



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

---

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Senators HEIDER, Brackett, Stennett and,  
Representatives VANDER WOUDE, Amador, Smith

**FROM:** Katharine Gerrity - Deputy Division Manager

**DATE:** July 10, 2019

**SUBJECT:** Temporary Rule(s)

IDAPA 58.01.03 - Individual/Subsurface Sewage Disposal Rules - Adoption of Temporary Rule -  
Docket No. 58-0103-1902

IDAPA 58.01.09 - Rules Regulating Swine Facilities - Adoption of Temporary Fee Rule - Docket No.  
58-0109-1901

We are forwarding these temporary rules to you for your information only. No analysis was done by LSO. These rules are posted on our web site. If you have any questions, please call Katharine Gerrity at the Legislative Services Office at (208) 334-4834. Thank you.

Attachment: Temporary Rule(s)

---

Kristin Ford, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

Statehouse, P.O. Box 83720  
Boise, Idaho 83720-0054

Tel: 208-334-2475  
[www.legislature.idaho.gov](http://www.legislature.idaho.gov)

# **IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY**

## **58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES**

**DOCKET NO. 58-0103-1902**

### **NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE AND HISTORY NOTES:** The effective date of the temporary rule is June 30, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that the Idaho Board of Environmental Quality has adopted a temporary rule. The action is authorized pursuant Chapters 1 and 36, Title 39, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the rulemaking:

This rulemaking adopts and re-publishes the following existing and previously approved and codified rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules

As soon as reasonably possible, DEQ will commence promulgation of a proposed rule in accordance with the rulemaking requirements of Chapter 52, Title 67, Idaho Code.

More information regarding this rule docket is available at [www.deq.idaho.gov/58-0103-1902](http://www.deq.idaho.gov/58-0103-1902).

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 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. These rules are central to DEQ's mission to protect human health and the quality of Idaho's air, land, and water.

**FEE SUMMARY:** This rulemaking does not impose a fee or charge.

**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.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rules, contact the undersigned.

Dated this 3rd day of July, 2019.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton/Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 58-0103-1902**

**IDAPA 58**  
**TITLE 01**  
**CHAPTER 03**

**58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES**

**000. (RESERVED)**

**001. LEGAL AUTHORITY.**

Title 39, Chapter 1 and Title 39, Chapter 36, Idaho Code, grants authority to the Board of Environmental Quality to adopt rules and standards to protect the environment and the health of the State, for the installation of cottage site sewage treatment facilities and for the issuance of pollution source permits. Title 39, Chapter 1, Idaho Code, grants to the Director the authority to issue pollution source permits; charges the Director to enforce all laws, rules, regulations, and standards relating to environmental protection and health, and those relating to the storage, handling and transportation of solids, liquids and gases which may cause or contribute to water pollution, and authorizes the Department of Environmental Quality to review for approval the plans and specifications for all proposed waste treatment facilities prior to their construction. (5-7-93)

**002. TITLE, SCOPE, CONFLICT AND RESPONSIBILITIES.**

**01. Title.** These rules are titled IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules.” (5-7-93)

**02. Scope.** The provisions of these rules establish limitations on the construction and use of individual and subsurface sewage disposal systems and establish the requirements for obtaining an installation permit and an installer’s registration permit. These rules apply to every individual and every subsurface blackwaste and wastewater treatment system in Idaho. (5-7-93)

**03. Conflict of Rules, Standards, and Ordinances.** In any case where a provision of these rules is found to be in conflict with a provision of any state or local zoning, building, fire, safety, or health regulation, standard or ordinance, the provision that, in the judgment of the Director, establishes the higher standard for the promotion and protection of the health and safety of the people, shall prevail. (5-7-93)

**04. Responsibilities.** (7-1-93)

**a.** Every owner of real property is jointly and individually responsible for: (10-1-90)

**i.** Storing, treating, and disposing of blackwaste and wastewater generated on that property. (10-1-90)

**ii.** Connecting all plumbing fixtures on that property that discharge wastewaters to an approved wastewater system or facility. (10-1-90)

**iii.** Obtaining necessary permits and approvals for installation of individual or subsurface blackwaste and wastewater disposal systems. (10-1-90)

**iv.** Abandonment of an individual or subsurface sewage disposal system. (10-1-90)

**b.** Each engineer, building contractor, individual or subsurface system installer, excavator, plumber, supplier, and every other person, who for compensation shall design, construct, abandon, or provide any system or part thereof, is jointly and individually responsible for compliance with each of these rules that are relevant to that service or product. (5-7-93)

**003. DEFINITIONS.**

For the purposes of these rules, the following definitions apply. (5-7-93)

**01. Abandoned System.** A system which has ceased to receive blackwaste or wastewater due to diversion of those wastes to another treatment system or due to termination of waste flow. (10-1-90)

**02. Alternative System.** Any system for which the Department has issued design guidelines or which the Director judges to be a simple modification of a standard system. (10-1-90)

**03. Authorized or Approved.** The state of being sanctioned or acceptable to the Director as stated in a written document. (10-1-90)

**04. Blackwaste.** Human body waste, specifically excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. (10-1-90)

**05. Blackwater.** A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. (10-1-90)

**06. Board.** Idaho State Board Of Environmental Quality. (10-1-90)

**07. Building Sewer.** The extension of the building drain beginning five (5) feet outside the inner face of the building wall. (10-1-90)

**08. Central System.** Any system which receives blackwaste or wastewater in volumes exceeding twenty-five hundred (2,500) gallons per day; any system which receives blackwaste or wastewater from more than two (2) dwelling units or more than two (2) buildings under separate ownership. (10-1-90)

**09. Construct.** To make, form, excavate, alter, expand, repair, or install a system, and, their derivations. (5-7-93)

**10. Director.** The Director of the Idaho Department of Environmental Quality or the Director's designee or authorized agent. (10-1-90)

11. **Existing System.** Any system which was installed prior to the effective date of these rules. (5-7-93)
12. **Expand.** To enlarge any nonfailing system. (10-1-90)
13. **Failing System.** Any system which exhibits one (1) or more of the following characteristics: (10-1-90)
  - a. The system does not meet the intent of these rules as stated in Subsection 004.01. (5-7-93)
  - b. The system fails to accept blackwaste and wastewater. (10-1-90)
  - c. The system discharges blackwaste or wastewater into the waters of the State or onto the ground surface. (10-1-90)
14. **Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (5-7-93)
15. **High Groundwater Level -- Normal, Seasonal.** High ground water level may be established by the presence of low chroma mottles, actual ground water monitoring or historic records. (5-7-93)
  - a. The normal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of six (6) weeks a year. (5-7-93)
  - b. The seasonal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of one (1) week a year. (5-7-93)
16. **High Water Mark.** The line which the water impresses on the soil by covering it for sufficient periods of time to prevent the growth of terrestrial vegetation. (10-1-90)
17. **Individual System.** Any standard, alternative or subsurface system which is not a central system. (10-1-90)
18. **Install.** To excavate or to put in place a system or a component of a system. (10-1-90)
19. **Installer.** Any person, corporation, or firm engaged in the business of excavation for, or the construction of individual or subsurface sewage disposal systems in the State. (10-1-90)
20. **Large Soil Absorption System.** A large soil absorption system is a subsurface sewage disposal system designed to receive two thousand five hundred (2,500) gallons of wastewater or more per day, including where the total wastewater flow from the entire proposed project exceeds two thousand five hundred (2,500) gallons per day but the flow is separated into absorption modules which receive less than two thousand five hundred (2,500) gallons per day. (5-7-93)
21. **Limiting Layer.** A characteristic subsurface layer or material which will severely limit the capability of the soil to treat or absorb wastewater including, but not limited to, water tables, fractured bedrock, fissured bedrock, excessively permeable material and relatively impermeable material. (10-1-90)
22. **Mottling.** Irregular areas of different color in the soil that vary in contrast, density, number and size. Mottling generally indicates poor aeration and impeded drainage. (5-7-93)
23. **New System.** A system which is or might be authorized or approved on or after the effective date of these rules. (5-7-93)
24. **Nondischarging System.** Any system which is designed and constructed to prevent the discharge of blackwaste or wastewater. (10-1-90)

25. **Permit.** An individual or subsurface system installation permit or installer's registration permit. (10-1-90)
26. **Pollutants.** Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a public nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, aesthetic, or other beneficial uses. (10-1-90)
27. **Public System.** Any system owned by a county, city, special service district, or other governmental entity or Indian tribe having the authority to dispose of blackwaste or wastewater; a municipal wastewater treatment facility. (10-1-90)
28. **Repair.** To remake, reform, replace, or enlarge a failing system or any component thereof as is necessary to restore proper operation. (10-1-90)
29. **Scarp.** The side of a hill, canyon, ditch, river bank, roadcut or other geological feature characterized by a slope of forty-five (45) degrees or more from the horizontal. (10-1-90)
30. **Service Provider.** Any person, corporation, or firm engaged in the business of providing operation, maintenance, and monitoring of complex alternative systems in the state of Idaho. (7-1-17)
31. **Sewage.** Sewage has the same meaning as wastewater. (10-1-90)
32. **Soil Texture.** The relative proportion of sand, silt, and clay particles in a mass of soil. (10-1-90)
33. **Standard System.** Any system recognized by the Board through the adoption of design and construction regulations. (10-1-90)
34. **Subsurface System.** Any system with a point of discharge beneath the earth's surface. (10-1-90)
35. **Surface Water - Intermittent, Permanent, Temporary.** (7-1-93)
- a. Any waters of the State which flow or are contained in natural or man-made depressions in the earth's surface. This includes, but is not limited to, lakes, streams, canals, and ditches. (10-1-90)
- b. An intermittent surface water exists continuously for a period of more than two (2) months but not more than six (6) months a year. (10-1-90)
- c. A permanent surface water exists continuously for a period of more than six (6) months a year. (10-1-90)
- d. A temporary surface water exists continuously for a period of less than two (2) months a year. (10-1-90)
36. **System.** Beginning at the point of entry physically connected piping, treatment devices, receptacles, structures, or areas of land designed, used or dedicated to convey, store, stabilize, neutralize, treat, or dispose of blackwaste or wastewater. (10-1-90)
37. **Wastewater.** Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, grey water or commercial or industrial pollutants; and sewage. (10-1-90)
38. **Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public and private or parts thereof which are wholly or partially within, which flow through or border upon

the state of Idaho. (10-1-90)

**39. Water Table.** The surface of an aquifer. (10-1-90)

**004. GENERAL REQUIREMENTS.**

**01. Intent of Rules.** The Board, in order to protect the health, safety, and environment of the people of the state of Idaho establishes these rules governing the design, construction, siting and abandonment of individual and subsurface sewage disposal systems. These rules are intended to insure that blackwastes and wastewater generated in the state of Idaho are safely contained and treated and that blackwaste and wastewater contained in or discharged from each system: (5-7-93)

**a.** Are not accessible to insects, rodents, or other wild or domestic animals; (10-1-90)

**b.** Are not accessible to individuals; (10-1-90)

**c.** Do not give rise to a public nuisance due to odor or unsightly appearance; (10-1-90)

**d.** Do not injure or interfere with existing or potential beneficial uses of the waters of the State. (10-1-90)

**02. Compliance with Intent Required.** The Director shall not authorize or approve any system if, in the opinion of the Director, the system will not be (is not) in compliance with the intent of these rules. (5-7-93)

**03. System Limitations.** Cooling water, backwash or backflush water, hot tub or spa water, air conditioning water, water softener brine, groundwater, oil, or roof drainage cannot be discharged into any system unless that discharge is approved by the Director. (10-1-90)

**04. Increased Flows.** Unless authorized by the Director, no person shall provide for or connect additional blackwaste or wastewater sources to any system if the resulting flow or volume would exceed the design flow of the system. (10-1-90)

**05. Failing System.** The owner of any failing system shall obtain a permit and cause the failing system's repair: (10-1-90)

**a.** As soon as practical after the owner becomes aware of its failure; or (10-1-90)

**b.** As directed in proper notice from the Director. (10-1-90)

**06. Subsurface System Replacement Area.** An area of land which is suitable in all respects for the complete replacement of a new subsurface system disposal field shall be reserved as a replacement area. This area will be kept vacant, free of vehicular traffic and free of any soil modification which would negatively affect its use as a replacement disposal field construction site. (10-1-90)

**07. Technical Guidance Committee.** The Director shall appoint a Technical Guidance Committee composed of three (3) representatives from the seven (7) Health Districts, one (1) representative from the Department of Environmental Quality, one (1) professional engineer licensed in the state of Idaho and one (1) licensed installer. Initially two (2) committee members shall be appointed to each of one (1), two (2) and three (3) year terms. Appointments to vacancies thereafter shall be to three (3) year terms. (12-31-91)

**08. Duties of the Technical Guidance Committee.** The Committee shall maintain a technical guidance manual which shall be used in the design, construction, alteration, operation, and maintenance of conventional systems, their components and alternatives. The Committee shall review variances at the request of the Director and provide recommendations on such variances. (10-1-90)

**09. Technical Guidance Manual for Individual and Subsurface Alternative Sewage Disposal.** The manual maintained by the Technical Guidance Committee shall provide state-of-the-art technical guidance on

alternative sewage disposal components and systems, soil type determination methodology and other information pertinent to the best management practices of individual and subsurface sewage disposal. (10-1-90)

**10. Alternative System.** If a standard system as described in these rules cannot be installed on a parcel of land, an alternative system may be permitted if that system is in accordance with the recommendations of the Technical Guidance Committee and is approved by the Director. (5-7-93)

**005. PERMIT AND PERMIT APPLICATION.**

**01. Permit Required.** Except as specified in Subsection 005.02 it shall be unlawful for any person to cause or to perform the modification, repair or construction of any individual or subsurface sewage disposal system within the state of Idaho unless there is a valid installation permit authorizing that activity. (12-31-91)

**02. Exceptions to Permit Requirement.** The activities listed in this subsection may be lawfully performed in the absence of a valid installation permit. They are, however, subject to all other relevant rules and regulations. (10-1-90)

**a.** Portable nondischarging systems may be installed where needed as temporary blackwaste or wastewater systems if they are properly maintained and if they are of a design which has been approved by the Director. (10-1-90)

**b.** Individual and subsurface systems may be repaired when needed as a result of clogged or broken solid piping or of malfunctions in an electrical or mechanical system. Such repair may not expand the system unless authorized by the Director. (10-1-90)

**03. Permit Application.** The owner of the system or the owner's authorized representative shall make application to the Director in writing and in a manner or form prescribed by the Director. (10-1-90)

**04. Contents of Application.** A permit application will be used to help determine if the proposed construction will be in conformance with applicable rules and regulations. Information required in the application may include, but is not limited to: (10-1-90)

- a.** The name and address of the owner of the system and of the applicant, if different; (10-1-90)
- b.** The legal description of the parcel of land; (10-1-90)
- c.** The type of establishment served; (10-1-90)
- d.** The maximum number of persons served, number of bedrooms, or other appropriate measure of wastewater flow; (10-1-90)
- e.** The type of system; (10-1-90)
- f.** The construction activity (new construction, enlargement, repair); (10-1-90)
- g.** A scaled or dimensioned plot plan including, if needed, adjacent properties illustrating: (10-1-90)
  - i.** The location and size of all existing and proposed wastewater systems including disposal field replacement areas; (10-1-90)
  - ii.** The location of all existing water supply system features; (10-1-90)
  - iii.** The location of all surface waters; (10-1-90)
  - iv.** The location of scarps, cuts, and rock outcrops; (10-1-90)
  - v.** Land elevations, surface contours, and ground slopes between features of interest; (10-1-90)



- vi. Property lines, easements, and rights-of-way; and (10-1-90)
  - vii. Location and size of buildings and structures. (7-1-93)
  - h.** The plans and specifications of the proposed system which include: (10-1-90)
    - i. Diagrams of all system facilities which are to be made or fabricated at the site; (10-1-90)
    - ii. The manufacturer's name and identification of any component approved pursuant to Sections 007 and 009; and (12-31-91)
    - iii. List of materials. (10-1-90)
  - i.** Soil description and profile, groundwater data, percolation or permeability test results and/or a site evaluation report; (10-1-90)
  - j.** The nature and quantity of blackwaste and wastewater which the system is to receive including the basis for that estimate; (10-1-90)
  - k.** Proposed operation, maintenance, and monitoring procedures to insure the system's performance and failure detection; (10-1-90)
  - l.** Copies of legal documents relating to access and to responsibilities for operation, maintenance, and monitoring; (10-1-90)
  - m.** A statement from the local zoning or building authority indicating that the proposed system would not be contrary to local ordinances; (10-1-90)
  - n.** The signature of the owner of the proposed system and, if different, of the applicant; and (10-1-90)
  - o.** Any other information, document, or condition that may be required by the Director to substantiate that the proposed system will comply with applicable rules and regulations. (10-1-90)
- 05. Basis for Permit Application Denial.** The Director may deny a permit application if in the Director's judgment: (10-1-90)
- a.** The application is incomplete, inaccurate, or misleading; (10-1-90)
  - b.** The system as proposed is not in compliance with applicable rules and regulations; (10-1-90)
  - c.** The system as proposed would, when put into use, be considered a failing system; (10-1-90)
  - d.** The design and description of a public system was not made by a professional engineer; (10-1-90)
  - e.** Public or central wastewater treatment facilities are reasonably accessible. (10-1-90)
- 06. Notice of Denial.** Upon denial of an application the Director shall notify the applicant of the reason for denial. (10-1-90)
- 07. Issuance of Permit.** When, in the opinion of the Director the system as proposed will be in conformance with applicable rules and regulations, the Director shall issue an "Individual and Subsurface System Installation Permit". (10-1-90)
- 08. Application and Permit Valid for One Year.** Unless otherwise stated on the application or permit, it shall become invalid if the authorized construction or activity is not completed and approved within one (1) year of the date of issuance. (10-1-90)

**09. Permit Renewal.** At the discretion of the Director, a permit may be renewed one (1) or more times upon request by the applicant or owner provided that the request is received by the Director prior to the permit's date of expiration. (10-1-90)

**10. Immediate Effect of the Permit.** A valid permit authorizes the construction of an individual or subsurface system and requires that the construction be conducted in compliance with plans, specifications, and conditions contained in the approved permit application. Any deviation from the plans, specifications, and conditions is prohibited unless it is approved in advance by the Director. (10-1-90)

**11. Cottage Site Facility Certification.** A valid permit shall constitute certification and approval for the purposes of Section 39-3637, Idaho Code. (10-1-90)

**12. Existing Installation Permits.** Individual and subsurface sewage disposal installation permits or other lot-specific approvals for systems issued prior to February 7, 1978, pursuant to Idaho Code Title 39, Chapter 1 and Title 39, Chapter 36, will become invalid one (1) year after written notice is given by the Director notifying the owner or holder of such a permit or approval that the permit or approval will no longer be valid unless construction or installation of the system provided for in the permit or approval is commenced within one (1) year after giving of the notice. This provision does not apply to certificates filed to satisfy a sanitary restriction pursuant to Section 50-1326, Idaho Code. (10-1-90)

**13. Abandonment May Be Required.** The Director may require as a condition for issuing a permit that the system be abandoned by a specified date or under specific predetermined circumstances. The date or circumstances will be established before the issuance of the permit and be contained in the permit application. These conditions may relate to a specific date, dwelling density, completion of a municipal system or other circumstances relative to the availability of central sewerage system services. (10-1-90)

**14. Operation, Maintenance and Monitoring.** The Director may require as a condition of issuing a permit, that specific operation, maintenance, and monitoring procedures be observed. Those procedures will be contained in the permit application. (10-1-90)

**15. As-Built Plans and Specifications.** The Director may require as a condition of issuing a permit, that complete and accurate record drawings and specifications depicting the actual construction be submitted to the Director within thirty (30) days after the completion of the construction. Alternately, if the construction proceeded in compliance with the approved plans and specifications, a statement to that effect may be submitted. (10-1-90)

**16. Permit Fee.** All applications shall be accompanied by payment of the fee specified in IDAPA 58.01.14, Section 110, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services". (5-7-93)

**006. INSTALLER'S REGISTRATION PERMIT AND SERVICE PROVIDER CERTIFICATION.**

**01. Permit and Certification Required.** Every installer and service provider shall secure from the Director an installer's registration permit. Service providers must also obtain a service provider's certification. Two (2) types of installer permits and one (1) type of service provider certification are available. (7-1-17)

**a.** A standard and basic alternative system installer's registration permit is required to install all individual systems not listed under Subsection 006.01.b. (5-7-93)

**b.** A complex alternative system installer's registration permit is required to install evapotranspiration systems, extended treatment package systems, lagoon systems, large soil absorption systems, pressure distribution systems, intermittent sand filters, sand mounds or other systems as may be specified by the Director. (7-1-17)

**c.** A service provider certification is required to perform operation, maintenance, or monitoring of complex alternative systems. (7-1-17)

**02. Examination.** The initial issuance of the installer's permit and service provider certification shall

be based on the completion of an examination, with a passing score of seventy percent (70%) or more, of the applicant's knowledge of the principles set forth in these rules and the applicable sections of the Technical Guidance Manual. The examinations will be prepared, administered and graded by the Director. The installer examination and service provider examination shall be separate exams. (7-1-17)

**03. Permits and Certifications Required Annually.** Registration permits and service provider certifications expire annually on the first (1st) day of January, and all permits and certifications issued thereafter will be issued for the balance of the calendar year. Additionally, installers and service providers shall attend at least one (1) refresher course approved by the state of Idaho, Department of Environmental Quality, every three (3) years. Individuals holding both a complex installer registration permit and service provider certification shall attend one refresher course for the complex installer registration permit and another course for the service provider certification. Installer and service provider refresher courses are not interchangeable. (7-1-17)

**04. Contents of Application.** (7-1-17)

- a. Applications for installer permits and service provider certifications shall: (7-1-17)
  - i. Be in writing: (7-1-17)
  - ii. Be signed by the applicant or by an officer or authorized agent of a corporation: (7-1-17)
  - iii. Contain the name and address of the applicant: (7-1-17)
  - iv. Indicate whether the permit is to be for: (7-1-17)
    - (1) Installation of standard and basic alternative systems: (7-1-17)
    - (2) Installation of standard, basic and complex alternative systems; or (7-1-17)
    - (3) Installation of standard, basic and complex alternative systems and certification as a service provider; and (7-1-17)
  - v. Contain the expiration date of the bond required by Subsection 006.05. (7-1-17)
- b. Additionally, for applicants seeking certification as a service provider, the application shall also contain annual documentation of manufacturer specific training, as required by Subsection 006.06.a. (7-1-17)

**05. Bond Required.** At the time of application, all applicants, including those seeking a service provider certification, shall deliver to the Director a bond in a form approved by the Director in the sum of five thousand dollars (\$5,000) for a standard and basic alternative system installer's registration permit, or in the sum of fifteen thousand dollars (\$15,000) for standard, basic and complex alternative system installer's registration permit. The bond will be executed by a surety company duly authorized to do business in the state of Idaho and must run concurrent with the installer's registration permit. The bond shall be approved by the Director and must guarantee the installer or service provider's faithful performance of all work undertaken under the provisions of the installer's registration permit or service provider certification, or both. Any person who suffers damage as the result of negligent or wrongful acts of the installer or service provider or by the installer or service provider's failure to competently perform any of the work agreed to be done under the terms of the registration permit or certification shall, in addition to other legal remedies, have a right of action on the bond for all damages not exceeding five thousand dollars (\$5,000) for standard and basic alternative systems or fifteen thousand dollars (\$15,000) for complex alternative systems or required operation, maintenance, or monitoring by certified service providers. The maximum liability of the surety and/or sureties on the bond, regardless of the number of claims filed against the bond, shall not exceed the sum of five thousand dollars (\$5,000) for standard and basic alternative systems or fifteen thousand dollars (\$15,000) for complex alternative systems or required operation, maintenance, or monitoring by certified service providers. (7-1-17)

**06. Service Provider Responsibilities.** All certified service providers who provide operation, maintenance, or monitoring for any complex alternative system are responsible for compliance with each of these

rules that are relevant to those services. Additionally, each certified service provider shall: (7-1-17)

**a.** Obtain documentation of the completed manufacturer-specific training of each manufactured and packaged treatment system for which the service provider intends to provide operation, maintenance, or monitoring. Proper documentation includes a certificate or letter of training completion provided by the manufacturer. If a system manufacturer is no longer in business, that manufacturer-specific training is not required. (7-1-17)

**b.** Maintain a comprehensive list of real property owners who contracted with the certified service provider. The list shall include the current real property owner name, service property address, real property owner contact address, and subsurface sewage disposal permit number. This list shall be provided to the Director as part of the annual operation, maintenance, and monitoring reports for individual real property owners; and (7-1-17)

**c.** Submit all operation, maintenance, and monitoring records in the form of an annual report for each individual real property owner with whom the service provider contracts to fulfill the real property owner's operation, maintenance, or monitoring responsibilities required through the real property owner's subsurface sewage disposal installation permit as allowed in Subsection 005.14. The annual reports shall be provided to the Director by the timeframe specified in the Technical Guidance Manual for the specific complex alternative system for which operation, maintenance, or monitoring is required. (7-1-17)

**07. Exemption.** An installer's permit shall not be required for: (10-1-90)

**a.** Any person, corporation, or firm constructing a central or municipal subsurface sewage disposal system if that person, corporation, or firm is a licensed public works contractor as provided in Title 54, Chapter 19, Idaho Code, is experienced in the type of system to be installed and is under the direction of a professional engineer licensed in the state of Idaho; or (5-7-93)

**b.** Owners installing their own standard or basic alternative systems. (7-1-17)

**08. Application Fee.** All applications shall be accompanied by payment of the fee specified in IDAPA 58.01.14, Section 120, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services". (5-7-93)

**09. Grounds for Revocation.** Failure to comply with these rules shall be grounds for revocation of the permit or the certification, or both. (7-1-17)

**10. Transfer from Non-Profit Operation and Maintenance Entity to Certified Service Provider.** (7-1-17)

**a.** Real property owners who want to install extended treatment package systems must retain a permitted installer and certified service provider. An easement granting general access to a non-profit operation and maintenance entity is no longer required for extended treatment package system installation permits. (7-1-17)

**b.** Beginning July 1, 2017, real property owners who had extended treatment package systems installed are not required to be members of non-profit operation and maintenance entities. To meet the operation, maintenance, and monitoring requirements of their extended treatment package systems, real property owners shall retain a certified service provider for their existing extended treatment package systems. (7-1-17)

**007. SEPTIC TANKS DESIGN AND CONSTRUCTION STANDARDS.**

**01. Materials.** New septic tanks will be constructed of concrete, or other materials approved by the Director. Steel tanks are unacceptable. (10-1-90)

**02. Construction Requirements.** All septic tanks will be water tight, constructed of sound, durable materials and not subject to excessive corrosion, decay, frost damage or cracking. (10-1-90)

**03. Concrete Septic Tanks.** New concrete septic tanks will at a minimum meet the following requirements: (10-1-90)

- a. The walls and floor must be at least two and one-half (2 1/2) inches thick if adequately reinforced and at least six (6) inches thick if not reinforced. (10-1-90)
- b. Concrete lids or covers must be at least three (3) inches thick and adequately reinforced. (10-1-90)
- c. The floor and at least a six (6) inch vertical portion of the walls of a poured tank must be poured at the same time (monolithic pour). (10-1-90)
- d. Wall sections poured separately must have interlocking joints on joining edge. (10-1-90)
- e. All concrete outlet baffles must be finished with an asphalt or other protective coating. (10-1-90)
- 04. Horizontal Dimension Limit.** No interior horizontal dimension of a septic tank or compartment may be less than two (2) feet. (10-1-90)
- 05. Liquid Depth.** The liquid depth shall be at least two and one-half (2 1/2) feet but not greater than five (5) feet. (10-1-90)
- 06. Manufactured Tank Markings.** Septic tanks manufactured in accordance with a specified design approved by the Director, will be legibly and indelibly marked with the manufacturer's name or trademark, total liquid capacity and shall indicate the tank's inlet and outlet. (10-1-90)
- 07. Minimum Tank Capacities.** (7-1-93)
  - a. Tanks serving one (1) or two (2) single dwelling units:

MINIMUM CAPACITY PER DWELLING UNIT	
Number of Bedrooms	Minimum Liquid Capacity (Gallons)
1 or 2	900
3 or 4	1,000

For each bedroom over four (4) add two hundred fifty (250) gallons. (10-1-90)

- b. Tanks serving all other flows. Septic tank capacity shall be equal to two (2) times the average daily flow as determined from Subsection 007.08. The minimum tank capacity shall be seven hundred and fifty (750) gallons. (12-31-91)

**08. Wastewater Flows from Various Establishments in Gallons per Day.**

ESTABLISHMENTS	
Single Family Dwelling and Mobile Homes, 3 bedroom. Add/subtract 50 gallons/bedroom	250/Unit
MULTIPLE RESIDENTIAL	
Hotel: With Private Baths Without Private Baths	60/Bedspace 40/Bedspace
Motel: With Kitchenette	40/Bedspace 60/Bedspace

<b>ESTABLISHMENTS</b>	
Boarding House: Add for each nonresident	150/Bedspace 25
Rooming House/Bunk House Staff Resident Nonresident	40/Resident 40/Staff 15/Staff
Apartments	250/Unit
<b>INSTITUTIONAL</b>	
Assembly Hall/Meeting House	2/Seat
Church: With Kitchen	3/Seat 7/Seat
Hospital: Kitchen only Laundry only	250/Bedspace 25/Bedspace 40/Bedspace
Nursing Home/Rest Home	125/Bedspace
Day School: Without Showers With Showers With Cafeteria, add Staff-Resident Nonresident	20/Student 25/Student 3/Student 40/Staff 20/Staff
<b>FOOD SERVICE</b>	
Conventional Service: Toilet & Kitchen Wastes Kitchen Wastes	13/Meal 3.3/Meal
Take Out or Single Service	2/Meal
Dining Hall: Toilet & Kitchen Wastes Kitchen Wastes	8/Meal 3.3/Meal
Drinking Establishment	2/Person
Food Service Employee	15/Employee
<b>COMMERCIAL AND INDUSTRIAL</b>	
Bowling Alley	125/Lane
Laundry - Self Service	50/Wash
Public Transportation Terminal	5/Fare
Service Station	10/Vehicle
Car Wash: 1st Bay Additional Bays	50/Vehicle 1000 500 each
Shopping Center (No food/laundry)	1/Pkg.Sp.

<b>ESTABLISHMENTS</b>	
Theaters (including Concession Stand): Auditorium Drive-in	5/Seat 10/Space
Offices	20/Employee
Factories: No Showers With Showers Add for Cafeteria	25/Employee 35/Employee 5/Employee
Stores	2/Employee
<b>SEASONAL AND RECREATIONAL</b>	
Fairground (Peak Daily Attend)	1/Person
Stadium	2/Seat
Swimming Pool: Toilet & Shower Wastes	10/Person
Parks & Camps (Day Use): Toilet & Shower Wastes	15/Person
Roadside Rest Area: Toilet & Shower Wastes Toilet Waste	10/Person 5/Person
Overnight Accommodation: Central Toilet Central Toilet & Shower	25/Person 35/Person
Designated Camp Area: Toilet & Shower Wastes Toilet Wastes	90/Space 65/Space
Seasonal Camp	50/Space
Luxury Cabin	75/Person
Travel Trailer Park with Sewer & Water Hook-up	125/Space
Construction Camp	50/Person
Resort Camps	50/Person
Luxury Camps	100/Person
Country Clubs Resident Member Add for Nonresident Member	100/Member 25/Person
Public Restrooms: Toilet Wastes Toilet & Shower Wastes	5/Person 15/Person

(10-1-90)

**09. Total Volume.** The total volume of a septic tank will at a minimum be one hundred fifteen percent (115%) of its liquid capacity. (10-1-90)

- 10. Inlets.** (7-1-93)
- a.** The inlet into the tank will be at least four (4) inches in diameter and enter the tank three (3) inches above the liquid level. (10-1-90)
- b.** The inlet of the septic tank and each compartment will be submerged by means of a vented tee or baffle. (10-1-90)
- c.** Vented tees or baffles will extend above the liquid level seven (7) inches or more but not closer than one (1) inch to the top of the tank. (10-1-90)
- d.** Tees should not extend horizontally into the tank beyond two (2) times the diameter of the inlet. (10-1-90)
- 11. Outlets.** (7-1-93)
- a.** The outlet of the tank will be at least four (4) inches in diameter. (10-1-90)
- b.** The outlet of the septic tank and each compartment will be submerged by means of a vented tee or baffle. (10-1-90)
- c.** Vented tees and baffles will extend above the liquid level seven (7) inches or more above the liquid level but no closer than one (1) inch to the inside top of the tank. (10-1-90)
- d.** Tees and baffles will extend below the liquid level to a depth where forty percent (40%) of the tank's liquid volume is above the bottom of the tee or baffle. For vertical walled rectangular tanks, this point is at forty percent (40%) of the liquid depth. In horizontal cylindrical tanks this point is about thirty-five percent (35%) of the liquid depth. (10-1-90)
- e.** Tees and baffles should not extend horizontally into the tank beyond two (2) times the diameter of the outlet. (10-1-90)
- 12. Scum Storage.** A septic tank will provide an air space above the liquid level which will be equal to or greater than fifteen percent (15%) of the tank's liquid capacity. For horizontal cylindrical tanks, this condition is met when the bottom of the outlet port is located at nineteen percent (19%) of the tank's diameter when measured from the inside top of the tank. (10-1-90)
- 13. Manholes.** Access to each septic tank or compartment shall be provided by a manhole twenty (20) inches in minimum dimension or a removable cover of equivalent size. Each manhole cover will be provided with a corrosion resistant strap or handle to facilitate removal. (10-1-90)
- 14. Inspection Ports.** An inspection port measuring at least eight (8) inches in its minimum dimension will be placed above each inlet and outlet. Manholes may be substituted for inspection ports. (10-1-90)
- 15. Split Flows.** The wastewater from a single building sewer or sewer line may not be divided and discharged into more than one (1) septic tank or compartment. (10-1-90)
- 16. Multiple Tank or Compartment Capacity.** Multiple septic tanks or compartmented septic tanks connected in series may be used so long as the sum of their liquid capacities is at least equal to the minimum tank capacity computed in Subsection 007.07 and the initial tank or compartment has a liquid capacity of more than one-half (1/2) but no more than two-thirds (2/3) of the total liquid capacity of the septic tank facility. (12-31-91)
- 17. Minimum Separation Distances Between Septic Tanks and Features of Concern.**



Features of Concern	Minimum Distance to Septic Tank in Feet	
Well or Spring or Suction Line	Public Water	100
	Other	50
Water Distribution Line	Public Water	25
	Other	10
Permanent or Intermittent Surface Water		50
Temporary Surface Water		25
Downslope Cut or Scarp		25
Dwelling Foundation or Building		5
Property Line		5
Seasonal High Water Level (Vertically from Top of Tank)		2

(10-1-90)

**18. Installation of Manufactured Tanks.** If written installation instructions are provided by the manufacturer of a septic tank, those instructions relative to the stability and integrity of the tank are to be followed unless otherwise specified in the installation permit of these rules. (5-7-93)

**19. Manhole Extension.** If the top of the septic tank is to be located more than twenty-four (24) inches below the finished grade, manholes will be extended to within eighteen (18) inches of the finished grade. (10-1-90)

**20. Sectional Tanks.** Sectional tanks will be joined in a manner that will insure that the tank is watertight. (10-1-90)

**21. Inlet and Outlet Piping.** Unless otherwise specified in the installation permit, piping to and from a septic tank or dosing chamber, to points three (3) feet beyond the tank excavation shall be of a material approved by the Director. The following materials are required: (5-7-93)

**a.** ABS schedule forty (40) or material of equal or greater strength piping shall be used to span the excavations for the septic tank and dosing chamber. (5-7-93)

**b.** ASTM D-3034 plastic pipe may be used to span the septic tank and dosing chamber if the excavation is compacted with fill material. (5-7-93)

**i.** The fill material must be granular, clean and compacted to ninety percent (90%) standard proctor density. (5-7-93)

**ii.** Placement of ASTM D-3034 on undisturbed earth is suitable, but in no installation shall there be less than twelve (12) inches of cover over the pipe. (5-7-93)

**22. Effluent Pipe Separation Distances.** Effluent pipes shall not be installed closer than fifty (50) feet from a well. (5-7-93)

**23. Septic Tank Abandonment.** Responsibility of properly abandoning a septic tank shall remain with the property owner. Septic tanks shall be abandoned in accordance with the following: (5-7-93)

**a.** Disconnection of the inlet and outlet piping; (5-7-93)

**b.** Pumping of the scum and septage with approved disposal; (5-7-93)

- c. Filling the septic tank with earthen materials; or (5-7-93)
- d. Physically destroying the septic tank or removing the septic tank from the ground. (5-7-93)

**008. STANDARD SUBSURFACE DISPOSAL FACILITY DESIGN AND CONSTRUCTION.**

**01. Standard Drainfield.** A drainfield consisting of an effluent sewer, one (1) or more aggregate filled trenches and a gravity flow wastewater distribution system. These standards will be the basis of acceptable design and configuration. Overall dimensions of a specific facility will depend upon site characteristics and the volume of wastewater. (10-1-90)

**02. Site Suitability.** The area in which a standard drainfield is to be constructed must meet the conditions stated in this subsection: (10-1-90)

- a. Slope. The natural slope of the site will not exceed twenty percent (20%). (10-1-90)
- b. Soil types. Suitable soil types must be present at depths corresponding with the sidewalls of the proposed drainfield and at depths which will be between the bottom of the proposed drainfield and any limiting soil layer (effective soil depth).

Design Soil Group	Soil Textural Classification	USDA Field Test Textural Classification	
<b>Unsuitable</b>	Gravel	10 Mesh	
	Coarse Sand	10-35 Mesh	Sand
<b>A</b>	Medium Sand	35-60 Mesh	Sand
	Fine Sand	65-140 Mesh	Sand
	Loamy Sand		Sand
<b>B</b>	Very Fine Sand	140-270 Mesh	Sand
	Sandy Loam		Sandy Loam
	Very Fine Loamy Sand		Sandy Loam
	Loam		
<b>C</b>	Silt Loam		Silt Loam
	Silt		Silt Loam
	Clay Loam		Clay Loam
	Sandy Clay Loam		Clay Loam
	Silty Clay Loam		Clay Loam
<b>Unsuitable</b>	Sandy Clay		Clay
	Silty Clay		Clay
	Clay		Clay
	Clay soils with high shrink/swell potential		Clay
	Organic mucks		
	Claypan, Duripan,		

Design Soil Group	Soil Textural Classification	USDA Field Test Textural Classification
	Hardpan	

(10-1-90)

c. Effective Soil Depths. Effective soil depths, in feet, below the bottom of the drainfield must be equal to or greater than those values listed in the following table.

EFFECTIVE SOIL DEPTHS TABLE			
Site Conditions	Design	Soil	Group
Limiting Layer	A	B	C
Impermeable Layer	4	4	4
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	6	4	3
Normal High Groundwater Level	6	4	3
Seasonal High Groundwater Level	1	1	1

(5-7-93)

d. Separation Distances. The drainfield must be located so that the separation distances given be maintained or exceeded according to the following Table:

Feature of Interest	Soil Types All	A	B	C
Public Water Supply	100			
All Other Domestic Water Supplies including Springs and Suction Lines	100			
Water Distribution Lines: Pressure Suction	25 100			
Permanent or Intermittent Surface Water other than Irrigation Canals & Ditches		300	200	100
Temporary Surface Water and Irrigation Canals and Ditches	50			
Downslope Cut or Scarp: Impermeable Layer Above Base Impermeable Layer Below Base		75 50	50 25	50 25
Building Foundations: Crawl Space or Slab Basement	10 20			
Property Line	5			

(5-7-93)

**03. Subsurface Disposal Facility Sizing.** The size of a subsurface disposal system will be determined by the following procedures: (10-1-90)

**a.** Daily flow estimates should be determined in the same manner as are flow estimates for septic tank sizing in Subsection 007.08. (5-7-93)

**b.** The total required absorption area is obtained by dividing the estimated daily flow by a value below.

Design Soil Group	A	B	C
Absorption Area - Gallons/Square Foot/Day	1.0	0.5	0.2

(10-1-90)

**c.** Required Area. The size of an acceptable site must be large enough to construct two (2) complete drainfields in which each are sized to receive one hundred percent (100%) of the design wastewater flow. (10-1-90)

**04. Standard Subsurface Disposal Facility Specifications.** The following table presents additional design specifications for new subsurface sewage disposal facilities.

SUBSURFACE DISPOSAL FACILITY TABLE	
Item	All Soil Groups
Length of Individual Distribution Laterals	100 Feet Maximum
Grade of Distribution Laterals and Trench Bottoms	Level
Width of Trenches	1 Foot Minimum 6 Feet Maximum
Depth of Trenches	2 Feet Minimum 4 Feet Maximum
Total Square Feet of Trench	1500 Sq.ft. Max.
Undisturbed Earth Between Trenches	6 Feet Minimum
Undisturbed Earth Between Septic Tank and Trenches	6 Feet Minimum
Depth of Aggregate:	
Total	12 In. Minimum
Over Distribution Laterals	2 In. Minimum
Under Distribution Laterals	6 In. Minimum
Depth of Soil Over Top of Aggregate	12 In. Minimum

(10-1-90)

**05. Wastewater Distribution.** Systems shall be installed to maintain equal or serial effluent distribution. (10-1-90)

**06. Excavation.** Trenches will not be excavated during the period of high soil moisture content when that moisture promotes smearing and compaction of the soil. (10-1-90)

**07. Soil Barrier.** The aggregate will be covered throughout with untreated building paper, a synthetic filter fabric (geotextile), a three (3) inch layer of straw or other acceptable permeable material. (10-1-90)

**08. Aggregate.** The trench aggregate shall be crushed rock, gravel, or other acceptable, durable and inert material which is, free of fines, and has an effective diameter from one-half (1/2) to two and one-half (2 1/2) inches. (10-1-90)

**09. Impermeable Surface Barrier.** No treatment area trench or replacement area shall be covered by an impermeable surface barrier, such as tar paper, asphalt or tarmac or be used for parking or driving on or in any way compacted and shall be adequately protected from such activities. (5-7-93)

**10. Standard Absorption Bed.** Absorption bed disposal facilities may be considered when a site is suitable for a standard subsurface disposal facility except that it is not large enough. (10-1-90)

**a. General Requirements.** Except as specified in this section, rules and regulations applicable to a standard subsurface disposal system are applicable to an absorption bed facility. (10-1-90)

**b. Slope Limitation.** Sites with slopes in excess of eight percent (8%) are not suitable for absorption bed facilities. (10-1-90)

**c. Vehicular Traffic.** Rubber tired vehicles must not be driven on the bottom surface of any bed excavation. (10-1-90)

**d. Distribution Lateral Spacing.** Distribution laterals within a bed must be spaced on not greater than six (6) feet centers nor may any sidewall be more than three (3) feet from a distribution lateral. (10-1-90)

**11. Seepage Pit.** Seepage pit disposal facilities may be used on a case by case basis within the boundaries of District Health Department Seven when an applicant can demonstrate to the district director's satisfaction that the soils and depth to ground water are sufficient to prevent ground water contamination. The district director shall document all such cases. (4-2-91)L

**a. General Requirements.** Except as specified in Subsection 008.11.b., rules and regulations applicable to a standard subsurface disposal system are applicable to a seepage pit. (12-31-91)

**b. Other conditions for approval, sizing and construction** will be as provided for in the seepage pit section of the Technical Guidance Manual for Individual and Subsurface Sewage Disposal, except that the site size restriction in condition two (2) of the Conditions for Approval will not apply. (10-1-90)

**12. Failing Subsurface Sewage Disposal System.** If the Director determines that the public's health is at risk from a failed septic system and that the replacement of a failing subsurface sewage disposal system cannot meet the current rules and regulations, then the replacement system must meet the intent of the rules and regulations by utilizing a standard subsurface sewage disposal design or alternative system design as specified by the Director. (5-7-93)

**009. OTHER COMPONENTS.**

**01. Design Approval Required.** Commercially manufactured blackwaste and wastewater treatment and storage components may not be used in the construction of a system unless their design is approved by the Director. (10-1-90)

**02. Plan and Specification Submittal.** Plans and specifications for all commercially manufactured individual and subsurface treatment and storage components will be submitted to the Director for approval. Plans and specifications will show or include as requested by the Director, detailed construction drawings, capacities, structural calculations, list of materials, evidence of stability and durability, manufacturers installation, operation and maintenance instructions, and other relevant information. (10-1-90)

**03. Effect of Design Approval.** The Director may condition a design approval by specifying circumstances under which the component must be installed, used, operated, maintained, or monitored. (7-1-17)

**a.** The Director shall specify the complex alternative systems that must undergo professionally managed operation, maintenance, service, or effluent testing. (7-1-17)

**b.** Manufacturers shall provide training to a reasonable number of service providers to perform required operation, maintenance, or monitoring as specified by the Director. (7-1-17)

**c.** Manufacturers may enter into agreements with certified service providers trained in their technology but shall not limit the service providers from being trained in the technology of other manufacturers. (7-1-17)

**04. Notice of Design Disapproval.** If the Director is satisfied that the component described in the submittal may not be in compliance with or may not consistently function in compliance with these rules, or that the manufacturer of the proposed system failed to comply with Subsection 009.03, the Director will disapprove the design as submitted. The manufacturer or distributor submitting the design for approval will be notified in writing of the disapproval and the reason for that action. (7-1-17)

**010. VARIANCES.**

**01. Technical Allowance.** The Director may make a minor technical allowance to the dimensional or construction requirements of these rules for a standard system if: (5-7-93)

**a.** The allowance will not affect adjacent property owners or the public at large; (10-1-90)

**b.** The allowance will not violate the conditions of Subsection 004.01; and (12-31-91)

**c.** The allowance will not be in conflict with any other rule, regulation, standard, or ordinance. (10-1-90)

**d.** The allowance to a dimensional requirement is not more than ten percent (10%) of the requirements of these rules unless otherwise provided for in the Technical Guidance Manual. (5-7-93)

**02. Petition for Variance.** If a petition of variance to these rules is desired, a request for a variance may be filed with the Director. The petition shall contain the following: (10-1-90)

**a.** A concise statement of the facts upon which the variance is requested including a description of the intended use of the property, the estimates of the quantity of blackwaste or wastewater to be discharged, and a description of the existing site conditions; (10-1-90)

**b.** A concise statement of why the petitioner believes that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship, and of the injury that the grant of the variance would impose on the public; and (10-1-90)

**c.** A clear statement of the precise extent of the relief sought. (10-1-90)

**03. Public Notice.** At the time of filing a petition evidence shall also be submitted that: (10-1-90)

**a.** A notice has appeared in the local newspaper advising the public of the request for variance; (10-1-90)

**b.** All property owners within three hundred (300) feet of the affected site have been notified; and (10-1-90)

**c.** Such notices to the public have been made fifteen (15) days prior to the filing of the petition. (10-1-90)

**04. Objections to Petition.** Any person may file with the Department, within twenty-one (21) days after the filing of the petition, a written objection to the grant of the variance. A copy of such objection shall be

provided by the Department to the petitioner. (10-1-90)

**05. Investigation and Decision.** After investigating the variance petition and considering the views of persons who might be adversely affected by the grant of the variance, the Director shall, within sixty (60) days after the filing of the petition, make a decision as to the disposition of the petition. The decision, a copy of which shall be served on the petitioner, shall include: (10-1-90)

**a.** A description of the efforts made by the Director to investigate the facts as alleged and to ascertain the views of persons who might be affected, and a summary of the views so ascertained; (10-1-90)

**b.** A statement of the degree to which, if at all, the Director disagrees with the facts as alleged in the petition; (10-1-90)

**c.** Allegations of any other facts believed relevant to the disposition of the petition; and (10-1-90)

**d.** The Director's decision. (10-1-90)

**06. Limitations on Decision.** No technical allowance or variance shall be granted unless: (10-1-90)

**a.** Adequate proof is shown by the petitioner that compliance would impose an arbitrary or unreasonable hardship; (10-1-90)

**b.** The technical allowance or variance rendered is consistent with the recommendations of the Technical Guidance Committee or the Technical Guidance Manual in use at the time of the petition; and (10-1-90)

**c.** The Director has determined that the approval of the technical allowance or variance will not have an adverse impact on the public health or the environment. (10-1-90)

## **011. INSPECTIONS.**

**01. One or More Inspections Required.** Such inspection as are necessary to determine compliance with any requirement or provision of these rules shall be required by the Director. (5-7-93)

**02. Duty to Uncover.** The permittee shall, at the request of the Director, uncover or make available for inspection any portion or component of an individual or subsurface sewage disposal system which was covered or concealed in violation of these rules. (5-7-93)

**03. Advance Notice by Permittee.** If an inspection requires some type of preparation, such as test hole excavation or partial construction of the system, the applicant or permittee will notify the Director at least forty-eight (48) hours in advance, excluding weekends and holidays, before the time preparation will be completed. (10-1-90)

**04. Substantiating Receipts and Delivery Slips.** The permittee shall upon request by the Director provide copies of receipts, delivery slips or other similar documents to substantiate the origin, quality, or quantity of materials used in the construction of any individual or subsurface system. (10-1-90)

## **012. VIOLATIONS AND PENALTIES.**

**01. Failure to Comply.** All individual and subsurface sewage disposal systems shall be constructed and installed according to these rules. Failure by any person to comply with the permitting, licensing, approval, installation, or variance provisions of these rules shall be deemed a violation of these rules. (5-7-93)

**02. System Operation.** No person shall discharge pollutants into the underground water of the state of Idaho through an individual or subsurface sewage disposal system unless in accordance with the provisions of these rules. (5-7-93)

**03. Violation a Misdemeanor.** Pursuant to Section 39-117, Idaho Code, any person who willfully or negligently violates any of the provisions of these rules shall be guilty of a misdemeanor. (5-7-93)

**013. LARGE SOIL ABSORPTION SYSTEM DESIGN AND CONSTRUCTION.**

**01. Site Investigation.** A site investigation for a large soil absorption system by a soil scientist and/or hydrogeologist may be required by the Director for review and approval and shall be coordinated with the Director. Soil and site investigations shall conclude that the effluent will not adversely impact or harm the waters of the State. (5-7-93)

**02. Installation Permit Plans.** Installation permit application plans, as outlined in Subsection 005.04, for a large soil absorption system submitted for approval shall include provisions for inspections of the work during construction by the design engineer or his designee and/or by the Director. (5-7-93)

**03. Module Size.** The maximum size of any subsurface sewage disposal module shall be ten thousand (10,000) gallons per day. Developments with greater than ten thousand (10,000) gallons per day flow shall divide the system into absorption modules designed for ten thousand (10,000) gallons per day or less. (5-7-93)

**04. Standard Large Soil Absorption System Design Specifications.** (5-7-93)

**a.** All design elements and applications rates shall be arrived at by sound engineering practice and shall be provided by a professional engineer licensed by the state of Idaho and specializing in environmental or sanitary engineering. (5-7-93)

**b.** Within thirty (30) days of system installation completion the design engineer shall provide either as-built plans or a certificate that the system has been installed in substantial compliance with the installation permit application plans. (5-7-93)

**c.** Effective Soil Depths. Effective soil depths, in feet, below the bottom of the absorption module to the site conditions must be equal to or greater than the following table:

TABLE -- EFFECTIVE SOIL DEPTHS			
Site Conditions	Design	Soil	Group
<b>Limiting Layer</b>	<b>A</b>	<b>B</b>	<b>C</b>
Impermeable Layer	8	8	8
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	12	8	6
Normal High Groundwater Level	12	8	6
Seasonal High Groundwater Level	2	2	2

(5-7-93)

**d.** Separation Distances. The disposal area absorption module must be located so that the following separation distances given, in feet, are maintained or exceeded as outlined in the following table:

TABLE -- SEPARATION DISTANCES			
Feature of Interest	Design	Soil	Group
	<b>A</b>	<b>B</b>	<b>C</b>
<b>All Domestic Water Supplies</b>			



<b>TABLE -- SEPARATION DISTANCES</b>			
<b>Feature of Interest</b>	<b>Design</b>	<b>Soil</b>	<b>Group</b>
	<b>A</b>	<b>B</b>	<b>C</b>
Sewage Volume - 2,500-5,000 GPD	250	200	150
Sewage Volume - 5,000-10,000 GPD	300	250	200
<b>Property Lines</b>			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
<b>Building Foundations - Basements</b>			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
<b>Downslope Cut or Scarp</b>			
Impermeable Layer - Below Base	100	50	50
Separation Distance - Between Modules	12	12	12

(5-7-93)

**e.** No large soil absorption system shall be installed above a downslope scarp or cut unless it can be demonstrated that the installation will not result in effluent surfacing at the cut or scarp. (5-7-93)

**f.** A minimum of two (2) disposal systems will be installed, each sized to accept the daily design flow, and a replacement area equal to the size of one (1) disposal system will be reserved. (5-7-93)

**g.** The vertical and horizontal hydraulic limits of the receiving soils shall be established and flows shall not exceed such limits so as to avoid hydraulically overloading any absorption module and replacement area. (5-7-93)

**h.** The distribution system must be pressurized with a duplex dosing system. (5-7-93)

**i.** A geotextile filter fabric shall cover the aggregate. (5-7-93)

**j.** An in-line effluent filter between an extended treatment system or lagoon system and the large soil absorption area shall be installed. (5-7-93)

**k.** Observation pipes shall be installed to the bottom of the drainrock throughout the drainfield. (5-7-93)

**l.** Pneumatic tired machinery travel over the excavated infiltrative surface is prohibited. (5-7-93)

**m.** The drainfield disposal area shall be constructed to allow for surface drainage and to prevent ponding of surface water. Before the system is put into operation the absorption module disposal area shall be seeded with typical lawn grasses and/or other appropriate shallow rooted vegetation. (5-7-93)

**05. Large Septic Tanks.** Large Septic Tanks shall be constructed according to Section 007, except as outlined in this Subsection: (5-7-93)

**a.** Length to width ratios shall be maintained at least at a three to one (3:1) ratio. (5-7-93)

- b. Tank inlet shall allow for even distribution of the influent across the width of the tank. (5-7-93)
- c. The width to liquid depth ratio shall be between one to one (1:1) and two and one-quarter to one (2.25:1). (5-7-93)

**06. Monitoring and Reporting.** Before an installation permit is issued, a monitoring and reporting plan shall be approved by the Director and shall contain the following minimum criteria: (5-7-93)

- a. Monthly recording and inspection for ponding in all observation pipes. (5-7-93)
- b. Monthly recording of influent flows based on lapse time meter and/or event meter of the dosing system. (5-7-93)
- c. Monthly recording of groundwater elevation measurements at all monitoring wells if high seasonal groundwater is within fifteen (15) feet of the ground surface. (5-7-93)
- d. Semi-annual groundwater monitoring at all monitoring wells. (5-7-93)
- e. Monitoring shall conform to the requirements of all federal, state, and local rules and regulations. (5-7-93)
- f. An annual "Large Soil Absorption System Report" shall be filed with the Director no later than January 31 of each year for the last twelve (12) month period and shall include section on operation, maintenance and monthly and annual monitoring data. (5-7-93)

**07. Operation and Maintenance.** Before an installation permit is issued, an operation and maintenance plan shall be approved by the Director and shall contain the following minimum criteria: (5-7-93)

- a. Annual or more frequent rotation of the disposal systems, and whenever ponding is noted. (5-7-93)
- b. A detailed operation and maintenance manual, fully describing and locating all elements of the system and outlining maintenance procedures needed for operation of the system and who will be responsible for system maintenance, shall be submitted to the Director prior to system use. (5-7-93)
- c. A maintenance entity shall be specified to provide continued operation and maintenance. Approval of the entity shall be made by the Director prior to issuance of an installation permit. (5-7-93)

**014. -- 995. (RESERVED)**

**996. ADMINISTRATIVE PROVISIONS.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

**997. CONFIDENTIALITY OF RECORDS.**

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 74, Chapter 1, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality." (3-15-02)

**998. -- 999.**

# **IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY**

## **58.01.09 – RULES REGULATING SWINE FACILITIES**

**DOCKET NO. 58-0109-1901**

### **NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY FEE RULE**

**EFFECTIVE DATE AND HISTORY NOTES:** The effective date of the temporary rule is June 30, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that the Idaho Board of Environmental Quality has adopted a temporary rule. The action is authorized pursuant to Idaho §§ 39-104A, 39-105, and 39-107.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the rulemaking:

This rulemaking adopts and re-publishes the following existing and previously approved and codified fee rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.09, Rules Regulating Swine Facilities

As soon as reasonably possible, DEQ will commence promulgation of a proposed rule in accordance with the rulemaking requirements of Chapter 52, Title 67, Idaho Code.

More information regarding this rule docket is available at [www.deq.idaho.gov/58-0109-1901](http://www.deq.idaho.gov/58-0109-1901).

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule 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. 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 DEQ is able to continue to offer services such as permit issuance. Listed below is the fee category and statutory authority for imposition of the fee.

Idaho Code § 39-119, permit application fee

**FEE SUMMARY:** The preceding section and the attached rules provide a specific description of the fee or charge imposed by this rulemaking. This rulemaking does not impose a fee or charge beyond what was previously approved and codified in the prior rules. A description of each fee category is provided in the preceding section.

**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.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rules, contact the undersigned.

Dated this 3rd day of July, 2019.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton/Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 58-0109-1901**

**IDAPA 58**  
**TITLE 01**  
**CHAPTER 09**

**58.01.09 – RULES REGULATING SWINE FACILITIES**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has given the Idaho Board of Environmental Quality the authority to promulgate Rules Regulating Swine Facilities pursuant to Sections 39-104A, 39-105, and 39-107, Idaho Code. (3-29-12)

**001. TITLE AND SCOPE.**

**01. Title.** These rules are titled IDAPA 58.01.09, “Rules Regulating Swine Facilities.” (3-29-12)

**02. Scope.** These rules establish the procedures and requirements for the issuance of a permit to construct, operate, close or expand swine facilities of a defined capacity. The intent of these rules is to ensure animal waste from swine facilities are properly controlled so as not to adversely affect public health or the environment. (3-29-12)

**002. WRITTEN INTERPRETATIONS.**

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (4-1-00)

**003. ADMINISTRATIVE APPEALS.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

**004. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Animal Unit.** An animal unit equals two and a half (2.5) swine, each weighing over twenty-five (25) kilograms (approximately fifty-five (55) pounds), or ten (10) weaned swine, each weighing under twenty-five (25) kilograms. Total animal units are calculated by adding the number of swine weighing over twenty-five (25) kilograms multiplied by four-tenths (.4) plus the number of weaned swine weighing under twenty-five (25) kilograms multiplied by one-tenth (.1). (3-29-12)

**02. Animal Waste.** Animal excrement, feed wastes, process wastewater or any other waste associated with the confinement of swine. (3-29-12)

**03. Animal Waste Management System.** Any structure or system that provides for the collection, treatment, disposal, distribution, or storage of animal waste. (4-1-00)

**04. Certified Planner.** A person who has completed the nutrient management certification in accordance with the Nutrient Management Standard. (4-1-00)

**05. Department.** The Idaho Department of Environmental Quality. (4-1-00)

**06. Director.** The Director of the Department of Environmental Quality or his designee. (4-1-00)

**07. Existing Facility.** A facility built and in operation one (1) year or more prior to the original effective date of these rules. (4-1-00)

**08. Expanding Facility.** A swine facility of less than two thousand (2,000) animal units that increases its one-time animal unit capacity to two thousand (2,000) or more animal units or an existing facility that increases its one-time animal unit capacity by ten percent (10%). (3-29-12)

**09. Facility or Swine Facility.** Any place, site or location or part thereof where swine are kept, handled, housed, or otherwise maintained and includes but is not limited to buildings, lots, pens, and animal waste management system, and which has the one-time animal unit capacity of two thousand (2000) or more animal units. (3-29-12)

**10. Land Application.** The spreading on or incorporation of animal waste into the soil mantle primarily for beneficial purposes. (4-1-00)

**11. Nutrient Management Plan.** A plan prepared in compliance with the Nutrient Management Standard or other equally protective standard approved by the Director for managing the amount, source, placement, form, and timing of the land application of nutrients and soil amendments for plant production and to minimize the potential for environmental degradation, particularly impairment of water quality. (4-1-00)

**12. Nutrient Management Standard.** The United States Department of Agriculture-Natural Resource Conservation Service Code 590 or the Idaho Agricultural Pollution Abatement Plan-Nutrient Management Standard Component Practice. (4-1-00)

**13. One-Time Animal Unit Capacity.** The maximum number of animal units that a facility is capable of housing at any given point in time. (4-1-00)

**14. Operate.** Confine, feed, propagate, house, or otherwise sustain swine. (3-29-12)

**15. Permit.** A written authorization by the Director to construct, operate, or expand a swine facility. (3-29-12)

**16. Permittee.** The person in whose name a permit is issued. (4-1-00)

**17. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity which is recognized by law as the subject of rights and duties. (4-1-00)

**18. Process Wastewater.** Any water used in the facility that comes into contact with any manure, litter, bedding, raw, intermediate, or final material or product used in or resulting from the production of swine and any products directly or indirectly used in the operation of a facility, such as spillage or overflow from animal watering systems; washing, cleaning, or flushing pens, barns, manure pits, or spray cooling of animals; and dust control and any precipitation which comes into contact with animals or animal waste. (3-29-12)

**19. Unauthorized Discharge.** A release of animal waste to the environment or waters of the state that is not authorized by the permit or the terms of an NPDES permit issued by the federal EPA. (4-1-00)

**20. Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-1-00)

**011. -- 099. (RESERVED)**

**100. APPLICABILITY.**

**01. Permit Required.** No person shall construct, operate, or expand a regulated swine facility without first obtaining a permit issued by the Director as provided in these rules. (3-29-12)

**02. Regulated Facilities.** New swine facilities having a one-time animal unit capacity of two thousand (2,000) or more animal units and expanding facilities are required to be permitted as provided in these rules. (3-29-12)

**03. Common Control.** Two (2) or more swine facilities under common control of the same person may be considered, for purposes of permitting, to be a single facility, even though separately their capacity is less than two thousand (2,000) animal units, if they use a common animal waste management system or land application site. (3-29-12)

**04. Existing Swine Facilities.** Those swine facilities built and in operation one (1) year or more prior to the original effective date of these rules are exempt from the requirements of these rules except as provided in Section 210. (3-29-12)

**101. -- 199. (RESERVED)**

**200. PERMIT APPLICATION.**

**01. Permit Application.** Every person requiring a permit under these rules shall submit a permit application to the Department. A permit application will be used to determine if the construction, operation, and closure of a swine facility will be in conformance with these and other applicable rules. (3-29-12)

**02. Preapplication Conference.** Prospective applicants are encouraged to meet with the Department to discuss application requirements and procedures. (4-1-00)

**03. Contents of Application.** Each application shall include, in the format set forth by the Director and when determined applicable by the Director, the following information in Subsections 200.04 through 200.08 in sufficient detail to allow the Director to make necessary application review decisions concerning design, environmental protection and public health. (4-1-00)

**04. Relevant Information.** (4-1-00)

**a.** Name, mailing address and phone number of the facility owner. (4-1-00)

**b.** Name, mailing address and phone number of the facility operator. (4-1-00)

**c.** Name and mailing address of the facility. (4-1-00)

**d.** Legal description of the facility location. (4-1-00)

**e.** The legal structure of the entity owning the facility, including the names and addresses of all directors, officers, registered agents and partners. (4-1-00)

**f.** The names and locations of all swine facilities owned and/or operated by the applicant within the last ten (10) years. (3-29-12)

**g.** The one-time animal unit capacity of the facility. (4-1-00)

**h.** The type of animals to be confined at the facility. (4-1-00)

**i.** Evidence that a valid water right exists to supply adequate water for the proposed facility or a copy of either an application for permit to appropriate water or an application to change the point of diversion, place, period and nature of use of an existing water right that has been filed with the Idaho Department of Water Resources which, if approved, will supply adequate water for the proposed operation. (4-1-00)

**j.** Proof of financial capability to perform remedial actions and to meet the conditions of an approved closure plan for a facility. The mechanism used to demonstrate financial capability must be legally valid, binding and

enforceable under applicable law and must insure that the funds necessary to meet the costs of remediation and closure will be available whenever they are needed in accordance with Section 205. The mechanisms include, but are not limited to, trust funds, surety bonds, letters of credit, insurance and corporate guarantees. (3-15-02)

k. The facility's biosecurity and sanitary standards. (4-1-00)

l. A statement of estimated annual income and operating expenses that demonstrate, to the satisfaction of the Department, financial capability to operate the facility. (3-15-02)

**05. Construction Plan.** Plans and specifications for the facility's animal waste management system that include the following information: (4-1-00)

a. Vicinity map(s) prepared on one (1) or more seven and one-half minute (7.5') USGS topographic quadrangle maps or a high quality reproduction(s) that includes the following: (4-1-00)

i. Layout of the facility, including buildings and animal waste management system; (4-1-00)

ii. The one hundred (100) year FEMA flood zones or other appropriate flood data for the facility site and land application sites owned or leased by the applicant; (4-1-00)

iii. The location of occupied dwellings, public and private gathering places, such as schools, churches and parks, and incorporated municipalities which are within a two (2) mile radius of the facility; and (4-1-00)

iv. Private and community domestic water wells, irrigation wells, irrigation conveyance and drainage structures, monitoring wells, wetlands, streams, springs, and reservoirs which are within a one (1) mile radius of the facility. (4-1-00)

b. Facility construction specifications including: (4-1-00)

i. A site plan showing: (4-1-00)

(1) Building locations; (4-1-00)

(2) Waste facilities; (4-1-00)

(3) All waste conveyance systems; and (4-1-00)

(4) All irrigation systems used for land application, including details of approved water supply protection devices. (4-1-00)

ii. Building plans showing: (4-1-00)

(1) All wastewater collection systems in housed units; (4-1-00)

(2) All freshwater supply systems, including details of approved water supply protection devices; (4-1-00)

and (3) Detailed drawings of wastewater collection and conveyance systems and containment construction; (4-1-00)

(4) Detailed construction and installation procedures. (4-1-00)

**06. Site Characterization.** A characterization of the facility and any land application site(s) owned or operated by the applicant, prepared by a registered professional geologist, a registered professional engineer or a qualified ground water hydrologist, that includes the following information: (4-1-00)

a. A description of monitoring methods, frequency, and reporting components related to either leak



- detection systems and/or ground water monitoring wells; (4-1-00)
- b.** The climatic, hydrogeologic, and soil characteristics; (4-1-00)
  - c.** The depth to water and a potentiometric map for the uppermost and regional aquifer; (4-1-00)
  - d.** The vertical and horizontal conductivity, gradient, and ground water flow direction and velocity; (4-1-00)
  - e.** Estimates of recharge to the uppermost aquifer; (4-1-00)
  - f.** Information which characterizes the relationship between the ground water and adjacent surface waters; and (4-1-00)
  - g.** A summary of local ground water quality data. (4-1-00)
- 07. Nutrient Management Plan.** A plan prepared by a Certified Planner demonstrating compliance with the Nutrient Management Standard for land application. (4-1-00)
- 08. Closure Plan.** A plan describing the procedures for final closure of a facility that ensures no adverse impacts to the environment and waters of the state and that includes: (4-1-00)
- a.** The estimated length of operation of the facility; and (4-1-00)
  - b.** A description of the procedures, methods, and schedule to be implemented at the facility for final disposal, handling, management and/or treatment of all animal waste. (4-1-00)
- 09. Other Information.** An applicant shall provide any other information relative to Subsections 200.04 through 200.08 deemed necessary by the Director to assess protection of human health and the environment (4-1-00)
- 10. Application Fee.** A fee shall be submitted with each permit application as follows: (4-1-00)
- a.** Three thousand dollars (\$3,000) for facilities that have a one-time animal unit capacity of less than five-thousand (5,000) animal units; (4-1-00)
  - b.** Five thousand dollars (\$5,000) for facilities that have a one-time animal unit capacity of five thousand to ten thousand (5,000-10,000) animal units; and (4-1-00)
  - c.** Ten thousand dollars (\$10,000) for facilities that have a one-time animal unit capacity over ten thousand (10,000) animal units. (4-1-00)
- 201. -- 204. (RESERVED)**
- 205. FINANCIAL ASSURANCE REQUIREMENTS.**
- 01. Written Estimate of Costs.** The owner of a swine facility shall submit, as part of the permit application, a detailed written estimate, in current dollars, of the cost of hiring a third party to: (3-29-12)
- a.** Remediate potential contamination caused by the operation of the facility or of any potential spill or breach, including, without limitation, remediation pursuant to the facility's Spill Contingency Plan; and (3-15-02)
  - b.** Close the facility in accordance with an approved closure plan. (3-15-02)
  - c.** The Department must approve the cost estimate as reasonable prior to the issuance of a permit. (3-15-02)

**02. Financial Assurance Mechanisms.** The owner shall submit as part of the permit application evidence of financial assurance to cover the approved remediation and closure cost estimates. However, if the Department has determined, prior to October 19, 2000, that a complete application has been submitted, the owner shall submit the remediation and closure cost estimates and financial assurance mechanism to the Department for approval prior to the issuance of a permit. The mechanism used to demonstrate financial assurance shall be submitted to the Department for approval and shall ensure that the funds necessary to meet the approved costs of remediation and closure will be available whenever they are needed. The financial assurance mechanisms allowed for swine facilities shall include any mechanism or a combination of mechanisms meeting the criteria set forth below or other mechanism approved by the Department. (3-29-12)

**a. Trust Fund.** (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by establishing a trust fund and submitting an originally signed duplicate of the trust agreement to the Department. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. (3-15-02)

ii. After the trust fund is established, whenever the current remediation and closure cost estimates change, the owner must compare the new estimates with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner, within sixty (60) days after the change in the cost estimate, must either deposit an amount equal into the fund so that its value after this deposit at least equals the amount of the current remediation or closure cost estimate, or obtain other financial assurance as specified in Subsection 205.02 to cover the difference. (3-15-02)

iii. If the value of the trust fund is greater than the total amount of the current remediation or closure cost estimate, the owner may submit a written request to the Department for release of the amount in excess of the current remediation or closure cost estimate. (3-15-02)

iv. If an owner substitutes other financial assurance as specified in Subsection 205.02 for all or part of the trust fund, he may submit a written request to the Department for release of the amount in excess of the current remediation or closure cost estimate covered by the trust fund. (3-15-02)

**b. Surety Bond.** (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining a payment or performance surety bond and submitting a certified copy of the bond to the Department. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury. (3-15-02)

ii. The penal sum of the bond must be in an amount at least equal to the current remediation and closure cost estimates. (3-15-02)

iii. Under the terms of the bond, the surety will become liable on the bond obligation when: (3-15-02)

(1) The owner fails to perform as guaranteed by the bond; or (3-15-02)

(2) The Department notifies the owner that he has failed to meet requirements of these rules. (3-15-02)

iv. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner and the Department one hundred twenty (120) days in advance of cancellation. Cancellation may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the Department, as evidenced by the return receipt. The surety shall remain liable on the bond for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. (3-15-02)

**c. Letter of Credit.** (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining an irrevocable standby letter of credit and submitting a certified copy of the letter to the Department. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency. (3-15-02)

ii. The letter of credit must be accompanied by a letter from the owner referring to the letter of credit by number, issuing institution, and date, and providing the following information: the type of facility, name and address of the facility, and the amount of funds assured for remediation and closure of the facility by the letter of credit. (3-15-02)

iii. The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least one hundred twenty (120) days before the current expiration date, the issuing institution notifies both the owner and the Department by certified mail of a decision not to extend the expiration date. Cancellation may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the Department, as evidenced by the return receipt. The issuing institution shall remain liable on the letter of credit for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. (3-15-02)

iv. The letter of credit must be issued in an amount at least equal to the current remediation and closure cost estimates. (3-15-02)

**d. Insurance.** (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining remediation and closure insurance and submitting a certificate of such insurance to the Department. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one (1) or more states. (3-15-02)

ii. The insurance policy must be issued for a face amount at least equal to the current remediation and closure cost estimates. The term “face amount” means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer’s future liability will be lowered by the amount of the payments. (3-15-02)

iii. Each insurance policy must contain a provision allowing assignment of the policy to a successor. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused. (3-15-02)

iv. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. The insurer may cancel the policy by sending notice by certified mail to the owner and the Department one hundred twenty (120) days in advance. Cancellation may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the Department, as evidenced by the return receipt. The insurer shall remain liable on the policy for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. (3-15-02)

**e. Corporate Guarantee.** (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining a written guarantee and submitting a certified copy of the guarantee and appropriate letter from the guarantor. The guarantor must be the direct or higher-tier parent corporation of the owner, a firm whose parent corporation is also the parent corporation of the owner, or a firm with a “substantial business relationship” with the owner. (3-15-02)

ii. If the guarantor’s parent company is also the parent corporation of the owner, a letter from the

guarantor's chief financial officer must describe the value received in consideration of the guarantee. (3-15-02)

iii. If the guarantor is a firm with a "substantial business relationship" with the owner, the letter must describe the "substantial business relationship" and the value received in consideration of the guarantee. (3-15-02)

iv. The terms of the guarantee shall provide that if the owner fails to perform remediation or closure of a facility covered by the guarantee, the guarantor will: (3-15-02)

(1) Perform, or pay a third party to perform, remediation and closure as required (performance guarantee); or (3-15-02)

(2) Establish a fully funded trust fund as specified in Subsection 205.02.a. in the name of the owner (payment guarantee). (3-15-02)

v. The guarantee shall remain in force for as long as the owner must comply with the applicable financial assurance requirements of Subsection 205.02 unless the guarantor sends notice of cancellation by certified mail to the owner and to the Department one hundred twenty (120) days in advance. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice by the Department, as evidenced by the return receipt. The guarantor shall remain liable on the guarantee for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. (3-15-02)

f. If a financial assurance mechanism is cancelled by the issuing entity, the owner shall obtain alternate financial assurance, within sixty (60) days of receipt of notice of cancellation by the Department, which shall be submitted to the Department for approval. The alternate financial assurance must become effective not later than the effective date of cancellation or termination of the existing financial assurance. An owner may only cancel a financial assurance mechanism after first obtaining an alternative mechanism approved by the Department. (3-15-02)

**03. Continuous Coverage.** The owner shall provide continuous coverage for remediation and closure until released from financial assurance requirements by the Department. (3-15-02)

**04. Adjustment of Financial Assurance Amounts.** The following provisions apply to the adjustment of the amount of financial assurance: (3-15-02)

a. The owner shall increase the remediation and closure cost estimates and the amount of financial assurance if changes to the closure plan or facility conditions or operations increase the cost estimates at any time during the active life of the facility. The cost estimates and financial assurance shall also be adjusted to reflect inflation. Increased cost estimates and financial assurance shall be submitted to the Department for approval. (3-15-02)

b. The owner may reduce the remediation and closure cost estimates and the amount of financial assurance if the cost estimates exceed the maximum cost of remediation or closure at any time during the active life of the facility. The owner shall first notify the Department and obtain its approval of the justification for the reduction of the remediation and closure cost estimates. (3-15-02)

**05. Release from Financial Assurance Requirements.** When remediation and closure conditions required by a permit are complete, financial assurance shall be released by the Department as follows: (3-15-02)

a. When the Department determines that initial closure activities have been completed, financial assurance, less identified retainages, shall be released. (3-15-02)

b. A sufficient amount of financial assurance shall be retained by the Department, up to five (5) years after closure, to ensure proper remediation and closure of a facility. (3-15-02)

c. Release of any amount of financial assurance shall not release the owner from any responsibility for meeting remediation or closure requirements. (3-15-02)

**06. Owner Liability.** Nothing in these rules shall relieve the owner of liability for remediation and closure costs. The use of all financial assurance shall not relieve the owner from responsibility and liability for remediation and closure costs. (3-15-02)

**206. -- 209. (RESERVED)**

**210. EXISTING FACILITIES.**

**01. Registration Requirement.** Existing facility owners shall register with the Department within three (3) months after the original effective date of these rules. Registration shall include the information in Subsection 200.04 except for Subsection 200.04.j. Nothing in Section 210 shall be construed to deny an existing facility the opportunity to apply for, and receive, a permit under these rules. (4-1-00)

**02. Plan Requirement.** Existing facilities shall submit a nutrient management plan and closure plan to the Director for approval within two (2) years of the original effective date of these rules in accordance with Subsections 200.07 and 200.08. An application fee shall not be required unless the facility is expanding. (4-1-00)

**03. Expanding Facility.** The owner of an existing facility shall not increase the one-time animal unit capacity of the facility by ten percent (10%) or more without first obtaining a permit for the expansion as required by these rules. The ten percent (10%) increase is measured cumulatively from the original effective date of these rules. (4-1-00)

**211. -- 249. (RESERVED)**

**250. REQUIREMENTS FOR WATER QUALITY PROTECTION.**

The following minimum design and performance standards are intended as a baseline for protection of public health and the waters of the state. These standards shall apply to all facilities and be reflected in the permit unless the Director approves, based on an applicant's site specific information, that compliance with a specific standard is not required to protect water quality and the public health. Other conditions, as determined by the Director to be necessary to protect water quality, may be included in a permit. (4-1-00)

**01. Animal Waste Management System Design Criteria.** A facility's animal waste management system shall be designed and constructed in accordance with the NRCS and the American Society of Agricultural Engineers standards, whichever is most stringent and shall: (4-1-00)

**a.** Contain the maximum expected operating water balance and the twenty-five (25) year twenty-four (24) hour rainfall event and the one (1) in five (5) year winter runoff. (4-1-00)

**b.** Provide capacity to store the peak volume of process wastewater that will be generated during a six (6) month period. (4-1-00)

**c.** Provide a one (1) foot freeboard in addition to the storage requirements, specified in Subsections 250.01.a. and 250.01.b. (4-1-00)

**d.** Impoundments, other than for emergency runoff, containing or designed to contain process wastewater shall be designed for efficient leak detection and shall not be located in the one-hundred (100) year floodplain. (4-1-00)

**e.** Seepage rates for impoundments shall be no greater than  $1 \times 10^{-7}$  cm/sec. (4-1-00)

**02. Water Quality Monitoring.** Ground water and/or leak detection monitoring shall be conducted for every facility with a liquid storage impoundment and shall be designed to give the earliest possible detection of an unauthorized discharge to ground water. (4-1-00)

**03. Discharges.** Facilities shall be constructed, operated and maintained to not cause unauthorized discharges. (4-1-00)

**04. Spill Contingency Plan.** Facilities shall prepare a discharge response strategy that describes procedures and methods to be implemented for the abatement and cleanup of any pollutant. (4-1-00)

**05. Stockpile Areas.** Animal waste stockpile areas, including compost areas, shall be constructed to ensure that all water and precipitation, which comes into contact with the stockpiles, does not enter waters of the state. (4-1-00)

**251. -- 299. (RESERVED)**

**300. APPLICATION PROCESSING PROCEDURE.**

**01. Application Completeness.** Within thirty (30) days of receipt of an application, the Director shall provide written notice to the applicant as to whether the application meets all the requirements of Section 200. The Department shall provide public notice of the receipt of a complete application. An application which does not, on its face, meet all the requirements of Section 200 of these rules shall be returned to the applicant by the Director with a written list of the deficiencies. The Director will not process an application until it is determined to be complete in accordance with these rules. (4-1-00)

**02. Notice of Environmental Suitability of Facility Location.** Within thirty (30) days of the Director's notice that the application is complete, the Director shall determine whether the facility is environmentally suitable for the selected location. In making this decision, the Director shall review the location of the facility relative to flood zones, dwellings, wells, surface and ground water and those other items the applicant must identify on the vicinity map. Written notice of the Director's determination will be sent to the applicant, with a copy sent to the appropriate county and city officials for the selected location, along with a Department analysis that includes the following: (4-1-00)

**a.** A brief description of the proposed facility, its animal waste management system and its nutrient management plan; (4-1-00)

**b.** A brief summary of the basis for the determination on environmental suitability including references to applicable requirements and supporting materials; (4-1-00)

**c.** A description of the schedule for issuing a permit; and (4-1-00)

**d.** The name and phone number of the Department staff to contact for additional information. (4-1-00)

**03. Draft Permit.** Within sixty (60) days of the Director's determination that a facility is environmentally suitable for its proposed location, the Director shall either issue a draft permit or a notice of denial of a permit to the applicant. The draft permit shall be in the same form as a final permit and shall specify conditions of construction, operation and closure. (4-1-00)

**04. Public Comments.** The Department shall provide notice to the public of its issuance of a draft permit. The public may provide written comments for a time period and in a manner specified in the Department's notice. The Department may, in its discretion, provide an opportunity for the public to provide oral comments. (4-1-00)

**05. Permit Denial.** The Director may deny a permit if: (4-1-00)

**a.** The owner of a facility is not in substantial compliance with a final agency order or any final order or judgement of a court secured by any state or federal agency relating to the operation of a swine facility; (3-29-12)

**b.** The application is inaccurate; (4-1-00)

**c.** The facility as proposed cannot meet the requirements set forth in these rules or cannot be constructed, operated and closed in a manner that protects human health and the environment; or (4-1-00)

**d.** The appropriate county or city does not approve the location of the facility. (4-1-00)

**06. Final Permit.** Within sixty (60) days of the issuance of a draft permit, the Director shall issue a final permit to the applicant, however, a permit shall not be issued by the Director until the applicant has received final approval from the appropriate county or city for the location of the facility and has received approval for a water right from the Department of Water Resources. The permit shall be effective for a fixed term of not more than five (5) years, and may be reissued upon receipt of an updated application and demonstration of compliance with the rules and permit requirements existing at the time of reissuance. (4-1-00)

**07. Additional Information.** At any time during the application process an applicant shall provide the Director with additional information the Director deems necessary to process a permit, within thirty (30) days of the Director's request. The time period within which the Director must act with regard to the permit shall be stayed until the information requested is provided. If an applicant fails to provide the information within this time period, unless a longer time period is allowed by the Director, the Director may cease the application process and require the applicant to submit a new application. (4-1-00)

**301. -- 399. (RESERVED)**

**400. PERMIT CONDITIONS.**

The following conditions shall apply to all permittees. (4-1-00)

**01. Compliance Required.** The permittee shall comply with all conditions of the permit. The permit shall not relieve the permittee of the responsibility to comply with all other applicable local, state, and federal laws. (4-1-00)

**02. Financial Capability.** Permittees shall have the financial capability to perform remedial actions and to meet the conditions of an approved closure plan for a facility. (3-15-02)

**03. Construction and Operation of Facility.** The permittee shall ensure that construction, operation and maintenance of the facility proceed according to the construction plans and specifications and the approved monitoring, nutrient management and closure plans, and comply with the following: (4-1-00)

**a.** Within thirty (30) days of completion of construction, submit as built plans. (4-1-00)

**b.** Apply appropriate management practices as approved by the Director. (4-1-00)

**c.** The facility or operations associated with the facility shall not create a public health hazard or nuisance conditions including odors. (4-1-00)

**d.** The facility shall not dispose of any material not approved for disposal under the permit into the animal waste management system including, but not limited to, human waste. (4-1-00)

**e.** The removal of animal waste from an impoundment or storage structure shall be performed in a manner to not damage the integrity of the liner. (4-1-00)

**f.** Dead animals shall be removed from the facility for rendering, cremation, burial, composting or other disposal in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." (3-15-02)

**g.** Nutrient management plans shall be amended if modifications to the facility operation, as outlined in the Nutrient Management Standard or other conditions, warrant the amendment. (4-1-00)

**h.** Soil tests shall be conducted on all land application sites owned or leased by the permittee every year to determine compliance with the nutrient management plan and Nutrient Management Standard. The Director may require more frequent soil tests if deemed necessary. (4-1-00)

**04. Provide Information.** The permittee shall furnish to the Director within a reasonable time, any

information including copies of records required by the permit or other applicable rules, which the Director may reasonably require to determine whether cause exists for modifying or revoking the permit or to determine compliance with the permit or other applicable rules. (4-1-00)

**05. Entry and Access.** The permittee shall allow the Director, consistent with Title 39, Chapter 1, Idaho Code, and in compliance with the biosecurity and sanitary standards of a facility, so long as the standards and requirements do not inhibit reasonable access, to: (4-1-00)

- a. Enter at reasonable times upon the premises of a permitted facility or where records are kept; (4-1-00)
- b. Have access to and copy at reasonable times any records that must be kept under conditions of the permit; (4-1-00)
- c. Inspect any facility or land application site; and (4-1-00)
- d. Sample or monitor at reasonable times, substances or parameters directly related to compliance with the permit or these rules. (4-1-00)

**06. Reporting.** The permittee shall report to the Director under the circumstances and in the manner specified in Section 400: (4-1-00)

- a. Orally, no later than twenty-four (24) hours from the time the permittee knows or should reasonably know of any noncompliance which may endanger the public health or the environment; and (4-1-00)
- b. In writing, within five (5) working days from the time a permittee knows or should reasonably know of any event which has resulted or which may result in noncompliance with these rules. The report shall contain: (4-1-00)
  - i. A description of the event and its cause or if the cause is not known, steps taken to investigate and determine the cause; (4-1-00)
  - ii. The period of the event including, to the extent possible, times and dates; (4-1-00)
  - iii. Measures taken to mitigate the event or eliminate the event and protect the public health; and (4-1-00)
  - iv. Steps taken to prevent recurrence of the event. (4-1-00)
- c. In writing, when the permittee knows or should reasonably know of material relevant facts not submitted or incorrect information submitted in a permit application or any report or notice to the Director. (4-1-00)

**07. Begin Construction.** If a permittee fails to begin construction or expansion of a facility within two (2) years of the effective date of a permit, the Director may void the permit and require a new application. (4-1-00)

**08. Permit Renewal.** If a permittee intends to continue operation of the permitted facility after expiration of an existing permit, the permittee shall apply for a new permit at least one hundred eighty (180) days prior to the expiration of any permit issued pursuant to these rules. (4-1-00)

**401. -- 449. (RESERVED)**

**450. SPECIFIC PERMIT CONDITIONS.**

**01. Basis for Specific Permit Conditions.** Conditions necessary for the protection of the environment and the public health may differ from facility to facility because of varying environmental conditions and animal waste compositions. The Director may establish, on a case-by-case basis, specific permit conditions. Specific conditions shall be established in consideration of characteristics specific to a facility and inherent hazards of those



characteristics. Such characteristics include, but are not limited to, the following: (4-1-00)

- a. Chemical, biological, physical and volumetric characteristics of the process wastewater; (4-1-00)
- b. Geological and climatic nature of the facility site; (4-1-00)
- c. Size of the site and its proximity to population centers and to ground and surface water; (4-1-00)
- d. Legal considerations relative to land use and water rights; (4-1-00)
- e. Techniques used in process wastewater distribution and the disposition of that vegetation exposed to process wastewaters; and (4-1-00)
- f. The need for monitoring and record keeping to determine if the facility is being operated in conformance with its design and if its design is adequate to protect the environment and the public health. (4-1-00)

**02. Limitations to Operation.** Conditions of the permit may specify or limit: (4-1-00)

- a. Process wastewater composition; (4-1-00)
- b. Method, manner and frequency of process wastewater treatment; (4-1-00)
- c. Physical, chemical and biological characteristics of a facility; (4-1-00)
- d. An odor management plan; and (4-1-00)
- e. Any other condition the Director finds necessary to protect public health or the environment. (4-1-00)

**03. Compliance Schedules.** The Director may establish a compliance schedule for facilities as part of the permit conditions including: (4-1-00)

- a. Specific steps or actions to be taken by the permittee to achieve compliance with applicable requirements or permit conditions; and (4-1-00)
- b. Dates by which those steps or actions are to be taken. (4-1-00)

**04. Monitoring Requirements.** Any facility may be subject to monitoring requirements including, but not limited to, the following: (4-1-00)

- a. The type, installation, use and maintenance of monitoring equipment; (4-1-00)
- b. Monitoring or sampling methodology, frequency and locations; (4-1-00)
- c. Monitored substances or parameters; (4-1-00)
- d. Testing and analytical procedures; and (4-1-00)
- e. Reporting requirements including both frequency and form. (4-1-00)

**451. -- 499. (RESERVED)**

**500. PERMIT MODIFICATION.**

**01. Minor Modifications.** Minor modifications are those which do not have a potential affect to the environment or the public health. Such modifications shall be made by the Director. Minor modifications are generally limited to: (4-1-00)

- a. The correction of typographical errors; (4-1-00)
- b. Transfer of ownership or operational control in accordance with Section 550; or (4-1-00)
- c. Certain minor changes in monitoring or operational conditions. (4-1-00)

**02. Major Modifications.** All modifications not considered minor shall be considered major modifications. The procedure for making major modifications shall be the same as that used for a new permit under these rules. (4-1-00)

**501. -- 549. (RESERVED)**

**550. TRANSFER OF PERMITS.**

**01. Transfer Application.** A new owner or operator of a facility shall submit a transfer application to the Director that includes at least the following: (4-1-00)

- a. The relevant information required by Subsection 200.04; and (4-1-00)
- b. Any change of conditions at the facility resulting from the transfer of ownership or operation. (4-1-00)

c. The Director shall review the transfer application and within sixty (60) days of its receipt either approve or deny the transfer. (4-1-00)

**02. Transfer Approval.** An approved permit transfer shall be a minor modification in accordance with Subsection 500.01 as long as there are no major changes of conditions at the facility. Major changes of conditions at a facility will be subject to the provisions of Subsection 500.02. (4-1-00)

**03. Transfer Denial.** A notification of a permit denial shall set forth the reasons for the denial, steps necessary to meet the requirements for a permit transfer and the opportunity for the applicant to request a hearing. (4-1-00)

**04. Permit Obligations.** The new permittee assumes all rights and responsibilities of the transferred permit. (4-1-00)

**551. -- 599. (RESERVED)**

**600. VIOLATIONS.**

**01. Failure to Comply.** Failure by a permittee to comply with the provisions of these rules or with any permit condition shall be deemed a violation of these rules. (4-1-00)

**02. Falsification of Statements and Records.** It shall be a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit. (4-1-00)

**03. Discharges.** Any unauthorized discharge from a facility shall be a violation of these rules. (4-1-00)

**04. Penalties.** Any person violating any provision of these rules or any permit or order issued thereunder shall be liable for a civil or criminal penalty in accordance with Title 39, Chapter 1, Idaho Code. (4-1-00)

**05. Permit Revocation.** The Director may revoke a permit for: (4-1-00)

- a. A material violation of any condition of a permit; or (4-1-00)

b. If the permit was obtained by misrepresentation or failure to disclose all relevant facts. (4-1-00)

**06. Revocation Hearing.** Prior to revoking a permit, the Director shall issue a notice of intent which shall become final unless the permittee timely requests an administrative hearing in writing. Such hearing shall be conducted in accordance with Section 003 of these rules. (4-1-00)

**601. -- 998. (RESERVED)**

**999. CONFIDENTIALITY OF RECORDS.**

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (4-1-00)