

FINAL PROPOSAL
Dated August 23, 2019

OMNIBUS RULEMAKING –FEE RULES, DOCKET NO. 58-0000-1900F

The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 7040 through 7422. IDAPA 58.01.25, “Rules Regulating the Idaho Pollutant Discharge Elimination System Program,” Subsection 204.13, Filing and Service Requirements, was revised as a logical outgrowth of the proposed rule. The revisions are consistent with updates made to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality,” Subsection 008.01, Filing of Documents, in Docket No. 58-0000-1900.

The proposed rule also includes non-substantive clerical revisions made by the Administrative Rules Coordinator using his authority under Idaho Code § 67-5202. “The coordinator shall have the authority to make clerical revisions or to correct manifest typographical or grammatical errors to both proposed and existing rules that do not alter the sense, meaning or effect of such rules.” Idaho Code § 67-5202(2). The revisions are consistent with [Executive Order No. 2019-02](#), Red Tape Reduction Act, issued by Governor Little on January 21, 2019, and did not alter the sense, meaning or effect of the rules (i.e., elimination of restrictive words such as “shall”).

DEQ recommends that the Idaho Board of Environmental Quality take the following action: Adopt a pending rule that includes 1) the described revisions in IDAPA 58.01.25, “Rules Regulating the Idaho Pollutant Discharge Elimination System Program,” 2) the Administrative Rules Coordinator’s clerical revisions, and 3) the remainder of the rule adopted as initially proposed. The recommended revisions to IDAPA 58.01.25 are in the attached “Revisions to Proposed Rule for Board Consideration.” The draft “Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule” is also attached.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-1900F

NOTICE OF OMNIBUS RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to the following Idaho Code provisions:

IDAPA 58.01.05 - Chapters 44 and 58, Title 39, Idaho Code
IDAPA 58.01.06 - Sections 39-105, 107, and 7408C, Idaho Code
IDAPA 58.01.07 - Chapters 1 and 88, Title 39, Idaho Code
IDAPA 58.01.08 - Chapter 1, Title 39, Idaho Code; Chapter 21, Title 37, Idaho Code
IDAPA 58.01.12 - Chapters 1 and 36, Title 39, Idaho Code
IDAPA 58.01.13 - Chapter 1, Title 39, Idaho Code
IDAPA 58.01.14 - Sections 39-105, 107, and 119, Idaho Code
IDAPA 58.01.18 - Sections 39-105, 107, 4405, and 7210, Idaho Code
IDAPA 58.01.20 - Chapters 1 and 76, Title 39, Idaho Code
IDAPA 58.01.25 - Chapter 1, Title 39, Idaho Code

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed fee rule and the text of the pending fee rule with an explanation of the reasons for the change.

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) 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

More information regarding this rule docket is available at www.deq.idaho.gov/58-0000-1900F.

DEQ received no public comments; however, the text of the rule has been amended in accordance with Idaho Code § 67-5227. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 7040 through 7422.

IDAPA 58.01.25, “Rules Regulating the Idaho Pollutant Discharge Elimination System Program,” Subsection 204.13, Filing and Service Requirements, was revised as a logical outgrowth of the proposed rule. The revisions are consistent with updates made to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality,” Subsection 008.01, Filing of Documents, in Docket No. 58-0000-1900.

The proposed rule also includes non-substantive clerical revisions made by the Administrative Rules Coordinator using his authority under Idaho Code § 67-5202. “The coordinator shall have the authority to make clerical revisions or to correct manifest typographical or grammatical errors to both proposed and existing rules that do not alter the sense, meaning or effect of such rules.” Idaho Code § 67-5202(2). The revisions are consistent with [Executive Order No. 2019-02](#), Red Tape Reduction Act, issued by Governor Little on January 21, 2019, and do not alter the sense, meaning or effect of the rules (i.e., elimination of restrictive words such as “shall”).

The pending rule adopted by the Idaho Board of Environmental Quality includes 1) the described revisions in IDAPA 58.01.25, “Rules Regulating the Idaho Pollutant Discharge Elimination System Program,” 2) the Administrative Rules Coordinator’s clerical revisions, and 3) the remainder of the rule adopted as initially proposed.

FEE SUMMARY: The following is a specific description of the fee or charge imposed. This rulemaking does not impose a fee or charge beyond what was previously approved and codified in the prior rules. Listed below are the DEQ fee rule chapters, fee categories, and the statutory authority for imposition of the fees.

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 § 39-7408C, 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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

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

DATED this November 20, 2019

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**Revisions to Proposed Rule for Board Consideration, Docket No. 58-0000-1900F
(dated August 23, 2019)**

The revisions made to the proposed rule are in legislative format. Only the rule sections containing revisions are included.

**58.01.25 - RULES REGULATING THE
IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM**

204. APPEALS PROCESS.

(BREAK)

13. Filing and Service Requirements.

(3-24-16)

a. All documents concerning actions governed by these rules must be filed with the Hearing Coordinator at the following address: Hearing Coordinator, Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. Documents may also be filed by ~~FAX at FAX No. (208) 373-0481 fax~~ or may be filed electronically. ~~The originating party is responsible for retaining proof of filing by FAX.~~ The Hearing Coordinator's fax number and email address for filing electronically are available at www.deq.idaho.gov/petitions-for-review. The documents are deemed to be filed on the date received by the Hearing Coordinator. Upon receipt of the filed document, the Hearing Coordinator will provide ~~a conformed copy~~ confirmation to the originating party. ~~(3-24-16)~~