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States' Nutrient Management Plans Statutes & Regulations:

Idaho

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States' Nutrient Management Plans Statutes & Regulations: Idaho

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The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the Idaho Legislative Services Office.

ID Code § 22-110. Authority and Duties of Director Concerning Agricultural Waste.

(1) In addition to other powers and duties, the director of the state department of agriculture shall have authority to regulate agricultural solid waste, agricultural composting and other similar agricultural activities to safeguard and protect animals, man and the environment. The director

may promulgate rules in compliance with chapter 52, title 67, Idaho Code, that may be necessary for the efficient enforcement of the provisions of this section. The director may collaborate with any state agency, federal agency or other governmental entity in the development of rules promulgated pursuant to this section.

(2) The director may, by rule, establish a schedule of fees for services performed by the department in the administration of this section and rules promulgated pursuant thereto. Receipts of these fees shall be deposited in the agricultural inspection fund pursuant to section 22-104, Idaho Code, and shall be used, subject to annual appropriation of the legislature, to pay the cost of administering the provisions of this section and rules promulgated pursuant thereto.

(3) Any person violating the provisions of this section or rules promulgated pursuant thereto may be assessed a civil penalty by the department or its duly authorized agent of not more than three thousand dollars ($3,000) for each offense and shall be liable for reasonable attorney's fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. No civil penalty may be assessed unless the person charged has been given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code. If the department is unable to collect such civil penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. Any person against whom the department has assessed a civil penalty under this section may, within twenty-eight (28) days of the final agency action making the assessment, seek judicial review of the assessment in accordance with the provisions of chapter 52, title 67, Idaho Code. Moneys collected for violations of this section or rules promulgated thereunder shall be deposited in the state treasury and credited to the agricultural inspection fund. When the director identifies items of noncompliance with the rules promulgated pursuant to this section, appropriate corrective actions will be identified. The director may develop a formal compliance schedule as appropriate to correct deficiencies. The director may, through the formal compliance schedule, allow all or part of the value of assessed civil penalties to be applied toward correction of deficiencies.

ID Code § 22-4903. Authority and Duties of Director Concerning Beef Cattle Animal Feeding Operations.

(1) The director of the department of agriculture through the division of animal industries is authorized to regulate beef cattle animal feeding

operations to protect state natural resources, including surface water and ground water. The department is authorized to adopt rules to implement the provisions of this chapter.

(2) Nothing in this chapter shall affect the authority of the department of environmental quality to administer and enforce an Idaho NPDES program for beef cattle feeding operations, including without limitation, the authority to issue permits, access records, conduct inspections and take enforcement action, as set forth in chapter 1, title 39, Idaho Code, and the rules adopted pursuant thereto. The provisions of this chapter do not alter the requirements, liabilities and authorities with respect to or established by an Idaho NPDES program.

(3) The director of the department of environmental quality and the director of the department of agriculture shall, as appropriate, establish an agreement relating to the administration of an Idaho NPDES program that recognizes the expertise of the department of agriculture. The director shall have the authority to exercise any other authorities delegated by the director of the department of environmental quality regarding the protection of ground water, surface water and other natural resources associated with beef cattle feeding operations, and this shall be the authority for the director of the department of environmental quality to so delegate.

(4) The director of the department of environmental quality shall consult with the director of the department of agriculture before certifying discharges from beef cattle animal feeding operations as provided under 33 U.S.C. section 1341.

ID Code § 25-4012. Authority to Promulgate Rules.

(1) The legislature finds that poultry AFOs require adequate control through state regulatory mechanisms in order to prevent such operations from posing a threat to the state's water resources. The Idaho state department of agriculture is in the best position to administer and implement rules to provide an adequate regulatory framework for poultry feeding operations.

(2) The director is authorized to modify the department's administrative rules and to make new rules for permitting and regulating poultry AFOs. Such regulations may include, but are not limited to, the information required on a permit application and the conditions for the issuance and maintenance of a permit, as the director deems necessary.

(3) Nothing in this chapter prohibits the board of county commissioners of any county from adopting regulations that are more stringent than those adopted by the state.

(4) Nothing in this chapter shall affect the authority of the department of environmental quality to administer and enforce an Idaho national pollutant discharge elimination system (NPDES) program for poultry operations, including without limitation the authority to issue permits, access records, conduct inspections and take enforcement action, as set forth in chapter 1, title 39, Idaho Code, and the rules adopted pursuant thereto. The provisions of this chapter do not alter the requirements, liabilities and authorities with respect to or established by an Idaho NPDES program.

(5) The director of the department of environmental quality and the director of the Idaho state department of agriculture shall, as appropriate, establish an agreement relating to the administration of an Idaho NPDES program that recognizes the expertise of the Idaho state department of agriculture. The director shall have the authority to exercise any other authorities delegated by the director of the department of environmental quality regarding the protection of ground water, surface water and other natural resources associated with poultry operations, and this shall be the authority for the director of the department of environmental quality to so delegate.

(6) The director of the department of environmental quality shall consult with the director of the Idaho state department of agriculture before certifying discharges from poultry operations as provided under 33 U.S.C. 1341.

ID Code § 37-405. Department May Make Rules and Orders.

The department of agriculture is hereby invested with authority to make rules and orders as may be necessary or desirable for carrying out its various functions and the intent and purpose of this act.

ID Code § 37-603. Authority and Duties of Director and Agency Coordination.

(1) The director of the department shall be solely responsible for approving and enforcing dairy environmental management plans. The department is authorized to adopt rules to implement the provisions in this chapter.

(2) The department shall implement programs to recognize, support and promote performance and innovation in the design, construction, operation and maintenance of dairy environmental management systems. The department shall consult and coordinate with the Idaho dairymen's association in the implementation of such programs.

(3) Nothing in this chapter shall affect the authority of the department of environmental quality to administer and enforce an Idaho NPDES program for dairy farms that discharge pollutants to waters of the United States, including without limitation, the authority to issue permits, access

records, conduct inspections and take enforcement action, as set forth in chapter 1, title 39, Idaho Code, and the rules adopted pursuant thereto. The provisions of this chapter do not alter the requirements, liabilities and authorities with respect to or established by an Idaho NPDES program.

(4) The director of the department of environmental quality and the director of the department of agriculture shall, as appropriate, establish an agreement relating to the administration of an Idaho NPDES program that recognizes the expertise of the department of agriculture. The director shall have the authority to exercise any other authorities delegated by the director of the department of environmental quality regarding the protection of ground water, surface water and other natural resources associated with dairy farms, and this shall be the authority for the director of the department of environmental quality to so delegate.

(5) The director of the department of environmental quality shall consult with the director of the department of agriculture before certifying discharges from dairy farms as provided under 33 U.S.C. section 1341.

ID Code § 67-6529F. Department Responsibilities – Authority to Adopt Rules and Contract with Other Agencies.

(1) Upon the request of a board of county commissioners, the director of the department of agriculture shall form and chair a site advisory team specific to the request of the county. The director of the department of environmental quality and the director of the department of water resources shall provide full cooperation in the formation of the site advisory team.

(2) The CAFO site advisory team shall review the information provided by the county and shall visit the site as may be necessary in the judgment of the team.

(3) Within thirty (30) days of receiving the request for a suitability determination by a board of county commissioners, the CAFO site advisory team shall issue a written suitability determination and provide a copy in writing to the board of county commissioners that requested the review.

(4) Any director responsible for carrying out the purposes of this act may adopt administrative rules necessary or helpful to carry out those purposes.

(5) Any director responsible for carrying out the purposes of this act may enter into contracts, agreements, memorandums and other arrangements with federal, state and local agencies to carry out the purposes of this act.

ID Admin Code 02.04.30.020. Applicability.

These rules apply to nutrient management on the following operations: (3-29-12)

01. Dairies. All Manufactured Grade and Grade A dairies located in Idaho licensed to sell milk for human consumption. (3-29-12)

02. Beef Cattle Animal Feeding Operations. All beef cattle animal feeding operations in Idaho required to implement a NMP pursuant to IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations." (4-2-08)

03. Poultry Concentrated Animal Feeding Operations. All poultry operations required to implement an NMP pursuant to Title 25, Chapter 40, Idaho Code. (3-29-12)

ID Admin Code 02.04.30.100. Nutrient Management Plans.

All NMPs required by IDAPA 02.04.14, "Rules Governing Dairy Byproduct," IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations," and IDAPA 02.04.32, "Rules Governing Poultry Operations," must be written by nutrient management planners who have been certified by the Department. (3-29-12)

ID Admin Code 02.04.30.150. Nutrient Management Planner Certification.

All persons who develop NMPs must be certified through the Department Certification Program. (4-2-08)

01. Certification. The Nutrient Management Planner Certification will be valid unless revoked by the Department. (4-2-08)

02. Development. Nothing shall prohibit any person from developing an NMP for his own operation provided the person possesses a valid Nutrient Management Planner Certification issued by the Department. (4-2-08)

03. Continuing Education. The Department may require a CNMP to complete periodic continuing education training to retain certification. (4-2-08)

ID Admin Code 02.04.30.190. Revocation of Nutrient Management Planner Certification.

Nutrient Management Planner Certification may be revoked by the Department if the CNMP: (4-2-08)

01. Submits Inaccurate Information. Submits NMPs that contain falsified or materially inaccurate information. (4-2-08)

02. Fails to Submit Plans. Fails to submit an NMP to the ISDA within thirty (30) days after being paid by a producer. (4-2-08)

03. Fails to Follow Provisions. Fails to meet any requirement of this rule. (4-2-08)

ID Admin Code 02.04.30.200. Soil Samples.

The owners or operators of all dairies, beef cattle operations, and poultry operations required to implement nutrient management plans pursuant to IDAPA 02.04.14, "Rules Governing Dairy Byproduct," IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations," and IDAPA 02.04.32, "Rules Governing Poultry Operations," must have soil samples collected each year from all fields owned or operated by the dairy, beef, or poultry operation to which livestock waste, manure, or process wastewater from the operation was land applied. In addition, a poultry operation must have soil samples collected each year from all fields owned or operated by the poultry operation to which soil amendments from the operation were land applied. (3-29-12)

ID Admin Code 02.04.30.220. Soil Sample Collection.

01. CSS. All soil samples required to be collected pursuant to this chapter must be collected by a CSS. (4-2-08)

02. Representative Samples. All soil samples collected by a CSS must be representative samples pursuant to the provisions of the SSB. (4-2-08)

03. Sampling Depth. The soil samples shall be obtained from depths outlined in each operation's NMP unless soil survey data or site specific situations warrant alternative sampling depths. (4-2-08)

04. Alternative Sampling Depths. If the CSS determines that an alternative sampling depth is necessary due to resource concerns, the CSS must indicate such deviation in sampling depths on soil samples and laboratory soil sample submission forms. (4-2-08)

ID Admin Code 02.04.30.230. Soil Sample Submission.

All soil samples collected pursuant to this chapter must be appropriately handled to protect the integrity of the sample and must be submitted to an approved laboratory by the CSS who collected the soil sample. (4-2-08)

ID Admin Code 02.04.30.300. Approved Laboratories.

Only laboratories that hold a current valid certification from the North American Laboratory Proficiency Testing Program or equivalent method approved by the Department are approved laboratories for the purposes of this chapter. (3-29-12)

ID Admin Code 02.04.30.400. Records of Nutrient Analysis.

Owners or operators of facilities who are required to implement NMPs pursuant to IDAPA 02.04.14, "Rules Governing Dairy Byproduct," IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations," and IDAPA 02.04.32, "Rules Governing Poultry Operations," must retain records of nutrient analysis for a minimum of five (5) years. (3-29-12)

01. Complete Records. Records must be complete, readily available, and identified to the fields listed in the facility's NMP. (4-2-08)

02. Available to the Director. Records must be made available to the director for inspection and copying upon request. (4-2-08)

ID Admin Code 02.04.30.500. Soil Sampler Certification.

All persons who collect soil samples from operations that are required to sample and test soil for nutrients pursuant to this chapter must be certified through the Department Certification Program. (4-2-08)

01. Certification. The Soil Sampler Certification will be valid unless revoked by the Department. (4-2-08)

02. Sampling. Nothing shall prohibit any person from sampling their own operation as outlined in these rules provided the person possesses a valid Soil Sampler Certification issued by the Department. (4-2-08)

03. Continuing Education. The Department may require CSS to complete continuing education training to ensure compliance within the provisions of this chapter. (4-2-08)

ID Admin Code 02.04.30.900. Revocation of Soil Sampler Certification.

Soil Sampler Certification is subject to revocation by the Department if the Certified Soil Sampler fails to meet the soil sampling criteria set forth in these rules. (4-2-08)

ID Code § 22-4906. Nutrient Management Plan.

Each beef cattle animal feeding operation shall submit a nutrient management plan to the director for approval. Beef cattle animal feeding operations that are operating on or before July 1, 2000, shall submit a nutrient management plan to the director for approval no later than January 1, 2005. Any new operation commencing operations after July 1, 2000, shall not operate prior to the director's approval of a nutrient management plan. An approved nutrient management plan shall be implemented and considered a best management practice. Following department review and approval, the plan, and all copies of the plan, shall be returned to the operation and maintained on site. Such plans shall be available to the administrator on request.

ID Code § 22-4910. Safe Harbor.

All beef cattle animal feeding operations operating in compliance with this act and approved best management practices shall not be subject to state enforcement action due to violations of state water quality standards or state ground water quality standards except in the event of imminent and substantial danger as provided in chapter 1, title 39, Idaho Code. However, the department shall evaluate and modify such best management practices as necessary.

ID Admin Code 02.04.15.030. Nutrient Management.

Each beef cattle animal feeding operation shall submit a nutrient management plan for land owned or controlled by the operator, which conforms to the nutrient management standard and addresses odors generated in excess of odors normally associated with raising beef cattle in Idaho, to the Director for approval. Following department review and approval, the plan, and all copies of the plan, shall be returned to the operation and maintained on site. Effective date (4-6-05)

01. Existing Beef Cattle Animal Feeding Operations. Beef cattle animal feeding operations that are operating on or before July 1, 2000 shall submit a NMP to the director for approval no later than January 1, 2005. The Director shall respond to or approve such plan in writing within forty-five (45) days of submission. Effective date (4-6-05)

02. New Beef Cattle Animal Feeding Operations. Any new beef cattle animal feeding operation commencing operations after July 1, 2000, shall not operate prior to the Director's approval of a NMP. The Director shall respond to or approve such plan within forty-five (45) days of submission. Effective date (4-6-05)

03. Implementation of a Nutrient Management Plan. Failure to implement an approved NMP is a violation of these rules. Effective date (4-6-05)

ID Admin Code 02.04.15.031. Nutrient Management Plan Retention.

All approved NMPs shall be maintained on site at the beef cattle animal feeding operation and available to the Administrator upon request. Effective date (4-6-05)

ID Admin Code 02.04.15.032. Nutrient Management Records.

The operators of beef cattle animal feeding operations shall keep complete and accurate records of: Effective date (4-6-05)

01. Land Application. The dates and amounts of any manure or process wastewater applied on land owned or controlled by the operator. Effective date (4-6-05)

02. Manure Transferred to Another Person. The name and address of any third party that receives manure or process wastewater from the operation, including the dates of the transfer and the amount of manure or process wastewater transferred. Effective date (4-6-05)

03. Records Retention. All records shall be maintained for a period of five (5) years and presented to the Administrator upon request. Effective date (4-6-05)

ID Admin Code 02.04.15.040. Designation of Beef Cattle Animal Feeding Operations.

01. Designation of Animal Feeding Operations. The Director, on a case by case basis, may designate any animal feeding operation that confines slaughter and feeder cattle as a beef cattle animal feeding operation if, after an inspection, the Director determines that the animal feeding operation is a significant contributor of pollution to waters of the state. The designation shall be provided to the operator of the animal feeding operation in writing setting forth the basis for the Director's decision. When designated, these operations shall be considered existing beef cattle animal feeding operations. The Director shall consider the following factors when making such designation: Effective date (4-6-05)

a. Size of the animal feeding operation and the amount of manure, process wastewater, and runoff reaching waters of the state; Effective date (3-15-02)

b. Location of the animal feeding operation relative to waters of the state; Effective date (3-15-02)

c. Means of conveyance of manure, process wastewater, and runoff into waters of the state; and Effective date (3-15-02)

d. Slope, vegetation, precipitation, and other factors affecting the likelihood or frequency of discharge of manure, process wastewater, or runoff into waters of the state. Effective date (3-15-02)

02. Redesignation of a Beef Cattle Animal Feeding Operation. Upon request by the operator, the Director shall redesignate a facility previously designated under Section 040, if the facility is no longer a significant contributor of pollution to waters of the state. Such redesignation shall be provided to the operator in writing. Effective date (3-15-02)

ID Code § 25-4007. Nutrient Management Plans.

(1) All permitted CAFOs shall have and implement a nutrient management plan that has been reviewed and approved by the department.

(2) Nutrient management plans shall be amended if modifications to the CAFO, as outlined in the nutrient management standard or other conditions, warrant the amendment.

(3) Annual 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.

ID Admin Code 02.04.32.100. Permit Required.

No person may construct, operate, or expand a poultry CAFO after April 6, 2011, without first obtaining a permit issued by the director as provided in these rules. Effective date (3-21-12)

01. Common Control. Two (2) or more poultry CAFOs 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 a large or medium poultry CAFO, if they use a common animal waste system or land application site. Effective date (3-21-12)

02. Existing Poultry Facilities. Poultry operations that existed on or before April 6, 2011, are not required to obtain a permit unless the facility is expanding to the extent that it will meet the definition of a poultry CAFO. Existing poultry facilities must register and submit an NMP in accordance with Section 170 of these rules, and must otherwise comply with these rules. Effective date (3-21-12)

ID Admin Code 02.04.32.150. Nutrient Management Planner Certification.

All persons who develop NMPs must be certified through the Department Certification Program. Effective Date (4-2-08)

01. Certification. The Nutrient Management Planner Certification will be valid unless revoked by the Department. Effective Date (4-2-08)

02. Development. Nothing shall prohibit any person from developing an NMP for his own operation provided the person possesses a valid Nutrient Management Planner Certification issued by the Department. Effective Date (4-2-08)

03. Continuing Education. The Department may require a CNMP to complete periodic continuing education training to retain certification. Effective Date (4-2-08)

ID Admin Code 02.04.32.250. Nutrient Management.

Each poultry CAFO must submit an NMP for land owned or controlled by the operator to the director for approval. The NMP must conform to the NMS and address odors generated in excess of odors normally associated with raising poultry in Idaho. Effective date (3-21-12)

01. Existing Poultry CAFOs. Poultry CAFOs that are operating on or before April 6, 2011, must submit an NMP to the director for approval no later than April 6, 2012. Effective date (3-21-12)

02. New Poultry CAFOs. Any poultry CAFO which commences operations after April 6, 2011, must not operate prior to the director's approval of the NMP. Effective date (3-21-12)

03. Designated Poultry CAFOs. Any poultry AFO which is designated as a CAFO by the department in accordance with Section 400 must submit an NMP within forty-five (45) days of designation. Effective date (3-21-12)

04. NMP Approval. The director will respond to or approve an NMP in writing within forty-five (45) days of submission. Effective date (3-21-12)

05. NMP Updates or Amendments. Nutrient management plans must be updated as needed to accurately reflect the facility and its nutrient management system. Effective date (3-21-12)

ID Admin Code 02.04.32.251. Nutrient Management Plan Retention.

All NMPs which have been approved by the department and returned to the CAFO must be maintained on site at the CAFO and available to the department upon request. The department will retain a copy of the NMP. Effective date (3-21-12)

ID Admin Code 02.04.32.252. Nutrient Management Records.

01. Required Nutrient Management Records. The CAFO operator must keep complete and accurate records of: Effective date (3-21-12)

a. Land application records, consisting of, at a minimum: Effective date (3-21-12)

i. The dates, methods and approximate amounts of any manure or process wastewater applied on land owned or controlled by the operator. Effective date (3-21-12)

ii. Weather conditions and soil moisture at the time of application. Effective date (3-21-12)

iii. The lapsed time to manure incorporation, rainfall or irrigation event. Effective date (3-21-12)

iv. Documentation of the actual rate at which nutrients were applied. When the actual rate used differs from the recommended and planned rates, nutrient management records must indicate the rationale for the difference. Effective date (3-21-12)

b. The name and address of any third party receiving manure or process wastewater from the facility, including the dates of the transfer and the amount of manure or process wastewater transferred. Effective date (3-21-12)

c. Nutrient Application. The quantities, analyses and sources of nutrients applied. Effective date (3-21-12)

d. Soil Analysis. Complete soil analysis to create nutrient budget. Effective date (3-21-12)

e. Crops. Crops planted, planting and harvest dates, yields and crop residues removed. Effective date (3-21-12)

f. Record Review. Dates of annual review, person performing the review, and recommendations determined from the review. Effective date (3-21-12)

02. Records Retention. All nutrient management records must be maintained for a period of five (5) years and provided to the department upon request. Effective date (3-21-12)

ID Admin Code 02.04.32.253. NMP Violations.

The failure to implement an approved NMP, failure to retain and maintain an NMP at the CAFO, or failure to retain nutrient management records is a violation of these rules. Effective date (3-21-12)

ID Code § 37-401. Inspections, Examinations and Tests by Department of Agriculture – Dairy Farms – Nutrient Management Plans Required – Certain Evidence Required.

(1) The director of the department of agriculture is hereby authorized and directed to designate any agent to inspect, examine and test any or all dairy products in accordance with rules as the department may prescribe; and to ascertain and certify the grade, classification, quality or sanitary condition thereof and other pertinent facts as the department may require. The director or agent of the department of agriculture of the state of Idaho

shall make sanitary inspection of milk, cream, butter and dairy products of any kind whatsoever, intended for human consumption, and of containers, utensils, equipment, buildings, premises or anything whatsoever employed in the production, handling, storing, processing or manufacturing of dairy products or that would affect the purity of the products. Inspections, examinations and tests shall be made to meet the requirements of the laws of the state and of the United States for the sale of the products or their transportation in both intrastate and interstate commerce. Any agent designated by the director to make inspections shall have the right for that purpose to enter any premises and buildings where milk, cream, butter or dairy products shall be produced, stored, processed or manufactured.

(2) Acting in accord with rules of the department, the director or agent of the department shall review plans and specifications for construction of new, modified or expanded waste systems and inspect any dairy farm to ascertain and certify sanitary conditions, waste systems and milk quality.

(3) The director or agent shall issue a permit authorizing the sale of milk for human consumption to all dairy farms that meet the requirements of this chapter, and rules promulgated pursuant to this chapter.

(4) All dairy farms shall have a nutrient management plan approved by the department. The nutrient management plan shall cover the dairy farm site and other land owned and operated by the dairy farm owner or operator. Nutrient management plans submitted to the department by the dairy farm shall include the names and addresses of each recipient of that dairy farm's livestock waste, the number of acres to which the livestock waste is applied and the amount of such livestock waste received by each recipient. The information provided in this subsection shall be available to the county in which the dairy farm, or the land upon which the livestock waste is applied, is located. If livestock waste is converted to compost before it leaves the dairy farm, only the first recipient of the compost must be listed in the nutrient management plan as a recipient of livestock waste from the dairy farm. Existing dairy farms shall submit a nutrient management plan to the department on or before July 1, 2001.

(5) Any new dairy farms or dairy farms that change owners or operators shall have an approved nutrient management plan on file with the department prior to the issuance of the milk permit for that dairy. The nutrient management plan shall be implemented upon approval of the plan by the department.

(6) The director or his agent may issue a permit to sell milk for human consumption to a new or expanding dairy farm only upon presentation to the director by the new or expanding dairy farm of:

(a) A certified letter, supplied by the board of county commissioners, certifying the new or expanding dairy farm's compliance with applicable county livestock ordinances; and

(b) Evidence that a valid water right exists to supply adequate water for the new or expanding dairy farm; or

(c) A copy of an application for a permit to appropriate water that has been filed with the Idaho department of water resources and which, if approved, will supply adequate water for the dairy farm; or

(d) A copy of 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 and which, if approved, will supply adequate water for the dairy farm.

(7) As used in this section:

(a) "Animal units" shall be as defined in rule by the director.

(b) "Expanding dairy farm" means an existing, legally permitted dairy farm that increases, or applies to increase, its existing animal units beyond the number for which it is permitted under applicable county livestock ordinances or increases, or applies to increase, the waste containment system.

(c) "New dairy farm" means a dairy farm constructed after the effective date of this act.

(8) The nutrient management plan, and all information generated by the dairy as a result of such plan, shall be deemed to be trade secrets, production records or other proprietary information, shall be kept confidential and shall be exempt from disclosure pursuant to section 74-107, Idaho Code.

ID Admin Code 02.04.14.030. Dairy Environmental Management Plan Approval.

The Department is authorized to approve environmental management plans, as provided in Section 37-606A, Idaho Code. Effective date (3-29-17)

01. Dairy Storage and Containment Facility Criteria. Effective date (3-29-17)

a. Dairy storage and containment facilities shall be constructed to meet a minimum of one hundred eighty (180) days of holding capacity. Process water containment structures that are utilized as the secondary or final storage for effluent shall have a minimum two (2) vertical feet of freeboard. Effective date (3-29-17)

b. Regulatory soil tests will be conducted at frequencies sufficient to provide assurance of compliance with Section 031 and with IDAPA 02.04.30, "Rules Governing Nutrient Management." Effective date (3-28-18)

c. Accurate DNMP records shall be maintained. These records shall include at a minimum: Effective date (3-29-17)

i. Regulatory soil samples shall be taken by a Certified Soil Sampler and tested by a laboratory that meets the requirements and performance standards of the North American Proficiency Testing Program under the auspices of the Soil Science Society of America outlined in the NMS, as incorporated by reference in Subsection 004.02, as part of NMS 590 or other methods as approved by the Department; Effective date (3-29-10)

ii. Annual soil analysis; Effective date (3-29-10)

iii. Date and amount of dairy byproduct and commercial fertilizer applied to individual dairy owned or operated fields; Effective date (3-29-17)

iv. Date(s) of exported dairy byproduct, number of acres applied, amount of dairy byproduct exported, and to whom dairy byproduct was exported; and Effective date (3-29-17)

v. Actual crop yields on dairy owned or operated fields. Effective date (3-29-10)

vi. A nitrogen management plan worksheet (pages 35-36 of the 2017 Idaho Phosphorus Site Index Standards) shall be completed for all fields and pastures receiving land application of nutrients. Effective date (3-28-18)

d. Pasturing. Pastures utilized for grazing of dairy animals, and other animals owned, leased or otherwise under the control of a producer within the same pasture, shall be incorporated in and subject to the DNMP. These pastures are also subject to the following requirements: Effective date (3-29-17)

i. Soil testing. Soil tests shall be conducted pursuant to the NMS and Section 031 on all lands utilized as pasture. Effective date (3-28-18)

ii. Surface water access. If pastured animals have access to surface water within a pasture, the producer may be

required to implement one (1) or more NRCS conservation practice standards to minimize adverse impact on surface water quality. Effective date (3-29-17)

iii. Land application. If land application occurs within a pasture, soil tests shall be conducted annually on that pasture. Effective date (3-29-17)

iv. Confinement areas. Confinement areas shall not be considered part of a pasture. Effective date (3-29-17)

ID Admin Code 02.04.14.031. Phosphorus Management.

Dairy farms shall utilize either Phosphorus Indexing (Section 031.01) or the Phosphorus Threshold (Section 031.02) to manage nutrient application. After June 30, 2023, dairy farms will no longer be allowed to use the Phosphorus Threshold (Section 031.02) provision and all facilities will be required to use Phosphorus Indexing (Section 031.01).

01. Phosphorus Indexing. The dairy farm shall utilize phosphorus site indexing (PSI) for each field where dairy byproducts and/or commercial fertilizers are land applied and for each pasture utilized for grazing, in accordance with the 2017 Idaho Phosphorus Site Index Standards. The PSI shall be calculated by a Nutrient Management Planner, certified by the Department, and be included as a component of the DNMP in the dairy farm's Environmental Management Plan. It shall be the dairy farm's responsibility to provide updated information, including annual soil test results, to the Nutrient Management Planner for calculation of the PSI on all fields and pastures on an annual basis. Failure to abide by the nutrient application and management provisions of a field or pasture's PSI risk classification in the DNMP shall constitute a non-compliance and the producer may be penalized as provided in these rules. (3-28-18)

a. Notwithstanding anything to the contrary in the 2017 Idaho Phosphorus Site Index Standards, no land application of phosphorus shall be permitted on any fields or pastures that possess a soil phosphorus level exceeding three hundred (300) parts per million, as determined by the required annual soil test (via Olsen method). Further, the dairy farm shall not receive BMP Coefficient credit for implementing any best management practice designed to reduce phosphorus loss on fields exceeding three hundred (300) parts per million, via Olsen method.

b. The Department may award zero (0) or partial BMP Coefficient credit when a dairy farm implements a best management practice designed to reduce phosphorus loss from fields that does not fully

conform to NRCS standards or the standards set forth in the 2017 Idaho Phosphorus Site Index Standards BMP definition section. (3-28-18)

02. Phosphorus Threshold. If the regulatory or producer soil tests reveal that phosphorus thresholds on fields and pastures have exceeded the levels established in the NMS, the producer shall only apply phosphorus at the appropriate phosphorus crop uptake rate. Subsequent regulatory soil test(s) on fields and pastures that were identified as exceeding the phosphorus threshold will be conducted. If two (2) out of three (3) tests reveal the phosphorus index continues to trend upward, the producer will be penalized as provided in these rules. These tests shall be taken in the top one (1) foot of soil.

ID Code § 39-104A. Authority to Make Rules Regulating Large Swine Feeding Operations – Financial Assurances.

(1) The state of Idaho is experiencing the development of large swine feeding operations which are inadequately controlled through existing state regulatory mechanisms. If not properly regulated, these facilities pose a threat to the state's surface and ground water resources. Due to existing rulemaking authority, the department of environmental quality is in the best position of all state agencies to modify its present rules and to make new rules to develop an adequate regulatory framework for large swine feeding operations.

(2) The department of environmental quality is authorized to modify its existing administrative rules and to make new rules regulating large swine feeding operations, as they shall be defined by the department. The department is authorized to work with the Idaho department of agriculture in the development of such rules.

(3) Owners and operators of swine facilities required to obtain a permit from the department of environmental quality to construct, operate, expand or close the facilities shall provide financial assurances demonstrating financial capability to meet requirements for operation and closure of the facilities and remediation. Requirements for financial assurances shall be determined by the agency as set forth in rule. Financial assurances may include any mechanism or combination of mechanisms meeting the requirements established by agency rule including, but not limited to, surety bonds, trust funds, irrevocable letters of credit, insurance and corporate guarantees. The mechanism(s) used to demonstrate financial capability must be legally valid, binding and enforceable under applicable law and must ensure that the funds necessary to meet the costs of closure and remediation will be available whenever the funds are needed. The director may retain financial assurances for up to five (5) years after closure of a facility to ensure proper closure and remediation, as defined by rule.

(4) Those swine facilities described in section 39-7905, Idaho Code, shall meet the requirements of section 39-7907, Idaho Code, in addition to the requirements of this chapter and the department of environmental quality's rules regulating swine facilities, prior to the issuance of a final permit by the director. The director shall require that swine facilities be constructed in a phased manner over a period of time and that no additional facilities be constructed until the director approves the associated waste treatment system.

(5) Nothing in this section prohibits the boards of county commissioners of any county or the governing body of any city from adopting regulations that are more stringent or that require greater financial assurances than those imposed by the department of environmental quality. A board of county commissioners of a county or a governing body of a city in which a swine facility is located may choose to determine whether the facility is properly closed according to imposed standards or may leave that determination to the department. This choice shall be communicated to the director in writing when closure begins; provided that determinations of closure by a board of county commissioners of a county or a governing body of a city in which the swine facility is located shall not permit closure under less stringent requirements than those imposed by the department.

(6) As used in this section:

(a) "Animal unit" means a unit equaling two and one-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).

(b) "Facilities" or "facility" means a 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 systems, and which has a one-time animal unit capacity of two thousand (2,000) or more animal units.

(c) "Large swine feeding operations" means swine facilities having a one-time animal unit capacity of two thousand (2,000) or more animal units.

(d) "One-time animal unit capacity" means the maximum number of animal units that a facility is capable of housing at any given time.

ID Admin Code 58.01.09.200. 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. Effective Date (3-29-12)

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

04. Relevant Information. Effective Date (4-1-00)

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

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

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

d. Legal description of the facility location. Effective Date (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. Effective Date (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. Effective Date (3-29-12)

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

h. The type of animals to be confined at the facility. Effective Date (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. Effective Date (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. Effective Date (3-15-02)

k. The facility's biosecurity and sanitary standards. Effective Date (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. Effective Date (3-15-02)

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

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

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

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

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

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

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

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

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

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

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

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

(4) Detailed construction and installation procedures. Effective Date (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: Effective Date (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; Effective Date (4-1-00)

b. The climatic, hydrogeologic, and soil characteristics; Effective Date (4-1-00)

c. The depth to water and a potentiometric map for the uppermost and regional aquifer; Effective Date (4-1-00)

d. The vertical and horizontal conductivity, gradient, and ground water flow direction and velocity; Effective Date (4-1-00)

e. Estimates of recharge to the uppermost aquifer; Effective Date (4-1-00)

f. Information which characterizes the relationship between the ground water and adjacent surface waters; and Effective Date (4-1-00)

g. A summary of local ground water quality data. Effective Date (4-1-00)

07. Nutrient Management Plan. A plan prepared by a Certified Planner demonstrating compliance with the Nutrient Management Standard for land application. Effective Date (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: Effective Date (4-1-00)

a. The estimated length of operation of the facility; and Effective Date (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. Effective Date (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 Effective Date (4-1-00)

10. Application Fee. A fee shall be submitted with each permit application as follows: Effective Date (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; Effective Date (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 Effective Date (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. Effective Date (4-1-00)

ID Admin Code 58.01.09.210. 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)

ID Admin Code 58.01.09.250. 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 1x10-7 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)

ID Admin Code 58.01.09.400. 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)

ID Code § 39-175A. Legislative findings and purposes.

(1) The legislature finds:

(a) That navigable waters within the state are one of the state's most valuable natural resources;

(b) That it is in the public interest to promote effective and efficient regulation of the discharge of pollutants into navigable waters, and that the state should control such permitting decisions as authorized under the federal clean water act;

(c) That the clean water act allows a state to develop and implement, with approval from the United States environmental protection agency, a national pollutant discharge elimination system (NPDES) program to be administered by the state;

(d) That the clean water act, as amended, and regulations adopted pursuant thereto, establishes complex and detailed provisions for regulation of those who discharge pollutants into navigable waters;

(e) That a state program to implement permitting decisions as authorized in the clean water act, and regulations adopted pursuant thereto, may enable the state to issue flexible permits consistent with the clean water act and avoid the existence of duplicative, overlapping or conflicting state and federal regulatory and enforcement processes;

(f) That a state program must be run with a minimum of federal interference in permitting, inspection and enforcement activities and that all state permitting actions under the approved state program are to be state actions and are not subject to consultation under the endangered species act or analysis under the provisions of the national environmental policy act. There should be no conditions of approval of the state program that have the effect of undermining or circumventing these principles;

(g) That the decision to accept delegation of authority from the environmental protection agency to operate an NPDES program has significant public policy implications that should be made by the legislature.

(2) Therefore, it is the intent of the legislature to establish requirements that must be satisfied prior to legislative approval of a permitting program that complies with the clean water act and incorporates flexible permitting procedures and rules to be promulgated by the board.

ID Code § 39-175B. Relationship Between State and Federal Law.

The legislature cannot conveniently or advantageously set forth in this chapter all the requirements of all of the regulations which have been or will be established under the clean water act. However, any state permitting program must avoid the existence of duplicative, overlapping or conflicting state and federal regulatory systems. Further, the board may promulgate rules to implement a state permitting program but such rules shall not impose conditions or requirements more stringent or broader in scope than the clean water act and regulations adopted pursuant thereto. Further, the department will not require Idaho pollutant discharge elimination system (IPDES) permits for activities and sources not required to have permits by the United States environmental protection agency.

ID Code § 39-175C. Approval of Idaho Pollutant Discharge Elimination System Program.

(1) The department is authorized to implement an Idaho pollutant discharge elimination system (IPDES) program consistent with the requirements of this section. The program shall not include the authority to issue permits for any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. This exclusion does not apply to rubbish, trash, garbage, or other such materials discharged overboard; nor to other discharges when the vessel is operating in a capacity other than as a means of transportation, such as when used as an energy or mining facility, a storage facility or a seafood processing facility, or when secured to a storage facility or a seafood processing facility or when secured to the bed of a lake or river, contiguous zone or waters of the United States for the purpose of mineral or oil exploration or development.

(2) The board is authorized to proceed with negotiated rulemaking and all other actions necessary to maintain approval of the IPDES program by the United States environmental protection agency including rules authorizing the collection of reasonable fees for processing and implementing an IPDES permit program. Such fees shall not be assessed or collected unless the state maintains an approved IPDES program consistent with the requirements of this section.

(3) Any memorandum of agreement negotiated by the director to maintain approval to operate an IPDES program shall be binding on the state of Idaho upon enactment of this statute.

(4) Implementation of the IPDES program shall not occur prior to statutory enactment of implementing legislation and authorization of a memorandum of agreement as specified in subsection(3) of this section.

(5) The director, as appropriate, shall establish agreements with other state agencies with expertise to administer the IPDES program.

(6) No provision of this chapter shall be interpreted as to supersede, abrogate, injure or create rights to divert or store water and apply water to beneficial uses established under section 3, article XV, of the constitution of the state of Idaho, and title 42, Idaho Code.

(7) Nothing in this section is intended to supersede any existing agreements between federal, state or local agencies regarding authority over inspections, enforcement or other obligations under the clean water act.

ID Admin Code 58.01.25.105. Individual Permit Applications.

01. Electronic Submittals. The Department may require an applicant to electronically submit information required by this section using an approved electronic method.

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

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

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

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

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

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

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

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

04. Individual Permit Application Forms. An applicant must use one (1) or more Department-approved forms appropriate to the number and type of discharge or outfall at the applicant's facility. A person required by Subsections 102.01 through 102.03 to obtain an individual IPDES permit must submit an application to the Department providing the information required by this subsection and Subsections 105.05 through 105.19:

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

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

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

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

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

v. New or existing facility with discharge composed entirely of storm water from industrial activity (Subsection 105.19), EPA Form 2F equivalent unless the applicant is exempted by 40 CFR 122.26(c)(1)(ii). If the applicant's discharge is composed of storm water and non-storm water (Subsections 105.07,

105.08, and 105.16), EPA Forms 2C, 2D, or 2E equivalent are also required; or

vi. Operating a sludge-only facility (Subsection 105.17), that currently does not have and is not applying for an IPDES permit for a direct discharge to a surface water body, EPA Form 2S equivalent;

b. Applicant is a new or existing POTW or privately owned treatment works (Subsections 105.11 through 105.15):

i. EPA Form 2A equivalent; and

ii. EPA Form 2S equivalent, if applicable.

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

a. Determine compliance with the antidegradation policy and antidegradation implementation provisions in IDAPA 58.01.02.051 and 052, "Water Quality Standards";

b. Determine compliance with the mixing zone provisions in IDAPA 58.01.02.060, "Water Quality Standards"; or

c. Authorize a compliance schedule under IDAPA 58.01.02.400, "Water Quality Standards."

06. Application Requirements for Dischargers Other than Treatment Works Treating Domestic Sewage (TWTDS), Publicly Owned Treatment Works (POTWs), and Pesticide Applicators. An applicant for an IPDES permit other than a POTW and TWTDS, must provide the following information to the Department, using the forms specified in Subsection 105.04:

a. Applicant's activity requiring an IPDES permit;

b. Name, mailing address, e-mail address, and location of the facility for the submitted application;

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

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

e. Statement that the facility is not in Indian country, if applicable;

f. List of permits or construction approvals received or applied for under:

i. Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste";

ii. Underground injection control (UIC) program under the Idaho Department of Water Resources UIC program at IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells";

iii. IPDES program under IDAPA 58.01.25 "Idaho Pollutant Discharge Elimination System Rules";

iv. Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for Control of Air Pollution in Idaho";

v. Nonattainment program under IDAPA 58.01.01, "Rules for Control of Air Pollution in Idaho";

vi. National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, "Rules for Control of Air Pollution in Idaho";

vii. Dredge or fill permits under the Clean Water Act section 404; or

viii. Other relevant environmental permits, programs or activities subject to state jurisdiction, approval, and permits, including IDAPA 58.01.17, "Recycled Water Rules"; and

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

i. Facility and each of its intake and discharge structures;

ii. Location of the facility's hazardous waste treatment, storage, or disposal areas;

iii. Location of each well where fluids from the facility are injected underground; and

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

h. Description of the nature of the business;

i. Indicate whether the facility uses cooling water and the source of the cooling water; and

j. Indicate whether the facility is requesting any variances in Subsection 310.01 if known at the time of application.

07. Application Requirements for Existing Manufacturing, Commercial, Mining and Silviculture Dischargers.

a. Except for a facility subject to the requirements in Subsection 105.08, an applicant for an IPDES permit for an existing discharge from a manufacturing, commercial, mining, or silviculture facility or activity must provide the following information to the Department, using the forms specified in Subsection 105.04:

i. For each outfall:

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

(2) Identify each type of process, operation, or production area that contributes wastewater to the effluent from that outfall, including process wastewater, cooling water, and storm water runoff; processes, operations, or production areas may be described in general terms, such as dye-making reactor or distillation tower;

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

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

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

ii. Describe the frequency, duration, and flow rate of each occurrence for any discharge specified in Subsections 105.07.a.i.(2) through (5) that are intermittent or seasonal, except for storm water runoff, spillage, or leaks;

iii. Reasonable measure of the applicant's actual production reported in the units used in the ELG if the ELG under CWA

Section 304 applies to the applicant and is expressed as production or another measure of operation. The reported measure must reflect the actual production of the facility as required by Subsection 303.02.b.;

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

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

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

(2) The Department has adequate information to issue the permit;

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

vii. Identify each laboratory or firm and the analyses performed, if a contract laboratory or consulting firm performed the analyses required by Subsection 105.07.c. through m.

b. Owner or operator of a facility must submit, with an application, a line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units.

i. In the line drawing, similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under Subsections 105.07.a.i(2) through (5).

ii. Water balance must show approximate average flows at intake and discharge points and between units, including treatment units.

iii. If a water balance cannot be determined for certain activities, the applicant may provide a pictorial description

of the nature and amount of sources of water and collection and treatment measures.

c. In addition to the information listed in Subsections 105.07.a. through 105.07.b., and except for information on storm water discharges required by 40 CFR 122.26, an applicant for an IPDES permit for an existing facility described in Subsection 105.07.a. must:

i. Collect, prepare, and submit information on the effluent characteristics and discharge of pollutants specified in this section; and

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

d. An applicant under this subsection must:

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

ii. For all other pollutants, use twenty-four (24) hour composite samples, unless specified otherwise at 40 CFR Part 136, with at least four (4) grab samples, except at least one (1) grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than twenty-four (24) hours;

e. For Subsection 105.07.c., exceptions to testing and data provision requirements for effluent characteristics include:

i. When an applicant has two (2) or more outfalls with substantially identical effluents, the Department may allow the applicant to test only one (1) outfall and the quantitative data reported will also apply to the substantially identical outfall; and

ii. An applicant's duty under Subsections 105.07j., k., and l. to provide quantitative data for certain pollutants known or believed to be present does not apply to pollutants present

in a discharge solely resulting from their presence in intake water; however, an applicant must report those pollutants are present.

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

i. Samples must be collected from the discharge resulting from a storm event and at least seventy-two (72) hours after the previously measurable storm event exceeding one-tenth (0.1) inch rainfall. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed fifty percent (50%) from the average or median rainfall event in that area; and

ii. For all applicants, a flow-weighted composite sample must be taken for either the entire discharge or for the first three (3) hours of the discharge, except for:

(1) Sampling may be conducted with a continuous sampler or a combination of at least three (3) sample aliquots taken in each hour of discharge for the entire discharge or for the first three (3) hours of the discharge, with each aliquot separated by at least fifteen (15) minutes. If the Department approves, an applicant for a storm water discharge permit under Subsection 105.18 may collect flow-weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots;

(2) A minimum of one (1) grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than twenty-four (24) hours; or

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

iii. For samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first thirty (30) minutes, or as soon after as practicable, of the discharge for pollutants specified in Subsection 105.19 except for all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for pollutants specified in 40 CFR 122.26(a) through (b) and

(e) through (g), Subsections 105.18 and 105.19, but not for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform (including E. coli), and enterococci (previously known as fecal streptococcus);

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

(1) Sampling locations;

(2) Season in which the sampling takes place;

(3) Minimum duration between the previous measurable storm event and the sampled storm event;

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

(5) Form of precipitation sampled, whether snow melt or rain fall;

(6) Protocols for collecting samples under 40 CFR Part 136 ; and

(7) Additional time for submitting data; and

v. An applicant knows or believes a pollutant is present in an effluent if an evaluation of the expected use, production, or storage of the pollutant, or previous analyses for the pollutant, shows the pollutant's presence.

g. Unless a reporting requirement is waived under Subsection 105.07.h., applicants subject to this subsection must report quantitative data for the following pollutants for every outfall:

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

ii. Chemical oxygen demand (COD);

iii. Total organic carbon (TOC);

iv. Total suspended solids (TSS);

v. Ammonia, as N;

vi. Temperature (both winter and summer); and

vii. pH.

h. The Department may waive the reporting requirements under Subsection 105.07.g. for individual point sources or for a particular industry category for one (1) or more of the pollutants listed in Subsection 105.07.g. if the applicant demonstrates that information adequate to support issuing a permit can be obtained with less stringent requirements.

i. Except as provided in Subsection 105.07.o., an applicant with an existing facility described in Subsection 105.07.a. that has processes that qualify in one (1) or more of the primary industry categories shown in Appendix A to 40 CFR Part 122 contributing to a discharge, must report quantitative data for pollutants in each outfall containing process wastewater as follows:

i. Data for the organic toxic pollutants listed in Table II of Appendix D to 40 CFR Part 122 in the fractions designated in Table I of Appendix D to 40 CFR Part 122 . In this subsection:

(1) Table II of Appendix D to 40 CFR Part 122, lists the organic toxic pollutants in each fraction that result from the sample preparation required by the analytical procedure using gas chromatography/mass spectrometry; and

(2) If the Department determines an applicant falls within an industrial category for selecting fractions for testing, the determination does not establish the applicant's category for another purpose (Notes 2 and 3 to 40 CFR 122.21); and

ii. Data for the toxic metals, cyanide, and total phenols listed in Table III of Appendix D to 40 CFR Part 122.

j. An applicant must disclose whether he knows or believes that any of the conventional and nonconventional pollutants in Table IV of Appendix D to 40 CFR Part 122 are discharged from each outfall. If an ELG limits the pollutant either directly or indirectly by express limits on an indicator, the applicant must report quantitative data. For every pollutant discharged that is not limited in an ELG, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

k. An applicant must disclose whether he knows or believes that any of the organic toxic pollutants listed in Table II or the toxic metals, cyanide, or total phenols listed in Table III of Appendix D to 40

CFR Part 122 for which quantitative data are not otherwise required under Subsection 105.07.i., are discharged from each outfall. Unless qualified as a small business under Subsection 105.07.o., the applicant must:

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

ii. Report quantitative data for acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4, 6 dinitrophenol, if any of these four (4) pollutants are expected to be discharged in concentrations of one hundred (100) parts per billion or greater; and

iii. For every pollutant expected to be discharged in concentrations less than ten (10) parts per billion, or for acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4, 6 dinitrophenol, in concentrations less than one hundred (100) parts per billion, either submit quantitative data, or describe the reasons the pollutant is expected to be discharged and submit supporting documentation.

l. An applicant must disclose whether he knows or believes that asbestos or the hazardous substances listed in Table V of Appendix D to 40 CFR Part 122 are discharged from each outfall. For every pollutant expected to be discharged, the applicant must describe the reasons the pollutant is expected to be discharged and report quantitative data for any pollutant.

m. An applicant must disclose and report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7, 8-tetrachlorodibenzo-p-dioxin (TCDD) if the applicant:

i. Uses or manufactures:

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

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

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

(4) 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel);

(5) 2,4,5-trichlorophenol (TCP); or

(6) Hexachlorophene (HCP); or

ii. Knows or believes that TCDD is or may be present in an effluent.

n. Where quantitative data are required in Subsections 105.07.c. through m., existing data may be used, if available, in lieu of sampling done solely for the application, provided all:

i. Data requirements are met; sampling was performed, collected, and analyzed no more than four and one-half (4 1/2) years before submission;

ii. Data represent the discharge; and

iii. Available representative data are considered in the values reported.

o. An applicant is exempt from the quantitative data requirements in Subsections 105.07.i. or 105.07.j. for the organic toxic pollutants listed in Table II of Appendix D to 40 CFR Part 122, if he qualifies as a small business under one (1) of the following criteria:

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

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

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

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

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

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

ii. For a new discharger, the date of expected commencement of discharge;

iii. Identify the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, restaurant or cafeteria wastes, or non-contact cooling water;

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

v. Effluent characteristics prepared and submitted as described in Subsections 105.08.b. and 105.08.c.;

vi. Describe the frequency of flow and duration of seasonal or intermittent discharge, except for storm water runoff, leaks, or spills;

vii. Describe the treatment system used or to be used;

viii. Additional information the applicant wants considered, such as influent data for obtaining net credits under Subsection 303.07; and

ix. Signature of the certifying official under Section 090.

b. Except as otherwise provided in Subsections 105.08.d. through g., an application for a discharger described in Subsection 105.08.a. must include quantitative data for:

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

ii. Total suspended solids (TSS);

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

iv. Total residual chlorine (TRC), if chlorine is used;

v. Oil and grease;

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

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

viii. Ammonia, as N;

ix. Discharge flow;

x. pH; and

xi. Temperature, both in winter and summer.

c. Data required under Subsection 105.08.b.:

i. Grab samples must be used for oil and grease, fecal coliform (including E. coli), and volatile organics. Temperature, pH, and TRC effluent data may be obtained from grab samples or from calibrated and properly maintained continuous monitors;

ii. Twenty-four (24) hour composite samples must be used for pollutants listed in Subsection 105.08.b., other than those specified in Subsection 105.08.c.i., unless specified otherwise in 40 CFR Part 136 . Twenty-four (24) hour composite samples must comprise at least four (4) grab samples unless specified otherwise in 40 CFR Part 136. For a composite sample, only one (1) analysis of the composite aliquots is required;

iii. The quantitative data may be collected over the past three hundred sixty-five (365) days, if the data represents current operations, and must include maximum daily value, average daily value, and number of measurements taken; and

iv. The applicant must collect and analyze samples in accordance with 40 CFR Part 136.

d. The Department may waive the testing and reporting requirements for the pollutants or flow listed in Subsection 105.08.c. if the applicant requests a waiver before or with its application, and demonstrates that information adequate to support permit issuance can be obtained through less stringent requirements.

e. If the applicant is a new discharger, the applicant must:

i. Complete and submit Item IV of EPA Form 2E equivalent, in accordance with Subsection 105.04.a.iv., by providing quantitative data that complies with the section no later than two (2) years after the discharge commences, except the applicant does not need to complete the portions of Item IV requiring tests

already performed and reported under the discharge monitoring requirements of the IPDES or NPDES permit; and

ii. Include estimates and the source of each estimate instead of sampling data for the pollutants or parameters listed in Subsection 105.08.b.;

f. For the required data, pollutant levels must be reported or estimated as concentration and as total mass, except for flow, pH, and temperature. Submittal of estimated data must be accompanied by documents supporting the estimated value.

g. An applicant's duty, under Subsections 105.08.b., c., and e., to provide quantitative data or estimates of certain pollutants does not apply to pollutants present in a discharge solely resulting from their presence in intake water. An applicant must report the presence of those pollutants. If the requirements of Subsection 303.07 are met, net credit may be provided for the presence of pollutants in intake water.

09. Application Requirements for New and Existing Concentrated Animal Feeding Operations (CAFO). An applicant for an IPDES permit for a new or existing CAFO, as defined in 40 CFR 122.23(b) must provide the following information to the Department, using the forms specified in Subsection 105.04:

a. Name of the owner and operator;

b. Facility location and mailing addresses;

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

d. Topographic map of the geographic area where the CAFO is located, showing the specific location of the production area;

e. Specific information about the number and type of animals, including, if applicable: beef cattle, broilers, layers, swine weighing fifty-five (55) pounds or more, swine weighing less than fifty-five (55) pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, or other animals, whether in open confinement or housed under roof;

f. Type of containment and total capacity in tons or gallons of any anaerobic lagoon, roofed storage shed, storage pond, under-floor pit, above-ground storage tank, below-ground storage tank, concrete pad, impervious soil pad, or other structure or area used for

containment and storage of manure, litter, and process wastewater;

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

h. Estimated amounts of manure, litter, and process wastewater generated per year in tons or gallons;

i. Estimated amounts of manure, litter, and process wastewater transferred to other persons per year in tons or gallons; and

j. A completed nutrient management plan that will be implemented upon the date of permit coverage. A nutrient management plan must meet, at a minimum, the requirements specified in 40 CFR 122.42, including all CAFOs subject to 40 CFR 412.30 through 412.37, 412.40 through 412.47, or the requirements of 40 CFR 412.4(c).

10. Application Requirements for New and Existing Concentrated Aquatic Animal Production (CAAP) Facilities. An applicant for an IPDES permit for a new or existing CAAP facility must provide the following information, using the forms specified in Subsection 105.04:

a. Maximum daily and average monthly flow from each outfall;

b. Number of ponds, raceways, and similar structures;

c. Name of the receiving water and the source of intake water;

d. Total yearly and maximum harvestable weight for each species of aquatic animal,; and

e. Calendar month of maximum feeding and the total mass of food fed during that month.

11. Application Requirements for New and Existing POTWs and Other Dischargers Designated by the Department.

a. Except as provided in Subsection 105.11.b., an applicant that is a POTW and any other discharger designated by the Department must provide the information in this subsection, using the forms specified in Subsection 105.04.b. An applicant must submit all information available at the time of application and may reference information previously submitted to the Department.

b. The Department may waive a requirement of this subsection if it has access to substantially identical information or if that information is not of material concern for a specific permit, if approved by the EPA Regional Administrator. The waiver request to the Regional

Administrator must include the Department's justification for the waiver. A Regional Administrator's disapproval of the Department's proposed waiver does not constitute final agency action, but does provide notice to the state and permit applicant(s) that EPA may object to a state-issued permit issued in the absence of the required information.

c. An applicant under this subsection must provide:

i. Name, mailing address, and location of the facility;

ii. Name, mailing address, e-mail address, and telephone number of the applicant, and whether the applicant is the facility's owner, operator, or both;

iii. List of environmental permits or construction approvals received or applied for, including dates, under:

(1) Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste";

(2) Underground injection control (UIC) program under the Idaho Department of Water Resources UIC program at IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells";

(3) IPDES program under IDAPA 58.01.25, "Idaho Pollutant Discharge Elimination System Rules";

(4) Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho";

(5) Nonattainment program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho";

(6) National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho";

(7) Dredge or fill permits under CWA Section 404;

(8) Sludge Management Program under IDAPA 58.01.16.650, "Wastewater Rules," and Section 380 of these rules; and

(9) Other relevant environmental permits, programs, or activities, including those subject to state jurisdiction, approval, and permits;

iv. Name, population, and EDUs of each municipal entity served by the facility, including unincorporated connector districts, whether each municipal entity owns or maintains the collection system and, if the information is available, whether the collection system is a separate sanitary sewer or a combined storm and sanitary sewer;

v. Statement whether the facility is in Indian country and whether the facility discharges to a receiving stream that flows through Indian country;

vi. Facility's design flow rate, or the wastewater flow rate the plant was built to handle, annual average daily flow rate, and maximum daily flow rate for each of the previous three (3) years;

vii. Statement identifying the types of collection systems, either separate sanitary sewers or combined storm and sanitary sewers, used by the treatment works, and an estimate of the percent of sewer line each type comprises;

viii. Information for outfalls to waters of the United States and other discharge or disposal methods:

(1) For effluent discharges to waters of the United States, the total number and types of outfalls including treated effluent, combined sewer overflows, bypasses, constructed emergency overflows;

(2) For wastewater discharged to surface impoundments, the location of each surface impoundment, the average daily volume discharged to each surface impoundment, and whether the discharge is continuous or intermittent;

(3) For wastewater applied to the land, the location of each application site, the size in acres of each application site, the average daily volume in gallons per day applied to each application site, and whether the application is continuous or intermittent;

(4) For effluent sent to another facility for treatment before discharge, the method the effluent is transported; name, mailing address, e-mail address, contact

person, and phone number of the organization transporting the discharge, if the transport is provided by a party other than the applicant; name, mailing address, e-mail address, contact person, phone number, and IPDES or NPDES permit number, if any, of the receiving facility; and average daily flow rate from this facility into the receiving facility in million gallons per day (MGD); and

(5) For wastewater disposed of in a manner not included in Subsections 105.11.c.viii(1) through (4), including underground percolation and underground injection, a description of the disposal method, the location and size of each disposal site, if applicable, the annual average daily volume in gallons per day disposed of by this method, and whether disposal by this method is continuous or intermittent; and

ix. Name, mailing address, e-mail address, telephone number, and responsibilities of contractors responsible for operating or maintaining the POTW facility.

x. Indicate whether applicant is operating under or requesting to operate under a variance as specified in Subsection 310.02 if known at the time of application.

d. In addition to the information described in Subsection 105.11.c., an applicant with a design flow greater than or equal to zero point one (0.1) million gallons per day (MGD) must provide:

i. Current average daily volume in gallons per day of inflow and infiltration, and describe steps the facility is taking to minimize inflow and infiltration;

ii. Topographic map, or other map if a topographic map is unavailable, extending at least one (1) mile beyond property boundaries of the treatment plant including unit processes, and showing:

(1) Treatment plant area and unit processes;

(2) Major pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant, including outfalls from bypass piping, if applicable;

(3) Each well where fluids from the treatment plant are injected underground;

(4) Wells, springs, and other surface water bodies listed in public records or known to the applicant within one-quarter (1/4) mile of the property boundaries of the treatment works;

(5) Sewage sludge management facilities including on-site treatment, storage, and disposal sites; and

(6) Each location at which waste classified as hazardous under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," enters the treatment plant by truck, rail, or dedicated pipe;

iii. Process flow diagram or schematic as follows:

(1) Diagram showing the processes of the treatment plant, including bypass piping and backup power sources or redundancy in the system, a water balance showing treatment units and disinfection, and daily average flow rates at influent and discharge points and approximate daily flow rates between treatment units; and

(2) Narrative description of the diagram; and

iv. Information regarding scheduled improvements:

(1) Outfall number of each affected outfall;

(2) Narrative description of each required improvement;

(3) Scheduled dates for commencing and completing construction, commencing discharge and attaining operational level, and actual completion date for events listed; and

(4) Description of permits and authorizations for other federal and state requirements.

e. An applicant must provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable:

i. For each outfall:

(1) Outfall number;

(2) County, and city or town in which the outfall is located;

(3) Latitude and longitude, to the nearest second;

(4) Distance from shore and depth below surface;

(5) Average daily flow rate, in million gallons per day (MGD);

(6) If the outfall has a seasonal or periodic discharge, the number of times per year the discharge occurs, duration of each discharge, flow of each discharge, and months when discharge occurs; and

(7) Statement whether the outfall is equipped with a diffuser and the type of diffuser used, such as high-rate;

ii. For each outfall discharging effluent to waters of the United States, the following receiving water information, if available:

(1) Name of each receiving water;

(2) Critical flow of each receiving water; and

(3) Total hardness of the receiving water at critical low flow; and

iii. For each outfall discharging to waters of the United States, the following information describing the treatment of the discharges:

(1) Highest level of treatment, including primary, equivalent to secondary, secondary, advanced, or other treatment level provided for:

(a) Design biochemical oxygen demand removal percentage;

(b) Design suspended solids removal percentage;

(c) Design phosphorus removal percentage;

(d) Design nitrogen removal percentage; and

(e) Other removals that an advanced treatment system is designed to achieve; and

(2) Type of disinfection used, and whether the treatment plant de-chlorinates, if disinfection is accomplished through chlorination.

f. In addition to Subsection 105.11.a., and except as provided in Subsection 105.11.h., an applicant must undertake sampling and analysis and submit effluent monitoring information for samples taken from each outfall where effluent is discharged to waters of the United States, except for combined sewer overflows, including:

i. Pollutants listed in Appendix J, Table 1A to 40 CFR Part 122 ;

ii. For an applicant with a design flow greater than or equal to zero point one (0.1) million gallons per day (MGD), pollutants listed in Appendix J, Table 1 to 40 CFR Part 122, except a facility that does not use chlorine for disinfection, does not use chlorine elsewhere in the treatment process, and has no reasonable potential to discharge chlorine in the facility's effluent, is not required to sample or analyze chlorine;

iii. Pollutants listed in Appendix J, Table 2 to 40 CFR Part 122 and other pollutants the state or EPA has established water quality standards for the receiving waters if the facility is a POTW:

(1) With a design flow rate equal to or greater than one (1) million gallons per day (MGD);

(2) With an approved pretreatment program;

(3) Required to develop a pretreatment program; or

(4) The Department re compliance with these rules;

iv. Sampling and analysis for additional pollutants, as the Department may require, on a case-by-case basis;

v. Data from at least three (3) samples taken within four and one-half (4 1/2) years before the date of the permit application; to meet this requirement:

(1) Samples must represent the seasonal variation in the discharge from each outfall;

(2) Existing data may be used, if available, in lieu of sampling done solely for this application; and

(3) Additional samples may be required by the Department on a case-by-case basis; and

vi. Existing data for pollutants specified in Subsections 105.11.f.i. through iv. collected within four and one-half (4 1/2) years of the application. This data must be included in the

pollutant data summary submitted by the applicant, except if the applicant samples for a specific pollutant on a monthly or more frequent basis, only the data collected for that pollutant within one (1) year of the application must be provided.

g. To meet the information requirements of Subsection 105.11.f., an applicant must:

i. Collect samples of effluent and analyze the samples for pollutants following the analytical methods approved under 40 CFR Part 136 unless an alternative is specified in the existing IPDES or NPDES permit;

ii. Use the following methods:

(1) Grab samples for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform (including E. coli), and volatile organics. Temperature, pH, dissolved oxygen, and residual chlorine data may be obtained from grab samples or from calibrated and properly maintained continuous monitors;

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

iii. Provide at least the following information for each parameter:

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

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

(3) Analytical method used; and

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

iv. Report metals as total recoverable, unless the Department requires otherwise.

h. When an applicant has two (2) or more outfalls with substantially identical effluent discharging to the same receiving water segment, the Department may, on a case-by-case basis, allow the applicant to submit sampling data for only one (1) outfall. The Department may also allow an applicant to composite samples from one (1) or more outfalls that discharge into the same mixing zone, under IDAPA 58.01.02, "Water Quality Standards." For POTWs applying before commencing discharge, data must be submitted no later than twenty-four (24) months after discharge commences.

12. Whole Effluent Toxicity (WET) Monitoring for POTWs.

a. An applicant for a permit under Subsection 105.11 must submit information on effluent monitoring for WET by identifying WET tests conducted during the four and one-half (4 1/2) years before the application date on the discharges or on receiving water near the discharge. For POTWs applying before discharge commences, data must be submitted no later than twenty-four (24) months after discharge commences.

b. An applicant under Subsection 105.11 must submit to the Department, in compliance with Subsections 105.12.c. through f., the results of valid WET tests for acute or chronic toxicity for samples taken from each outfall where effluent is discharged to surface waters, except for combined sewer overflows, if the applicant:

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

ii. Has an approved pretreatment program or is required to develop a pretreatment program; or

iii. Is required to comply with this subsection by the Department, based on consideration of:

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

(2) Ratio of effluent flow to receiving stream flow;

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

(4) Receiving water characteristics, including possible or known water quality impairment, and whether the POTW discharges to a water designated as an outstanding natural resource water; or

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

c. When an applicant under Subsection 105.11 has two (2) or more outfalls with substantially identical effluent discharging to the same receiving water segment, the Department may, on a case-by-case basis, allow the applicant to submit WET data for only one (1) outfall. The Department may also allow an applicant to composite samples from one (1) or more outfalls that discharge into the same mixing zone.

d. An applicant under Subsection 105.12.b. that is required to perform WET testing must provide:

i. Results of at least four (4) quarterly tests for a year, from the year preceding the permit application or results from four (4) tests performed at least annually in the four and one-half (4 1/2) year period before the application, if the results show no appreciable toxicity using a safety factor determined by the Department;

ii. Number of chronic or acute WET tests conducted since the last permit reissuance;

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

iv. For WET data submitted to the Department within four and one-half (4 1/2) years before the date of the application, the dates on which the data were submitted and a summary of the results; and

v. Information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if WET tests conducted within the past four and one-half (4 1/2) years revealed toxicity.

e. An applicant under Subsection 105.11 must conduct tests with no less than two (2) species, including fish, invertebrate, or plant,

and test for acute or chronic toxicity, depending on the range of receiving water dilution. Unless the Department directs otherwise, an applicant must conduct acute or chronic testing based on:

i. Acute toxicity testing if the dilution of the effluent is greater than a ratio of one thousand to one (1,000:1) at the edge of the mixing zone;

ii. Acute or chronic toxicity testing, if the dilution of the effluent is between a ratio of one hundred to one (100:1) and one thousand to one (1,000:1) at the edge of the mixing zone; acute testing may be more appropriate at the higher end of this range (one thousand to one [1,000:1]), and chronic testing may be more appropriate at the lower end of this range (one hundred to one (100:1)); or

iii. Chronic testing if the dilution of the effluent is less than a ratio of one hundred to one (100:1) at the edge of the mixing zone.

f. For the WET testing required by this section, an applicant must conduct testing using methods approved under 40 CFR Part 136.

13. Application Requirements for POTWs Receiving Industrial Discharges.

a. An applicant for an IPDES permit as a POTW under Subsection 105.11 must state in its application the number of significant industrial users (SIU) and non-significant categorical industrial users (NSCIU), as defined at 40 CFR 403.3(v), including SlUs and NSCIUs that truck or haul waste, discharging to the POTW. A POTW with one (1) or more SlUs must provide the following information for each SIU that discharges to the POTW:

i. Name and mailing address of the SIU;

ii. Description of all industrial processes that affect or contribute to the SIU's discharge;

iii. Principal products and raw materials of each SIU that affects or contributes to that SIU's discharge;

iv. Average daily volume of wastewater discharged by the SIU, indicating the amount attributable to process flow and non-process flow;

v. Whether the SIU is subject to local limits;

vi. Whether the SIU is subject to one (1) or more categorical standards, and if so, under which category and subcategory; and

vii. Whether problems at the POTW, including upsets, pass-through, or interference have been attributed to the SIU in the past four and one-half (4 1/2) years.

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

i. Annual report submitted within one (1) year of the application; or

ii. Pretreatment program.

14. Application Requirements for POTWs Receiving Discharges from Hazardous Waste Generators and from Waste Cleanup or Remediation Sites.

a. POTWs receiving hazardous or corrective action wastes or wastes generated at another type of cleanup or remediation site must provide:

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

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

(2) Hazardous waste number designated in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste" for the transported waste, and the amount received annually of each hazardous waste; and

ii. If the POTW receives, or has been notified that it will receive, wastewater that originates from remedial activities, including those undertaken under Comprehensive Environmental Response, Compensation, and Liability Act, and the Resource Conservation and Recovery Act Sections 3004(u) or 3008(h), the applicant must report:

(1) Identity and description of each site or facility at which the wastewater originates;

(2) The identity of known hazardous constituents specified in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," in the wastewater; and

(3) Extent of treatment the wastewater receives or will receive before entering the POTW.

b. An applicant is exempt from the requirements of Subsection 105.14.a.ii. if he receives no more than fifteen (15) kilograms per month of hazardous wastes, unless the wastes are acute hazardous wastes as specified in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste."

15. Application Requirements for POTWs with Combined Sewer Systems and Overflows. A POTW applicant with a combined sewer system must provide the following information on the combined sewer system and outfalls:

a. System map indicating the location of:

i. Combined sewer overflow discharge points;

ii. Sensitive use areas potentially affected by combined sewer overflows including beaches, drinking water supplies, shellfish beds, and sensitive aquatic ecosystems;

iii. Outstanding national resource waters potentially affected by combined sewer overflows; and

iv. Waters supporting threatened and endangered species potentially affected by combined sewer overflows;

b. System diagram of the combined sewer collection system including the locations of:

i. Major sewer trunk lines, both combined and separate sanitary;

ii. Points where separate sanitary sewers feed into the combined sewer system;

iii. In-line and off-line storage structures;

iv. Flow-regulating devices; and

v. Pump stations;

c. Information on each outfall for each combined sewer overflow discharge point covered by the permit application, including:

i. Outfall number;

ii. County and city or town where the outfall is located;

iii. Latitude and longitude, to the nearest second (or equivalent); and

iv. Distance from shore and depth below surface;

d. Statement whether the applicant monitored the following in the past year for a combined sewer overflow:

i. Rainfall;

ii. Overflow volume;

iii. Overflow pollutant concentrations;

iv. Receiving water quality;

v. Overflow frequency; and

vi. Number of storm events monitored in the past year;

e. Information about the number of combined sewer overflows from each outfall in the past year and, if available:

i. Average duration per event;

ii. Average volume for each event; and

iii. Minimum rainfall that caused a combined sewer overflow event in the last year;

f. Name of each receiving water;

g. Description of known water quality impact caused by the combined sewer overflow operations, including permanent or intermittent beach closings, permanent or intermittent shellfish bed closings, fish kills, fish advisories, other recreational loss, or the exceedance of state water quality standards, on the receiving water; and

h. Applicants must provide the name, mailing address, e-mail address, telephone number, and responsibilities of contractors responsible for operating or maintaining the facility.

16. Application Requirements for New Sources and New Discharges.

a. An applicant for an IPDES permit for a new manufacturing, commercial, mining, silviculture, or other discharge, except for a new discharge from a facility subject to the requirements of Subsection 105.08 or a new discharge of storm water associated with

industrial activity subject to the requirements of Subsection 105.19, except as provided by Subsection 105.19.c., must provide the following information to the Department, using the forms specified in Subsection 105.04.b.:

i. Latitude and longitude to the nearest second (or equivalent) of the expected outfall location and the name of each receiving water;

ii. Expected date the discharge will commence;

iii. Information on flows, sources of pollution, and treatment technologies:

(1) Describe treatment the wastewater will receive, identify operations contributing wastewater to the effluent, state the average flow contributed by each operation, and describe the ultimate disposal of solid or liquid wastes not discharged;

(2) Line drawing of the water flow through the facility with a water balance as described in Subsection 105.07.b.; and

(3) If the expected discharges will be intermittent or seasonal, describe the frequency, duration, and maximum daily flow rate of each discharge occurrence, except for storm water runoff, spillage, or leaks;

iv. If a new source performance standard promulgated under CWA Section 306 or an ELG applies to the applicant and is expressed by production or another measure of operation, a reasonable calculation of the applicant's expected actual production reported in the units used in the ELG or new source performance standard, as required by Subsection 303.02.b., for each of the first three (3) years. The applicant may submit alternative estimates if production is likely to vary;

v. Effluent characteristics as described in Subsection 105.16.b.;

vi. Existence of technical evaluations concerning the applicant's wastewater treatment, with the name and location of similar plants of which the applicant has knowledge;

vii. Optional information the permittee wishes the Department to consider.

b. Applicant must provide the following effluent characteristics information:

i. Estimated daily maximum, daily average, and the source of that information for each outfall for:

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

(2) Chemical oxygen demand (COD);

(3) Total organic carbon (TOC);

(4) Total suspended solids (TSS);

(5) Flow;

(6) Ammonia, as N;

(7) Temperature, in both winter and summer; and

(8) pH.

ii. Estimated daily maximum, daily average, and the source of that information for each outfall for all conventional and nonconventional pollutants in Table IV of Appendix D to 40 CFR Part 122, if the applicant knows or believes the pollutants will be present or if the pollutants are limited by an ELG or new source performance standard either directly or indirectly through limits on an indicator pollutant;

iii. Estimated daily maximum, daily average, and the source of that information for the following pollutants for each outfall, if the applicant knows or believes the pollutants will be present in the discharge from an outfall:

(1) Pollutants in Table IV of Appendix D to 40 CFR Part 122;

(2) Toxic metals, total cyanide, and total phenols listed in Table III of Appendix D to 40 CFR Part 122;

(3) Organic toxic pollutants in Table II of Appendix D to 40 CFR Part 122 except bis (chloromethyl) ether, dichlorofluoromethane, and trichlorofluoromethane; however, this requirement is waived for:

(a) Applicant with expected gross sales of less than two hundred eighty-seven thousand three hundred dollars ($287,300) per year in 2014 dollars for

the next three (3) years (Subsection 105.07.o.ii.); or

(b) Coal mine with expected average production of less than one hundred thousand (100,000) tons of coal per year (Subsection 105.07.o.i.);

iv. The information that 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) may be discharged if the applicant uses or manufactures one (1) of the following compounds, or if the applicant knows or believes that TCDD will or may be present in an effluent:

(1) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); Chemical Abstract Service (CAS) #93-76-5;

(2) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #93-72-1);

(3) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136-25-4);

(4) 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel) (CAS #299-84-3);

(5) 2,4,5-trichlorophenol (TCP) (CAS #95-95-4); or

(6) Hexachlorophene (HCP) (CAS #70-30-4); and

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

c. No later than twenty-four (24) months after commencing discharge from the proposed facility, the applicant must complete and submit Items V and VI of EPA application Form 2C equivalent. The applicant need not complete those portions of Item V or the Department equivalent requiring tests already performed and reported under the discharge monitoring requirements of its permit.

d. The effluent characteristics requirements in Subsections 105.08.b., c., and e. that an applicant must provide estimates of certain pollutants expected to be present do not apply to pollutants present in a discharge based solely on their presence in intake water. An applicant must report that a pollutant is present. Net credits may be provided for the presence of pollutants in intake water if the requirements of Subsection

303.07 are met, and (except for discharge flow, temperature, and pH) all levels must be estimated as concentration and as total mass.

e. The Department may waive the reporting requirements for any of the pollutants and parameters in Subsection 105.16.b. if the applicant requests a waiver with its application, or earlier, and demonstrates that information adequate to support issuing the permit can be obtained through less stringent reporting requirements.

17. Application Requirements for Treatment Works Treating Domestic Sewage (TWTDS). TWTDS with a currently effective NPDES or IPDES permit must submit a permit application during the next IPDES permit renewal, using EPA Form 2S equivalent. New applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the Department.

a. The Department may waive requirements of this subsection if there is access to substantially identical information. The Department may also waive requirements of this subsection that are not of material concern for a specific permit, if approved by the EPA Regional Administrator. The waiver request to the Regional Administrator must include the Department's justification for the waiver. An EPA Regional Administrator's disapproval of the Department's proposed waiver does not constitute final agency action but does notify the state and permit applicant that EPA may object to a state-issued permit in the absence of the required information.

b. Applicants must submit:

i. Name, mailing address, and location of the TWTDS where the application is submitted;

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

iii. Whether the facility is a Class I Sludge Management Facility;

iv. Design flow rate in million gallons per day (MGD);

v. Total population and (EDUs) served; and

vi. TWTDS status as federal, state, private, public, or other entity.

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

i. Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste";

ii. Underground injection control (UIC) program under the Idaho Department of Water Resources UIC program at IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells";

iii. IPDES program under IDAPA 58.01.25, "Idaho Pollutant Discharge Elimination System Rules";

iv. Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho";

v. Nonattainment program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho";

vi. National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho";

vii. Dredge or fill permits under CWA Section 404;

viii. Sludge Management Program under IDAPA 58.01.16.650, "Wastewater Rules," and Section 380 of these rules; and

ix. Other relevant environmental permits, programs, or activities, subject to state jurisdiction, approval, and permits.

d. Applicants must identify the generation, treatment, storage, land application, or disposal of sewage sludge that occurs in Indian country.

e. Applicants must submit a topographic map (or other map if a topographic map is unavailable) extending one (1) mile beyond property boundaries of the facility and showing:

i. Sewage sludge management facilities, including on-site treatment, storage, and disposal sites; and

ii. Wells, springs, and other surface water bodies that are within one-quarter (1/4) mile of the property boundaries and listed in public records or known to the applicant.

f. Applicants must submit a line drawing and/or a narrative description identifying sewage sludge management practices employed during the term of the permit, including all units used for collecting, dewatering, storing, or treating sewage sludge, the destination of liquids and

solids leaving each unit, and all processes used for pathogen reduction and vector attraction reduction.

g. Applicant must submit sewage sludge monitoring data quantifying pollutants with limits in sewage sludge established in 40 CFR Part 503 for the applicant's use or disposal practices on the date of permit application.

i. The Department may require sampling for additional pollutants, as appropriate, on a case-by-case basis;

ii. Applicants must provide data from at least three (3) samples taken within four and one-half (4 1/2) years before the date of the permit application. Samples must represent the sewage sludge and be collected at least one (1) month apart. Existing data may be used in lieu of sampling done solely for this application;

iii. Applicants must collect and analyze samples following analytical methods approved under SW-846 (Test Methods for Evaluating Solid Waste, Physical/Chemical Methods) unless an alternative was specified in an existing sewage sludge permit; and

iv. Monitoring data provided must include at least the following information for each parameter:

(1) Average monthly concentration for all samples (mg/kg dry weight), based upon actual sample values;

(2) Analytical method used; and

(3) Method detection level.

h. If the applicant is either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge, the following information must be provided:

i. If the applicant's facility generates sewage sludge, the total dry metric tons per three hundred sixty-five (365)-day period generated at the facility;

ii. If the applicant's facility receives sewage sludge from another facility, the following information for each facility from which sewage sludge is received:

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

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

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

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

(1) Whether the Class A pathogen reduction requirements in 40 CFR 503.32(a) or the Class B pathogen reduction requirements in 40 CFR 503.32(b) are met, and a description of treatment processes used to reduce pathogens in sewage sludge;

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

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

iv. If sewage sludge from the applicant's facility meets the ceiling concentrations in 40 CFR 503.13(b)(1), the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one (1) of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(8), and if the sewage sludge is applied to the land, the applicant must provide the total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that is applied to the land;

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

(1) Total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that is sold or given away in a bag or other container for land application; and

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

vi. If sewage sludge from the applicant's facility is provided to another person who generates sewage sludge during the treatment of domestic sewage in a treatment works or a person who derives a material from sewage sludge, and the sewage sludge is not subject to Subsection 105.17.h.iv., the applicant must provide the following information for each facility receiving the sewage sludge:

(1) Name, e-mail address, and mailing address of the receiving facility;

(2) Total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that the applicant provides to the receiving facility;

(3) Description of treatment processes occurring at the receiving facility, including blending activities and treatment to reduce pathogens or vector attraction characteristic;

(4) Copy of the notice and necessary information that the applicant is required to provide the receiving facility under 40 CFR 503.12(g); and

(5) If the receiving facility places sewage sludge in bags or containers for sale or give-away to application to the land, a copy of any labels or notices that accompany the sewage sludge.

i. If sewage sludge from the applicant's facility is applied to the land in bulk form, and is not subject to Subsection 105.17.h.iv., v., or vi., the applicant must provide:

i. Total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that is applied to the land;

ii. If land application sites are in states other than the state where the sewage sludge is prepared, a description of how the applicant will notify the permitting authority for the state where the land application sites are located;

iii. The following information for each land application site identified at the time of permit application:

(1) Name (if any), and location for the land application site;

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

(3) Topographic map (or another map if a topographic map is unavailable) showing the site's location;

(4) Name, mailing address, e-mail address, and telephone number of the site owner, if different from the applicant;

(5) Name, mailing address, e-mail address, and telephone number of the person who applies sewage sludge to the site, if different from the applicant;

(6) Whether the site is agricultural land, forest, a public contact site, or a reclamation site, as defined under 40 CFR 503.11;

(7) Type of vegetation grown on the site, if known, and the nitrogen requirement for the vegetation;

(8) Whether the vector attraction reduction options of 40 CFR 503.33(b)(9) or (b)(10) are met at the site, and a description of procedures employed during use to reduce vector attraction properties in sewage sludge; and

(9) Other information describing how the site will be managed, as specified by the permitting authority.

iv. The following information for each land application site identified during permit application, if the applicant intends to apply bulk sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site:

(1) Whether the applicant contacted the permitting authority in the state where the bulk sewage sludge subject to 40 CFR 503.13(b)(2) will be applied, to ascertain whether bulk sewage sludge subject to 40 CFR 503.13(b)(2) has been applied to the site on or since July 20, 1993, and if so, the name of the permitting authority and the name, phone number, and e-mail address, if available, of a contact person at the permitting authority;

(2) Identification of facilities other than the applicant's facility that have sent, or are sending, sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site since July 20, 1993, if, based on the inquiry in Subsection 105.17.i.iv(1) bulk sewage sludge subject to cumulative pollutant loading rates in 40 CFR 503.13(b)(2) has been applied to the site since July 20, 1993;

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

(1) Describes the geographical area covered by the plan;

(2) Identifies the site selection criteria;

(3) Describes how the site will be managed;

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

(5) Provides for advance public notice of land application sites in the manner prescribed by state and local law. When state or local law does not require advance public notice, it must be provided in a manner that informs the public of the planned land application.

j. If sewage sludge from the applicant's facility is placed on a surface disposal site, the applicant must provide:

i. Total dry metric tons of sewage sludge from the applicant's facility that is placed on surface disposal sites per three hundred sixty-five (365)-day period;

ii. The following information for each surface disposal site receiving sewage sludge from the applicant's facility that the applicant does not own or operate:

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

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

iii. The following information for each active sewage sludge unit at each surface disposal site that the applicant owns or operates:

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

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

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

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

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

(6) Description of the liner for the active sewage sludge unit, including whether it has a maximum permeability of 1 x 10-7 cm/sec;

(7) Description of a leachate collection system for the active sewage sludge unit, including the method used for leachate disposal, and federal, state, and local permit number(s) for leachate disposal;

(8) If the active sewage sludge unit is less than one hundred fifty (150) meters from the property line of the surface disposal site, the actual distance from the unit boundary to the site property line;

(9) Remaining capacity (dry metric tons) for the active sewage sludge unit;

(10) Date on which the active sewage sludge unit is expected to close, if a date has been identified;

(11) The following information for other facilities that sends sewage sludge to the active sewage sludge unit:

(a) Name, contact person, and mailing address of the facility; and

(b) Information about the quality of the sewage sludge received from the facility, including

any treatment at the facility to reduce pathogens or vector attraction characteristics;

(12) Whether the vector attraction reduction options of 40 CFR 503.33(b)(9) through (b)(11) are met at the active sewage sludge unit, and a description of procedures employed at the time of disposal to reduce vector attraction properties in sewage sludge;

(13) The following information, as applicable to ground water monitoring occurring at the active sewage sludge unit:

(a) Description of ground water monitoring occurring at the active sewage sludge unit;

(b) Ground water monitoring data describing the well locations and approximate depth to ground water;

(c) Copy of a ground water monitoring plan prepared for the active sewage sludge unit; and

(d) Copy of a certification obtained from a qualified ground water scientist that the aquifer has not been contaminated; and

(14) If site-specific pollutant limits are sought for the sewage sludge placed on this active sewage sludge unit, information to support the request.

k. If sewage sludge from the applicant's facility is fired in a sewage sludge incinerator, the applicant must provide:

i. Total dry metric tons of sewage sludge from the applicant's facility that is fired in sewage sludge incinerators per three hundred sixty-five (365)-day period;

ii. The following information for each sewage sludge incinerator firing the applicant's sewage sludge that the applicant does not own or operate:

(1) Name or number, contact person, mailing address, e-mail address, and telephone number of the sewage sludge incinerator; and

(2) Total dry metric tons from the applicant's facility per three hundred sixty-five (365)-day period fired in the sewage sludge incinerator;

iii. The following information for each sewage sludge incinerator that the applicant owns or operates:

(1) Name or number and the location of the sewage sludge incinerator;

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

(3) Total dry metric tons per three hundred sixty-five (365)-day period fired in the sewage sludge incinerator;

(4) Information, test data, and documentation of ongoing operating parameters indicating that compliance with the National Emission Standard for Beryllium in 40 CFR Part 61 will be achieved;

(5) Information, test data, and documentation of ongoing operating parameters indicating that compliance with the National Emission Standard for Mercury in 40 CFR Part 61 will be achieved;

(6) Dispersion factor for the sewage sludge incinerator and modeling results and supporting documentation;

(7) Control efficiency for parameters regulated in 40 CFR 503.43, and performance test results and supporting documentation;

(8) Information used to calculate the risk specific concentration (RSC) for chromium, including the results of incinerator stack tests for hexavalent and total chromium concentrations, if the applicant is requesting a chromium limit based on a site-specific RSC value;

(9) Whether the applicant monitors total hydrocarbons (THC) or carbon monoxide (CO) in the exit gas for the sewage sludge incinerator;

(10) Type of sewage sludge incinerator;

(11) Maximum performance test combustion temperature, obtained during the performance test

of the sewage sludge incinerator to determine pollutant control efficiencies;

(12) The following information on the sewage sludge feed rate used during the performance test:

(a) Sewage sludge feed rate in dry metric tons per day;

(b) Identify whether the feed rate submitted is average use or maximum design; and

(c) Describe how the feed rate was calculated;

(13) Incinerator stack height in meters for each stack and identify whether actual or creditable stack height was used;

(14) Operating parameters for the sewage sludge incinerator air pollution control device obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies;

(15) Identify the monitoring equipment in place including, but not limited to, equipment to monitor:

(a) Total hydrocarbons or carbon monoxide;

(b) Percent oxygen;

(c) Percent moisture; and

(d) Combustion temperature; and

(16) List of air pollution control equipment used with this sewage sludge incinerator.

l. If sewage sludge from the applicant's facility is sent to a municipal solid waste landfill (MSWLF), the applicant must provide the following information for each MSWLF:

i. Name, contact person, mailing address, e-mail address location, and MSWLF permit numbers;

ii. Total dry metric tons per three hundred sixty-five (365)-day period sent from this facility to the MSWLF;

iii. Determination of whether the sewage sludge meets the requirements for MSWLF disposal of sewage sludge,

including the results of the paint filter liquids test and additional requirements that apply on a site-specific basis; and

iv. Information, if known, indicating whether the MSWLF complies with criteria in 40 CFR Part 258.

m. Name, mailing address, e-mail address, telephone number, and responsibilities of contractors that operate or maintain a facility related to sewage sludge generation, treatment, use, or disposal.

n. At the request of the Department, the applicant must provide information necessary to determine the appropriate standards for permitting under 40 CFR Part 503 and to assess the sewage sludge use and disposal practices, determine whether to issue a permit, or identify appropriate permit requirements.

o. TWTDS facilities using or disposing of sewage sludge where a standard applicable to its sewage sludge use or disposal practices has been published must submit the following information on EPA Form 2S, Part I equivalent form:

i. TWTDS's name, mailing address, location, and status as federal, state, private, public, or other entity;

ii. Applicant's name, address, e-mail address, telephone number, and ownership status;

iii. Description of the sewage sludge use or disposal practices. Unless the sewage sludge meets the requirements of Subsection 105.17.h.iv., the description must include the name and address of facilities where sewage sludge is sent for treatment or disposal, and the locations of land application sites;

iv. Annual amount of sewage sludge generated, treated, used or disposed (estimated dry weight basis); and

v. Most recent data the TWTDS may have on the quality of the sewage sludge.

18. Application Requirements for Municipal Separate Storm Sewer (MS4) Discharges. The operator of a discharge from a large or medium MS4 or an MS4 designated by the Department under 40 CFR 122.26(a)(1)(v) may submit a jurisdiction-wide or system-wide permit application. Where more than one (1) public entity owns or operates an MS4 within a geographic area (including adjacent or interconnected MS4s), an operator may be co-applicant to

the same application. Permit applications for discharges from large and medium MS4s or MS4s designated under 40 CFR 122.26 (a)(1)(v) must include:

a. In Part 1 of the application:

i. Applicant's name, address, e-mail address, telephone number of contact person, ownership status and status as a state or local government entity;

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

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

(1) USGS seven point five (7.5) minute topographic map (or equivalent topographic map with a scale between one to ten thousand [1:10,000] and one to twenty-four thousand [1:24,000] if cost effective) extending one (1) mile beyond the service boundaries of the MS4 covered by the permit application;

(2) Location of known MS4 outfalls discharging to waters of the United States;

(3) Description of the land use activities (divisions indicating undeveloped, residential, commercial, agricultural, and industrial uses) accompanied with estimates of population densities and projected growth for a ten (10) year period within the drainage area served by the MS4 and an estimate of an average runoff coefficient for each land use type;

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

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

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

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

iv. Description of the discharge including:

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

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

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

(a) Assessed for CWA Section 305(b) reports submitted by the Department, the basis for the assessment (evaluated or monitored), a summary of designated use support and attainment of CWA goals (fishable and swimmable waters), and causes of nonsupport of designated uses;

(b) Listed under CWA Section 304(l)(1)(A)(i), 304(l)(1)(A)(ii), or 304(l)(1)(B) that is not expected to meet water quality standards or water quality goals;

(c) Listed in state Nonpoint Source Assessments required by CWA Section 319(a), without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards due to storm sewers, construction, highway maintenance, and runoff from municipal landfills and municipal

sludge adding significant pollution (or contributing to a violation of water quality standards);

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

(e) Recognized by the applicant as highly valued or sensitive waters;

(f) Defined by the state as wetlands; and

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

(4) Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in the permit application. At a minimum, a screening analysis includes a narrative description, for either each field screening point or major outfall, of visual observations made during dry weather periods. If flow is observed, two (2) grab samples will be collected during a twenty-four (24)-hour period with at least four (4) hours between samples. For the samples, a narrative description of the color, odor, turbidity, presence of an oil sheen or surface scum and other relevant observations about the potential presence of non-storm water discharges or illegal dumping must be provided. In addition, a narrative description of the results of a field analysis using suitable methods to estimate pH, total chlorine, total copper, total phenol, and detergents (or surfactants) must be provided with a description of the flow rate. Where the field analysis does not involve analytical methods approved under 40 CFR Part 136, the applicant must provide a description of the method used including the name of the manufacturer of the test method with the range and accuracy of the test. Field screening points are either major outfalls or other

outfall points (or another point of access such as manholes) randomly located throughout the storm sewer system by placing a grid over a drainage system map and identifying those cells of the grid that contain a segment of the storm sewer system or major outfall. The field screening points are established using the following guidelines and criteria:

(a) Overlay a grid system consisting of perpendicular north-south and east-west lines spaced one-quarter (A) mile apart on a map of the MS4, creating a series of cells;

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

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

(d) Locate field screening points to the degree practicable at the farthest manhole or other accessible location downstream in the system, within each cell; however, consider the safety of personnel and accessibility of the location in making this determination;

(e) Hydrologic conditions, total drainage area of the site, population density of the site, traffic density, age of the structures or buildings in the area, history of the area, and land use types;

(f) For medium MS4s, no more than two hundred fifty (250) cells need to have identified field screening points; in large MS4s, no more than five hundred (500) cells need to have identified field screening points; cells established by the grid that contain no storm sewer segments will be eliminated from consideration; if fewer than two hundred fifty (250) cells in medium municipal sewers are created, and fewer than 500 in large systems are created by the overlay on the municipal sewer map, then those cells that contain a segment of the sewer system are subject to field screening (unless access to the

separate storm sewer system is impossible); and

(g) Large or medium MS4s that are unable to utilize the procedures described in Subsection 105.18.a.iv.(4)(a) through (f), because a sufficiently detailed map of the separate storm sewer systems is unavailable, must field screen no more than five hundred (500) or two hundred fifty (250) major outfalls respectively (or major outfalls in the system, if less). In these circumstances, the applicant must establish a grid system consisting of north-south and east-west lines spaced one-quarter (1/4) mile apart as an overlay to the boundaries of the MS4, thereby creating a series of cells. The applicant will select major outfalls in as many cells as possible until at least five hundred (500) major outfalls (large municipalities) or two hundred fifty (250) major outfalls (medium municipalities) are selected; a field screening analysis must occur at these major outfalls; and

(5) Information and a proposed program to meet the requirements of Subsection 105.18.b.iii., including at least: the location of outfalls or field screening points appropriate for representative data collection under Subsection 105.18.b.iii.(1), a description of why the outfall or field screening point is representative, the seasons when sampling is intended, and a description of the sampling equipment. The proposed sampling locations of outfalls or field screening points must reflect water quality concerns (Subsection 105.18.a.iv(3));

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

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

vii. Description of the financial resources currently available to the municipality to complete part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets, and sources of funds for storm water programs.

b. In Part 2 of the application:

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

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

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

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

(4) Control through interagency agreements among co-applicants the contribution of pollutants from a portion of the municipal system to another portion of the municipal system;

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

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

ii. Location of major outfall discharges to waters of the United States that were not reported under Subsection

105.18.a.iii(2). Provide an inventory, organized by watershed, of the name, address, and a description (Standard Industrial Classification [SIC] codes) that best reflects the principal products or services provided by each facility that may discharge, to the MS4, and the storm water associated with industrial activity;

iii. When quantitative data for a pollutant are required under Subsection 105.18.b.iii(1)(c), the applicant must collect a sample of effluent in accordance with Subsection 105.07.c. through 105.07.m. and analyze it for the pollutant following the analytical methods approved under 40 CFR Part 136. When no analytical method is approved, the applicant may use a suitable method but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including:

(1) Quantitative data from representative outfalls designated by the Department and developed as follows (based on information received in part 1 of the application. The Department will designate between five (5) and ten (10) outfalls or field screening points as representative of the commercial, residential and industrial land use activities of the drainage area contributing to the system or, where there are less than five (5) outfalls covered in the application, the Department will designate all outfalls):

(a) For each outfall or field screening point designated under this subsection, samples must be collected of storm water discharges from three (3) storm events occurring at least one (1) month apart in accordance with Subsection 105.07.c. through 105.07.m. (the Department may allow exemptions to sampling three (3) storm events when climatic conditions create good cause for the exemptions);

(b) A narrative description must be provided of the date and duration of the storm event sampled, rainfall estimates of the storm event that generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable (greater than one-tenth [0.1] inch rainfall) storm event;

(c) For samples collected and described under Subsections 105.18.b.iii(1)(a) and (b), quantitative data will be provided for the organic pollutants listed in Table II and the pollutants listed in Table III (toxic metals, cyanide, and total phenols) of 40 CFR Part 122, Appendix D, and for the following pollutants:

(i) Total suspended solids (TSS);

(ii) Total dissolved solids (TDS);

(iii) Chemical oxygen demand (COD);

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

(v) Oil and grease;

(vi) Fecal coliform (including E. coli);

(vii) Enterococci (previously known as fecal streptococcus);

(viii) pH;

(ix) Total Kjeldahl nitrogen;

(x) Nitrate plus nitrite;

(xi) Total ammonia plus organic nitrogen;

(xii) Dissolved phosphorus; and

(xiii) Total phosphorus;

(d) Additional quantitative data required by the Department for determining permit conditions (the Department may require that quantitative data be provided for additional parameters, and may establish sampling conditions such as the location, season of sample collection, form of precipitation (snow melt, rainfall) and other parameters necessary to ensure representativeness);

(2) Estimates of the annual pollutant load of the cumulative discharges to waters of the United States from identified municipal outfalls and the event mean concentration of the cumulative discharges to waters of the United States from identified municipal outfalls during a storm

event for BOD5, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead, and zinc. Estimates must be accompanied by a description of the procedures for estimating constituent loads and concentrations, including modelling, data analysis, and calculation methods;

(3) A proposed schedule to provide estimates for each major outfall identified in Subsection 105.18.b.ii. or 105.18.a.iii(2) of the seasonal pollutant load and of the event mean concentration of a representative storm for constituents detected in samples required under Subsection 105.18.b.iii(1); and

(4) A proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of instream stations), why the location is representative, the frequency of sampling, parameters to be sampled, and a description of sampling equipment;

iv. A proposed management program covering the duration of the permit, that includes a comprehensive planning process with public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and other appropriate provisions. The program must also include a description of staff and equipment available to implement the program. Separate proposed programs may be submitted by each co-applicant. Proposed programs may impose controls on a system wide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. Proposed programs will be considered by the Department when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs must describe priorities for implementing controls:

(1) A description of structural and source control measures, implemented during the life of the permit, to reduce pollutants in runoff from commercial and residential areas that are discharged from the MS4 with an

estimate of the expected reduction of pollutant loads, and a proposed schedule for implementing the controls. At a minimum, the description must include:

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

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

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

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

(e) Program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage, or disposal facilities for municipal waste that identifies priorities and procedures for inspections and establishes control measures for the discharges (this program can be coordinated with the program developed under Subsection 105.18.b.iv.(3)); and

(f) Program to reduce, to the maximum extent practicable, pollutants in discharges from MS4s from pesticides, herbicides, and

fertilizer application, including controls such as educational activities, permits, certifications, and other measures for commercial applicators and distributors, and for public right-of-ways and municipal facilities;

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

(a) Program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the MS4. This program description must address all illicit discharges; however, the following categories of non-storm water discharges or flows must be addressed where discharges are identified by the municipality as sources of pollutants to waters of the United States: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (defined in Section 010) to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (program descriptions must address discharges or flows from firefighting only where the discharges or flows are identified as significant sources of pollutants to waters of the United States);

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

(c) Procedures to investigate portions of the MS4 that, based on the results of the field screen, or other appropriate information, indicate a

reasonable potential of containing illicit discharges or other sources of non-storm water (procedures may include: sampling procedures for constituents such as fecal coliform (including E. coli), enterococci (previously known as fecal streptococcus), surfactants (methylene blue active substance [MBAS]), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting storm sewer inspections where safety and other considerations allow. Such description must include the location of storm sewers identified for evaluation);

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

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

(f) Description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and

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

(3) Description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the MS4. The program must:

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

(b) Describe a monitoring program for storm water discharges from industrial facilities identified in Subsection 105.18.b.iv(3), implemented during the term of the permit, including submitting quantitative data on the following constituents: pollutants limited in ELGs subcategories, where applicable; pollutant listed in an existing NPDES or IPDES permit for a facility; oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and information on discharges required under Subsections 105.07.j. through l.;

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

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

(b) Requirements for nonstructural and structural BMPs;

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

(d) Educational and training measures for construction site operators;

v. Estimated reductions in pollutant loadings from the constituents discharged from MS4s as the result of the municipal storm water quality management program. The assessment must also identify known impacts of storm water controls on ground water;

vi. For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under Subsections 105.18.b.iii. and iv. The analysis must describe the source of funds that are proposed to meet the

necessary expenditures, including legal restrictions on the use of the funds;

vii. When more than one (1) legal entity submits an application, the application must describe the roles and responsibilities of each legal entity and procedures to ensure effective coordination; and

viii. Where requirements under Subsections 105.18.a.iv.(5), 105.18.b.ii., 105.18.b.iii.(2), and 105.18.b.iv. are not practicable or applicable, the Department may exclude an operator of a discharge from an MS4 designated under 40 CFR 122.26(a)(1)(v), (b)(4)(ii) or (b)(7)(ii) from the requirements. The Department may not exclude the operator of a discharge from an MS4 identified in 40 CFR Part 122, Appendix F, G, H or I, from the permit application requirements under this subsection except where authorized under this section.

19. Application Requirements for Industrial and Construction Storm Water Discharges. Application requirements for storm water discharges associated with industrial activity and storm water discharges associated with small construction activity.

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

b. Except as provided in Subsections 105.19.c. through e., the operator of a storm water discharge associated with industrial activity subject to this section must provide:

i. Site map showing topography (or indicating the outline of drainage areas served by the outfall(s) covered in the application if a topographic map is unavailable) of the facility including:

(1) Each of its drainage and discharge structures;

(2) Drainage area of each storm water outfall;

(3) Paved areas and buildings within the drainage area of each storm water outfall, each past or present area used for outdoor storage or disposal of significant

materials, each existing structural control measure to reduce pollutants in storm water runoff, materials loading and access areas, areas where pesticides, herbicides, soil conditioners, and fertilizers are applied, each of its hazardous waste treatment, storage, or disposal facilities (including each area not required to have a Resource Conservation and Recovery Act permit for accumulating hazardous waste under 40 CFR 262.34);

(4) Each well where fluids from the facility are injected underground; and

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

ii. An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total area drained by each outfall (within a mile radius of the facility) and a narrative description of the following:

(1) Significant materials that in the three (3) years before the submittal of this application have been treated, stored, or disposed in a manner to allow exposure to storm water;

(2) Method of treatment, storage, or disposal of materials; materials management practices employed, in the three (3) years before the submittal of this application, to minimize contact by these materials with storm water runoff;

(3) Materials loading and access areas;

(4) Location, manner, and frequency in which pesticides, herbicides, soil conditioners, and fertilizers are applied;

(5) Location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and

(6) Description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

iii. Certification that outfalls containing storm water discharges associated with industrial activity have been tested or evaluated for the presence of non-storm water discharges not covered by an IPDES permit, including a description of the method

used, the date of testing, and the on-site drainage points that were directly observed during a test. Tests for non-storm water discharges may include smoke tests, fluorometric dye tests, and analysis of accurate schematics;

iv. Existing information about significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three (3) years before application submittal;

v. Quantitative data based on samples collected during storm events and collected in accordance with Subsection 105.07 from outfalls containing a storm water discharge associated with industrial activity for:

(1) Pollutants limited in an ELG to which the facility is subject;

(2) Pollutants listed in the facility's NPDES or IPDES permit for its process wastewater (if the facility is operating under an existing NPDES or IPDES permit);

(3) Oil and grease, pH, BOD5, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;

(4) Information on the discharge required under Subsections 105.07.j. through l.;

(5) Flow measurements or estimates of the flow rate, and the total amount of discharge for the storm event sampled, and the method of flow measurement or estimation; and

(6) Date and duration (in hours) of storm event sampled, rainfall measurements or estimates of the storm event (in inches) that generated the sampled runoff and the duration (in hours) between the storm event sampled and the end of the previous measurable (greater than one-tenth [0.1] inch rainfall) storm event;

vi. Operators of a discharge composed entirely of storm water are exempt from the requirements of Subsections 105.07.b., 105.07.a.i.(2) through (5), 105.07.a.ii., 105.07.a.iii., 105.07.g., 105.07.h., 105.07.i., and 105.07.m.; and

vii. Operators of new sources or new discharges (Section 010, Definitions) composed in part or entirely of storm water must include estimates for the pollutants or parameters

listed in Subsection 105.19.b.v. instead of actual sampling data, along with the source of each estimate. Operators of new sources or new discharges composed in part or entirely of storm water must provide quantitative data for the parameters listed in Subsection 105.19.b.v. within two (2) years after discharge commences, unless the data has already been reported under the monitoring requirements of the IPDES permit for the discharge. Operators of a new source or new discharge composed entirely of storm water are exempt from the requirements of Subsections 105.16.a.iii.(2) and (3), and 105.16.b.

c. Operator of an existing or new storm water discharge associated with industrial activity solely under 40 CFR 122.26(b)(14)(x) or associated with small construction activity solely under 40 CFR 122.26 (b)(15), is exempt from the requirements of Subsection 105.07 and Subsection 105.19.b. The operator must provide a narrative description of:

i. Location (including a map) and the nature of the construction activity;

ii. Total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

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

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

v. Estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

vi. Name of the receiving water.

d. Operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application under Subsection 105.19.b., unless the facility:

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

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

iii. Contributes to a violation of a water quality standard.

e. Operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge was in contact with, overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site.

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

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

a. The Department may incorporate integrated plans into IPDES permits, compliance agreement schedules, consent orders, and compliance schedule orders.

b. Integrated plans considered by the Department should contain:

i. A description of the water quality, human health, and regulatory issues to be addressed in the plan;

ii. A description of the existing wastewater and storm water systems under consideration and a summary of information describing the systems' current performance;

iii. A communications plan describing how community stakeholders are given consideration in the planning and implementation of the plan;

iv. A process for identifying, evaluating, and selecting alternatives and proposing implementation schedules;

v. A process for evaluating the performance of projects identified in the plan; and

vi. A process for identifying, evaluating, and selecting proposed new projects or modifications to ongoing or planned projects based on changed circumstances.