

Proposed Motions for the May 16, 2019  
Meeting of the Idaho Board of Environmental Quality

**Agenda Item #9**  
**Omnibus Rulemaking – Fee Rules**  
**Docket No. 58-0000-1900F**

I move that the Idaho Board of Environmental Quality adopt as temporary rules the rules presented under Docket No. 58-0000-1900F, with an effective date of June 30, 2019. This temporary rule adoption is for previously approved codified fee rule chapters under IDAPA 58, rules of the Department of Environmental Quality:

IDAPA 58.01.05, Rules and Standards for Hazardous Waste

IDAPA 58.01.06, Solid Waste Management Rules

IDAPA 58.01.07, Rules Regulating Underground Storage Tank Systems

IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems

IDAPA 58.01.12, Rules for Administration of Water Pollution Control Loans

IDAPA 58.01.13, Rules for Ore Processing by Cyanidation

IDAPA 58.01.14, Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services

IDAPA 58.01.18, Idaho Land Remediation Rules

IDAPA 58.01.20, Rules for Administration of Drinking Water Loan Program

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

## **TEMPORARY RULE JUSTIFICATION**

### **Omnibus Rulemaking – Fee Rules**

#### **Docket No. 58-0000-1900F**

Pursuant to Section(s) 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The Department of Environmental Quality (DEQ) would not be able to fulfill its statutory obligations without these rules. The state of Idaho would lose primacy over federal environmental laws without these rules. These rules are central to DEQ's mission to protect human health and the quality of Idaho's air, land, and water.

The fees or charges imposed by the rules are necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget.

Temporary adoption of these rules is necessary to ensure that (1) the state of Idaho maintains primacy over federal programs; (2) DEQ is able to continue to offer services such as permit and license issuance; and (3) DEQ is able to continue to administer programs such as voluntary remediation, and the wastewater and drinking water loan program. This rulemaking does not impose a fee or charge beyond what was previously approved and codified in the prior rules. Fee categories and the statutory authority for imposition of the fees are listed below.

These rules are either (1) not broader in scope or more stringent than federal law nor propose to regulate an activity not regulated by the federal government, or (2) have previously been approved as meeting the requirements of Idaho Code § 39-107D.

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

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

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

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

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

IDAPA 58.01.13, Rules for Ore Processing by Cyanidation – Idaho Code § 39-118A(2)(c), permit application fee

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

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

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

IDAPA 58.01.25, Rules Regulating the Idaho Pollutant Discharge Elimination System Program – Idaho Code § 39-175C