Notice for June 17, 2021 Special Meeting

June 17, 2021 | 9 a.m. MDT
Idaho Department of Environmental Quality
1410 N. Hilton Street, Boise, Idaho

To join remotely, click on this link:
https://zoom.us/j/95240863216?pwd=SitkOTNuYnl3Qk5pd2l3a21telNLUT09
Meeting ID: 952 4086 3216
Passcode: 463474
Or call 253-215-8782, or 346-248-7799

To request a language or disability accommodation, contact Kristin Ryan by June 14, 2021, at 208-373-0194.

Agenda

Call to order and roll call

Public comment period
The board will allow up to 30 minutes for the public to address the board on issues not specifically shown as agenda items.

Board Business
1. Approval of minutes
   • Action item—Approval of May 20, 2021 meeting minutes
2. Omnibus rulemaking—Fee rules: *Docket No. 58-0000-2100F*
   • Action item—Temporary rule, Director Jess Byrne

3. Discuss potential visit to North Idaho this summer.
Idaho Board of Environmental Quality
June 17, 2021 Board Meeting

Agenda Item 1: Approval of Meeting Minutes from
May 20, 2021

Proposed Motion:

I move that the Idaho Board of Environmental Quality approve the meeting minutes from the board meeting held on May 20, 2021.
Meeting Minutes
Idaho Board of Environmental Quality
May 20, 2021, 9:00 AM

DEQ State Office – Conference Room A/B
1410 N Hilton Street
Boise, Idaho

Also via Zoom and Teleconference

Approved:

_________________________________________
Kermit Kiebert, Chairman

_________________________________________
Dr. John MacMillan, Secretary

_________________________________________
Assistant to the Board
**Board Members Participating**

Kermit Kiebert, Chairman (remotely)
Mark Bowen, Vice Chairman
Dr. John R. “Randy” MacMillan, Secretary (remotely)
Carol Mascareñas, Member (remotely)
Nick Purdy, Member
Kevin Boling, Member (remotely)
Beth Elroy, Member

**Board Members Absent**


**Department of Environmental Quality Staff Participating (in Person)**

Jess Byrne, Director
Kristin Ryan, Deputy Director
Paula Wilson, Hearings and Rules Coordinator
Jerri Henry, Drinking Water Protection & Finance Division Administrator

**Department of Environmental Quality Staff Participating (Remotely)**

Lisa Carlson, Senior Deputy Attorney General for DEQ, Legal Counsel to the Board
Dr. Mary Anne Nelson, Surface & Wastewater Division Administrator
Michael McCurdy, Waste Management & Remediation Division Administrator
Tiffany Floyd, Air Quality Division Administrator
Charlie Parkins, Grants & Loans Coordinator
Lisa O’Hara, Deputy Attorney General
Susan Hamlin, Deputy Attorney General

**Other Participants**

Mr. Joe Ruggeri, Representing self
Brian Mullen, APTIM
Shelly Roberts, Idaho Rural Water Association

Note: Any attachments referenced in the minutes are permanent attachments to the minutes on file at the Idaho Department of Environmental Quality (DEQ).
Call to Order and Roll Call

Chairman Kermit Kiebert called the meeting of the Idaho Board of Environmental Quality (board) to order at 9:00 a.m. He reviewed the principles of remote meeting etiquette and welcomed all meeting participants.

A voice roll call was taken with six members present in the room or via Zoom video conference. Member Beth Elroy joined the meeting late.

Public Comment

Chairman Kiebert opened the floor for the public to address the board on topics not specifically on the agenda.

Mr. Joe Ruggeri provided testimony about getting the necessary permits for recently purchased property. He plans to build a coffee stand on the property. On October 9, 2020, Mr. Ruggeri started getting the necessary approvals for the septic system permit and received that permit one month later. He hired a consultant. On March 2, 2021, Mr. Ruggeri received a letter from Anna Moody, with DEQ, saying a drinking water permit would be needed from DEQ as well. This was his first interaction with DEQ. Anna provided a checklist of things he would need to submit to DEQ and informed him that an onsite inspection was also necessary. His consultant worked with an engineer to submit what was requested. They submitted a template on March 23rd. He is paying a driller to be available while waiting for DEQ approval, which is expensive. Mr. Ruggeri reported spending $7,000 to submit these plans. He repeatedly reached out to DEQ to get a timeline, and Katy Baker-Casile responded on April 6th letting him know DEQ would need at least 4 weeks. Mr. Ruggeri is frustrated because the delays are expensive. On April 20th, Mr. Ruggeri asked for a status update and was told his request had not been reviewed yet. An inspection occurred, with Katy from DEQ attending, along with someone from Panhandle Health District. Mr. Ruggeri said he was informed it will take six months to get a permit from that point. He does not feel it is acceptable and is requesting better service from DEQ.

Board Chairman Kiebert asked DEQ to respond. Dan McCracken, Administrator for the DEQ Coeur D’Alene regional office, recognized Mr. Ruggeri’s frustration but explained DEQ still has not received everything on the checklist. Mr. Ruggeri’s frustration but explained DEQ still has not received everything on the checklist. Mr. Ruggeri says it was provided or he was not told more things were needed. Mr. McCracken says the initial checklist explained everything DEQ needs for approving these systems. Mr. Ruggeri believes that was already provided on March 23rd. Dan will review the material submitted to see what is missing and reach out to Mr. Ruggeri. Mr. McCracken also shared that the work load had increased dramatically due to growth, making it hard to keep up with drinking water plan reviews. He committed to review the process to see if there is a way to improve delivery time.

Mr. Ruggeri requested a written response explaining why it has taken so long. He shared that he will raise his concerns with the Governor and legislature if they are not resolved.
Chairman Kiebert requested Mr. Ruggeri mention the need for additional resources to deal with large surges of work. The chairman stated there is a need to address increased demands such as the ability to hire contractors to help when workloads increase substantially.

**Director’s Update**

(Information item)

Director Jess Byrne provided an update to the board on current events at DEQ.

Director Byrne announced the departure of Darika Barnes.

- **Regulations/ Legislation**
  
  All regulatory chapters were heard and approved in their germane legislative committees. There were sixteen rule chapters before the legislature that the board had adopted in 2020. Twelve fee chapters (6 with no changes and 6 with changes) and 4 non-fee chapters.

  The legislature did not adjourn or pass a concurrent resolution approving pending fee rules, which is required for them to become final. The non-fee pending rules become final if the legislature does not take action to reject them. In addition, the legislature did not extend all existing rules as necessary to prevent the rules from expiring on July 1st. Therefore, the department will continue to rely on temporary rules to provide necessary services to Idahoans.

  Under Board business, DEQ is requesting the board approve our continued use of temporary rules.

- **Legislation:**
  
  There are two pieces of legislation DEQ sponsored during the 2021 legislative process.

  SB1015 repealed Idaho Code § 37-2102 (Domestic Water to be Protected) in an effort to eliminate outdated or unnecessary sections of code. It was very old and originally used to protect drinking water but not used currently by DEQ or by the Idaho Department of Health & Welfare.

  SB1079aa set up a dedicated account for the state’s Agricultural Best Management Practices (Ag-BMP) Program. DEQ has had issues disbursing the program funding within the 12-month fiscal period required. The Ag-BMP Fund removes the fiscal-year restrictions.

  Other legislation of interest:

  HB99 authorizes DEQ to develop a voluntary water quality pollutant trading program which was already allowable but is now formally recognized by the legislature. We are working with a group on the lower Boise River to pilot a pollutant trade.

  H239 clarified the minimum design standards for phosphogypsum stacks at phosphoric acid facilities. DEQ had been working with stakeholders to develop minimum design standards through the negotiated rulemaking process last summer. Because this legislation establishes minimum design standards, the rulemaking is no longer necessary.

  In conversations with the Idaho Mining Association, it is their intention to work with the department and the legislature to develop minimum operating and closure requirements as well over the next couple years. This is delayed while impacted facilities finalize settlement...
agreements with EPA. Once that process is complete, we will work with industry to address outstanding issues. Chairman Kiebert asked where the facilities are located and what companies own them. Director Byrne replied they were in Southeast Idaho and the two companies in negotiation with EPA were Simplot and Itafos.

• **Budget**

Total Appropriation for FY22 is $71,755,800. Which represents 7.6% overall increase compared to FY2021 with almost all dedicated funding. Specific enhancements we received include:

1) Bunker Hill Central Treatment plant in Kellogg - $2,119,600 for the state of Idaho to take over operation and maintenance. This plant treats water coming out of the Bunker Hill mine tunnel and groundwater pumped from underneath the central impoundment areas. Source of funding is settlement dollars from Hecla Mining Company. $90M currently exists in endowment fund.

2) Triumph mine. DEQ received $1.5M from Water Protection Control Account for FY20 and $1.55M for work in FY21 to continue to stabilize the tunnel and find a permanent solution for closure. Some money was also included for operation and maintenance.

3) Coeur D’Alene (CDA) Lake Study with the national academy of science for $573,200. Total cost of study is $775K. Kootenai County contributed $200K, and EPA contributed $20K. Previous data is showing some concerning trends. This study will help us identify data gaps and current and future risks to the lake.

4) Governor’s Building Idaho’s Future initiative included a one-time General Fund appropriation of 9,181,700 that will go to DEQ. $1 million will go to State Ag-BMP program for nonpoint source projects. $2 million will go toward nutrient reductions around CDA Lake. $6,181,700 will go to disadvantaged communities for water and wastewater infrastructure.

5) At this time it is also likely DEQ will receive funding through ARPA. Based on interim guidance, some ARPA funding will go toward loan and grant programs for water and sewer projects. State of Idaho is receiving $1.1 billion which will be used for several areas. Local governments are receiving additional money.

• **COVID-19 Response at DEQ**

During the pandemic, most DEQ employees have been working remotely at least some of the time and many all of the time.

We started bringing back some employees at the beginning of the year and all remaining employees are coming back June 1st. Limited telecommuting will be allowed.

Water quality assessment will be occurring through BURP crews this year which didn’t happen last year due to COVID and budget reductions.

• **Greenferry Letter**

DEQ is drafting a letter to respond to the Greenferry letter that was sent to Ed Hagen and provided to the board. The letter will answer the questions raised and be provided to the board.
when final. Greenferry may request additional action by the department or board after we have answered their questions.

**Agenda Item No. 1: Approval of Meeting Minutes**  
(*Action item*)

The minutes from the November 5 and November 19, 2020 board meeting were presented for approval. There were no comments from the board.

**Motion:** Carol Mascareñas moved that the board approve minutes from the November 5 and 19, 2020 board meetings.

**Second:** Mark Bowen supported the motion.

**Vote:** The motion carried unanimously.

**Agenda Item No. 2: Omnibus Non-Fee Rules: Docket No. 58-0000-2100**  
(*Action item*) **Adoption of Temporary Rule**

Director Byrne requested the board to adopt a temporary, omnibus rule that includes all DEQ’s existing and previously approved non-fee rule chapters. There are ten.

- IDAPA 58.01.02, Water Quality Standards, including revisions in pending rule docket 58-0102-2001
- IDAPA 58.01.03, Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks, including revisions in pending rule docket 58-0103-1901
- IDAPA 58.01.04, Rules for Administration of Wastewater Treatment Facility Grants, including revisions in pending rule docket 58-0104-1901 (chapter repeal)
- IDAPA 58.01.10, Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended
- IDAPA 58.01.16, Wastewater Rules
- IDAPA 58.01.17, Recycled Water Rules
- IDAPA 58.01.21, Rules Governing the Protection and Disclosure of Records in the Possession of DEQ
- IDAPA 58.01.22, Rules for Administration of Planning Grants for Public Drinking Water Facilities, including revisions in pending rule docket 58-0122-1901
- IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality
- IDAPA 58.01.24, Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites
This was requested because the legislature did not extend existing rules so these were set to expire on July 1, 2021. Therefore the board needs to adopt temporary rules to go into effect when the existing rules expire.

**Motion:** Kevin Boling moved that the Idaho Board of Environmental Quality adopt, as temporary rules, the rules presented in Omnibus Non-Fee Rule Docket No. 58-0000-2100. This action is for the temporary adoption of the existing and previously approved codified IDAPA 58 non-fee rule chapters, including revisions in IDAPA 58.01.02, 58.01.03, 58.01.04, and 58.01.22 adopted by this Board as pending rule dockets in 2020 and submitted to the First Regular Session of the 66th Idaho Legislature for review. The IDAPA 58 rule chapters included for adoption are as follows:

- IDAPA 58.01.02, including revisions in pending rule docket 58-0102-2001
- IDAPA 58.01.03, including revisions in pending rule docket 58-0103-1901
- IDAPA 58.01.04, including revisions in pending rule docket 58-0104-1901
- IDAPA 58.01.10
- IDAPA 58.01.16
- IDAPA 58.01.17
- IDAPA 58.01.21
- IDAPA 58.01.22, including revisions in pending rule docket 58-0122-1901
- IDAPA 58.01.23
- IDAPA 58.01.24

Pursuant to Section 67-5226, Idaho Code, the Governor has found that temporary adoption of these rules is appropriate to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens.

These rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws.

The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

Therefore, we are adopting these temporary fee rules to be effective July 1, 2021. This adoption is conditional and will only become effective if the rules are not otherwise approved or rejected by the Idaho Legislature and/or not extended pursuant to the Idaho Administrative Procedure Act, including Sections 67-5291 and 67-5292, Idaho Code.

**Second:** Carol Mascareñas supported the motion.
Dr. Randy MacMillan asked if the motion was intended to include fee rules as stated in the motion. It was determined the motion was incorrect and needed to be amended to remove reference to fee rules. Kevin Boling amended his motion to state:

The motion is the same except for: Therefore, we are adopting these temporary non-fee rules to be effective July 1, 2021. This adoption is conditional and will only become effective if the rules are not otherwise approved or rejected by the Idaho Legislature and/or not extended pursuant to the Idaho Administrative Procedure Act, including Sections 67-5291 and 67-5292, Idaho Code.

Second: Carol Mascareñas supported the amendment to the motion.

Vote: The motion carried unanimously.

Agenda Item No. 3: FY2022 Water Pollution Control State Revolving Fund Intended Use Plan and State Wastewater Loan Priority List

(Action item) Approval of Loan Priority List

Jerri Henry, Administrator for DEQ Drinking Water Protection and Finance Division, presented the FY2022 Clean Water State Revolving Fund Intended Use Plan or IUP. Part of the IUP is the Priority List, which was Attachment II, in the board materials. Jerri described the process by which projects get on the list, the public process, and some notable items from this year’s process. Twenty-one communities submitted Letters of Interest. The Clean Water SRF has roughly $7.7M to loan this year versus the past few years that ranged from $56M to $95M. #1 on the priority list, the City of Kendrick, was bypassed for #2, Kidd Island Bay. The City of Kendrick located alternative funding options. Following public comment, DEQ provided the City of Hagerman with a $2.5M increase to their 2017 loan that had been identified as an obligation. No comments were received and no additional changes made.

Motion: Dr. Randy MacMillan moved that the Idaho Board of Environmental Quality approve the FY2022 Water Pollution Control State Revolving Fund Intended Use Plan, which includes the State Wastewater Loan Priority List.

Second: Beth Elroy supported the motion.

Vote: The motion carried unanimously.

Agenda Item No. 4: FY2022 State Wastewater Planning Grant Priority

(Action item) Approve FY2022 Wastewater Planning Grants

Jerri Henry, Administrator for DEQ Drinking Water Protection and Finance Division, presented the FY2022 State Wastewater Planning Grant Priority List. She described the process for developing the list, the public process the projects have gone through, and some notable items.
Out of 16 Letters of Interest received, DEQ proposes funding nine. The maximum grant amount is $65,000 and requires a 50% match.

**Motion:** Nick Purdy moved that the Idaho Board of Environmental Quality approve the FY2022 State Wastewater Planning Grant Priority List.

**Second:** Carol Mascareñas supported the motion.

**Vote:** The motion carried unanimously

**Agenda Item No. 5:** FY2022 Drinking Water State Revolving Fund Intended Use Plan and State Drinking Water Loan Priority List

(As Action Item) **Approved Drinking Water Loan Priority List**

Jerri Henry, Administrator for DEQ Drinking Water Protection and Finance Division, presented the FY2022 State Drinking Water Loan Intended Use Plan. She described the process projects go through to get on the list and the public process the IUP completed. There were 18 Letters of Interest submitted and DEQ proposes funding six. The City of Dayton will need an increase of $395K during the next fiscal year. Two public comments were received and responded to.

**Motion:** Carol Mascareñas moved that the Idaho Board of Environmental Quality approve the FY2022 Drinking Water State Revolving Fund Intended Use Plan which includes the State Drinking Water Loan Priority List.

**Second:** Kevin Boling supported the motion.

**Vote:** The motion carried unanimously

**Agenda Item No. 6:** FY2022 State Drinking Water Planning Grant Priority List

(As Action Item) **Approve Drinking Water Planning Grant Priority List**

Jerri Henry, Administrator for DEQ Drinking Water Protection and Finance Division, presented the FY2022 State Drinking Water Planning Grant Priority List which was developed over a six month process. No public comments were received. DEQ proposes to fund 14 out of the 23 projects submitted using $45K in grants.
Motion: Beth Elroy moved that the Idaho Board of Environmental Quality approve the FY2022 State Drinking Water Planning Grant Priority List.

Second: Carol Mascareñas supported the motion.

Vote: The motion carried unanimously.

Agenda Item No. 7: Contested Case and Rule Docket Status Report
(Information item)

Paula Wilson, hearing coordinator, reported that there are no contested cases at this time and presented the rule docket status report. There were no questions or comments from the board or public.

Agenda Item No. 8: Other Business
Chair Kermit Kiebert called for board members to present any other business.

Chairman Kiebert suggested that the board plan a visit to the Silver Valley. There are several DEQ projects in the area where resources are spent. Kevin Boling also mentioned the important work being done to study Coeur D’Alene Lake and the value in including it in Northern Idaho trip. Randy MacMillian agreed that as long as COVID was under control, a trip would be worthwhile.

Director Byrne reported that a tour to the Northern Region can be accommodated separate from a scheduled board meeting. He reported the Basin Commission had a tour planned in August which the board could join. DEQ will send out a list of time options to do a tour of select areas in the Northern Region.

Director Byrne mentioned there were plans to see phosphogypsum sites in Eastern Idaho which we can do as part of the May meeting next year.

Carol Mascareñas also requested a presentation to the board about DEQ PFAS sampling efforts.

Director Byrne informed the board an approval of temporary fee rules would also be needed by the board but the appropriate language was not ready in time for this board meeting. Board approval will be needed before July 1st when the current rules expire. A short meeting will be necessary to address this business with potential times proposed to the board shortly.

Adjournment
Chair Kermit Keibert declared the meeting adjourned at 11:00 a.m.

Motion to adjourn – Randy moves to adjourn. Mark Bowen 2nd.
Idaho Board of Environmental Quality  
June 17, 2021 Board Meeting

Agenda Item 2: Omnibus Fee Rules  
   Docket No. 58-0000-2100F  
   Action Item – Temporary Rule

Proposed Motion:

Pursuant to Section 67-5226, Idaho Code, the Governor has found that temporary adoption of these rules is appropriate to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens.

These rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws.

The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

Therefore, I move that the Idaho Board of Environmental Quality adopt the temporary rules, initially adopted by this Board on February 11, 2021, to be effective July 1, 2021. I further move that the Board rescind the existing temporary rules with the rescission effective July 1, 2021.
NOTICE OF OMNIBUS RULEMAKING - ADOPTION OF TEMPORARY RULES
AND RESCISSION OF TEMPORARY RULES

EFFECTIVE DATE: The effective date of the temporary rules being adopted through this omnibus rulemaking is July 1, 2021. The effective date of the rescission of the previous temporary rules adopted under Docket 58-0000-2000F is July 1, 2021.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given that the Idaho Board of Environmental Quality (Board) has adopted temporary rules and rescinded the previous temporary rules. The action is authorized pursuant to the following Idaho Code provisions. Citations to any federal statutes that provide the basis of authority or requirement for the rulemaking are also included.

IDAPA 58.01.01 - Sections 39-105, 39-107, 39-114(4), 39-115(3), and 39-116B, Idaho Code; Clean Air Act, 42 U.S.C. § 7401 et seq.
IDAPA 58.01.05 - Chapters 44 and 58, Title 39, Idaho Code; Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq.
IDAPA 58.01.07 - Chapters 1 and 88, Title 39, Idaho Code; Solid Waste Disposal Act, 42 U.S.C. §§ 6991 – 6991m
IDAPA 58.01.08 - Chapter 1, Title 39, Idaho Code; Chapter 21, Title 37, Idaho Code; Safe Drinking Water Act, 42 U.S.C. § 300f et seq.
IDAPA 58.01.09 - Sections 39-104A, 39-105, and 39-107, Idaho Code
IDAPA 58.01.11 - Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code
IDAPA 58.01.12 - Chapters 1 and 36, Title 39, Idaho Code; Clean Water Act, 33 U.S.C. § 1251 et seq.
IDAPA 58.01.13 - Chapter 1, Title 39, Idaho Code
IDAPA 58.01.14 - Sections 39-105, 39-107, and 39-119, Idaho Code
IDAPA 58.01.18 - Sections 39-105, 39-107, 39-4405, and 39-7210, Idaho Code
IDAPA 58.01.25 - Chapter 1, Title 39, Idaho Code; Clean Water Act, 33 U.S.C. §§ 1342 and 1345

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting the temporary rules and rescinding temporary rules:

On June 17, 2021, the Board adopted, as temporary rules, the IDAPA 58 fee rule chapters as they were presented in the pending fee rule docket adopted by the Board in 2020 and submitted to the First Regular Session of the 66th Idaho Legislature for review (Docket No. 58-0000-2000F). The pending fee rule docket is posted in the 2021 Legislative Rules Review Books for the Senate Resources & Environment Committee and the House Environment, Energy & Technology Committee.
The previous temporary rules (Docket No. 58-0000-2000F) were rescinded so that the rules would expire on the same date that the 2021 temporary rules (Docket No. 58-0000-2100F) became effective.

The IDAPA 58 fee rule chapters are listed below.
IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho
IDAPA 58.01.05, Rules and Standards for Hazardous Waste
IDAPA 58.01.06, Solid Waste Management Rules
IDAPA 58.01.07, Rules Regulating Underground Storage Tank Systems
IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems
IDAPA 58.01.09, Rules Regulating Swine Facilities
IDAPA 58.01.11, Ground Water Quality Rule
IDAPA 58.01.12, Rules for Administration of Water Pollution Control Loans
IDAPA 58.01.13, Rules for Ore Processing by Cyanidation
IDAPA 58.01.14, Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services
IDAPA 58.01.18, Idaho Land Remediation Rules
IDAPA 58.01.25, Rules Regulating the Idaho Pollutant Discharge Elimination System Program, with the exception of IDAPA 58.01.25.302.20, Water Quality Trading


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

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

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fees being imposed are justified and necessary to avoid immediate danger, and the fees are described below. This rulemaking does not impose a fee beyond what was previously submitted to and reviewed by the Idaho Legislature in prior rules.
The fees authorized in the Idaho Code sections listed below are part of the agency’s 2021 budget that relies upon the existence of these fees to meet the state’s obligations and provide necessary state services. Failing to reauthorize these temporary rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho’s constitutional requirement that it balance its budget. Temporary adoption of these rules is necessary to ensure that (1) the state of Idaho maintain primacy over federal programs; (2) DEQ is able to continue to offer services such as permit and license issuance; and (3) DEQ is able to continue to administer programs such as voluntary remediation, and the wastewater and drinking water loan programs.

Listed below are the DEQ fee rule chapters, fee categories, and the statutory authority for imposition of the fees.

IDAPA 58.01.01, *Rules for the Control of Air Pollution in Idaho* - crop residue burn fee, Idaho Code § 39-114(4); application fee for industrial or commercial air pollution source permits, Idaho Code § 39-115(3); motor vehicle inspection fee, Idaho Code § 39-116B

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

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


IDAPA 58.01.09, *Rules Regulating Swine Facilities* - permit application fee, Idaho Code § 39-119

IDAPA 58.01.11, *Ground Water Quality Rule* - point of compliance application fee, Idaho Code § 39-119

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

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

IDAPA 58.01.14, *Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services* – fees for environmental operating permits, licenses, inspection services and waiver application processing, Idaho Code § 39-119
IDAPA 58.01.18, *Idaho Land Remediation Rules* – voluntary remediation program application fee, Idaho Code § 39-7210(5)

IDAPA 58.01.25, *Rules Regulating the Idaho Pollutant Discharge Elimination System Program* – application fee and/or annual fee, Idaho Code § 39-175C

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

DATED this 17th day of June, 2021

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