to EPA with or without a recommendation, a variance based on: (7-1-24)
 - i. Economic capability of the applicant under CWA Section 301(c); or (7-1-24)
 - ii. Water quality-related effluent limits under CWA Section 302(b)(2). (7-1-24)
 - d.** The Department may forward to EPA with a written concurrence, a variance based on: (7-1-24)

or i. Presence of fundamentally different factors from which the ELG was based (CWA Section 301(n)); (7-1-24)

ii. Certain water quality factors under CWA Section 301(g). (7-1-24)

e. The EPA may grant or deny a request for a variance that is forwarded by the Department. If the EPA Administrator (or delegate) approves the variance, the Department will prepare a draft permit incorporating the variance. (7-1-24)

f. A public notice of a draft permit for which a variance or modification has been approved or denied will identify the procedures for appealing that decision under Section 204. (7-1-24)

04. Expedited Variance Procedures and Time Extensions. (7-1-24)

a. Considering 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 that the draft permit will contain limits eligible for variances. (7-1-24)

i. In the notice, the Department may require the applicant, as a condition of a potential variance request, to explain how the requirements of 40 CFR Part 125, apply to the variance, have been met, and may require submitting an explanation within a specified time after receipt of the notice. (7-1-24)

ii. The Department may send the notice before the permit application is submitted. The draft or final permit may contain the alternative limits that may become effective upon final grant of the variance. (7-1-24)

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 that; (7-1-24)

i. May be granted or denied at the discretion of the Department. (7-1-24)

ii. Is no more than six (6) months in duration. (7-1-24)

05. Special Procedures for Decisions on Thermal Variances. (7-1-24)

a. If the Department makes a final decision on a thermal variance before a final permit is issued it will only consider whether alternative effluent limits are justified under CWA Section 316(a) or whether cooling water intake structures will use the best available technology under CWA Section 316(b). (7-1-24)

i. Permit applicants who wish an early decision on these issues may request that the Department provide supporting reasons when the permit applications are filed. (7-1-24)

ii. The Department will decide whether to make an early decision. If granted, the early decision on CWA Section 316 (a) or (b) issues and the grant of the balance of the permit will be: (7-1-24)

(1) Considered permit issuance under these regulations, and (7-1-24)

(2) Subject to the same requirements of public notice and comment and the same opportunity for an appeal. (7-1-24)

b. If the Department, on review of the administrative record, determines that the information necessary to decide whether the CWA 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. (7-1-24)

i. The permit will require achievement of the effluent limits initially proposed for the thermal component of the discharge, no later than the date otherwise required by law. (7-1-24)

ii. The permit will also afford the permittee an opportunity to file a demonstration under CWA Section

316(a), after conducting studies required under 40 CFR 125.70 through 125.73. (7-1-24)

iii. A new discharger may not exceed the thermal effluent limit initially proposed unless and until the CWA Section 316(a) variance request is approved. (7-1-24)

c. A proceeding held under Subsection 310.05.a. will be: (7-1-24)

i. Publicly noticed as required by Section 109, and (7-1-24)

ii. Conducted at a time allowing the permittee to take measures to meet the final compliance date if its request for modification of thermal limits is denied. (7-1-24)

d. Whenever the Department defers the decision under CWA Section 316(a), a decision under CWA Section 316(b) may be deferred. (7-1-24)

311. -- 369. (RESERVED)

370. PRETREATMENT STANDARDS.

01. Purpose and Applicability. This section and 40 CFR Part 403.1 through 40 CFR 403.3, and 40 CFR 403.5 through 40 CFR 403.18 apply to: (7-1-24)

a. Pollutants from non-domestic sources covered by Pretreatment Standards that are indirectly discharged into or transported by truck, rail, or otherwise introduced into POTWs as defined in Subsection 370.04 and 40 CFR 403.3; (7-1-24)

b. POTWs that receive wastewater from sources subject to National Pretreatment Standards; and (7-1-24)

c. A new or existing source subject to Pretreatment Standards. National Pretreatment Standards do not apply to sources discharging to a sewer that is not connected to a POTW. (7-1-24)

02. Objectives of General Pretreatment Regulations. This section and 40 CFR Part 403 fulfill three (3) objectives: (7-1-24)

a. To prevent the introduction of pollutants into POTWs that will interfere with operating a POTW, including interference with its use or disposal of municipal sludge; (7-1-24)

b. To prevent the introduction of pollutants into POTWs that will pass through the treatment works or otherwise be incompatible with the works; and (7-1-24)

c. To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges. (7-1-24)

03. Department Program in Lieu of a POTW Program. 40 CFR 403.8(a) requires certain POTWs develop a pretreatment program. The Department may, on a case-by-case basis, assume responsibility for implementing the POTW pretreatment program requirements 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. (7-1-24)

371. -- 379. (RESERVED)

380. SEWAGE SLUDGE.

01. Purpose. This section and 40 CFR Part 503: (7-1-24)

a. Establish standards, consisting of general requirements, pollutant limits, management practices,

and operational standards, for the final use or disposal of sewage sludge, and include: (7-1-24)

i. Standards for sewage sludge applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator.; (7-1-24)

ii. Pathogen and alternative vector attraction reduction requirements for sewage sludge applied to the land or placed on a surface disposal site; and (7-1-24)

iii. 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. (7-1-24)

b. Include the frequency of monitoring and recordkeeping requirements when sewage sludge is: (7-1-24)

i. Applied to the land; (7-1-24)

ii. Placed on a surface disposal site; or (7-1-24)

iii. Fired in a sewage sludge incinerator; and (7-1-24)

c. Include reporting requirements for: (7-1-24)

i. Class I sludge management facilities; (7-1-24)

ii. POTWs with a design flow rate equal to or greater than one million gallons per day (1 MGD); and (7-1-24)

iii. POTWs that serve ten thousand (10,000) people or more. (7-1-24)

02. Applicability. This section and 40 CFR Part 503 apply to: (7-1-24)

a. A 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; (7-1-24)

b. Sewage sludge applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator; (7-1-24)

c. Exit gas from a sewage sludge incinerator stack; or (7-1-24)

d. Land where sewage sludge is applied, to a surface disposal site, and to a sewage sludge incinerator. (7-1-24)

03. Exceptions to Incorporation by Reference. 40 CFR 503.1 (Purpose and Applicability) is excluded from incorporation by reference in Section 003. (7-1-24)

381. -- 399. (RESERVED)

400. COMPLIANCE EVALUATION.

01. Non-compliance Actions. When a permittee is or was not in compliance with conditions of the existing, terminated, or expired permit that has been administratively continued, the Department may choose to do one (1) or more of the following: (7-1-24)

a. Initiate an enforcement action; (7-1-24)

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; (7-1-24)

c. Issue a new permit with appropriate conditions; or (7-1-24)

d. Take other actions authorized by state law. (7-1-24)

401. -- 499. (RESERVED)

500. ENFORCEMENT.

01. General Enforcement and Penalties. A person who violates permit conditions, filing or reporting requirements, duty to allow or carry out inspections, entry or monitoring requirements, or other provisions in these rules is 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. (7-1-24)

02. Truth in Reporting. It is a violation of these rules for a person to falsify, tamper with, or knowingly render inaccurate a monitoring device or method required to be maintained under an IPDES permit. In addition to other remedies available to the Department, a violation is punishable by a fine as provided in Section 39-117, Idaho Code. (7-1-24)

03. False Statements. It is a violation of these rules for a person to knowingly make a false statement, representation, or certification in a 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 other remedies available to the Department, a violation is punishable by a fine as provided in Section 39-117, Idaho Code. (7-1-24)

04. Public Participation in Enforcement. The Department will provide for public participation in the state enforcement process by: (7-1-24)

a. Investigating and providing written responses to citizen complaints; (7-1-24)

b. Not opposing intervention by a citizen when permissive intervention may be authorized by statute, rule, or regulation; and (7-1-24)

c. Publishing notice of and providing at least thirty (30) days for public comment on a proposed settlement of a state enforcement action. (7-1-24)

501. -- 599. (RESERVED)

600. ADMINISTRATIVE RECORDS AND DATA MANAGEMENT.

01. Administrative Record for Draft Permits. The provisions of a draft permit prepared by the Department under Subsection 108.01 are based on the administrative record defined in this section. (7-1-24)

a. For a draft permit, the record consists of: (7-1-24)

i. Application, if required, and any supporting data furnished by the applicant; (7-1-24)

ii. Draft permit or notice of intent to deny the application or to terminate the permit; (7-1-24)

iii. Fact sheet; (7-1-24)

iv. All documents cited in the fact sheet; and (7-1-24)

v. Documents contained in the supporting file for the draft permit. (7-1-24)

b. Material readily available at the Department or published material generally available, and included

in the administrative record under Subsection 600.01, need not be physically included with the rest of the record if specifically referred to in the fact sheet. (7-1-24)

- c. Applies to draft permits when public notice was given after the effective date of these rules. (7-1-24)

02. Administrative Record for Final Permits. The Department will base final permit decisions on the administrative record. (7-1-24)

a. The administrative record for a final permit, including issuance, denial, transfer, modification, revocation and reissuance, or termination, will 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 (7-1-24)

- i. Comments received during the public comment period provided under Section 109; (7-1-24)
 - ii. Record of, and written materials submitted as part of, meetings held under Section 109; (7-1-24)
 - iii. 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 supporting data furnished by the applicant; (7-1-24)
 - iv. Response to comments required by Subsections 109.02 and 109.03 and new material placed in the record under that section; and (7-1-24)
 - v. Relevant correspondence and documents. (7-1-24)
- b. The final permit and fact sheet become part of the administrative record after the final permit is issued. (7-1-24)

c. The additional documents identified under Subsection 600.02.b., 107.03, and 109.02 will be added to the record as soon as possible after their receipt or publication by the Department. The record is complete on the date the final permit is issued. (7-1-24)

- d. This subsection applies to all IPDES permits when the draft permit was included in a public notice. (7-1-24)

e. Material readily available from the Department or published materials that are generally available and included in the administrative record under Subsection 600.02 or Section 109, need not be physically included in the same file as the rest of the record if it is specifically referred to in the fact sheet or in the response to comments. (7-1-24)

03. Electronic Submittals. Information 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. (7-1-24)

601. -- 999. (RESERVED)