

Scoping Meeting – Future Rulemaking and Street Sweepings

IDAPA 58.01.06 Solid Waste Management Rules



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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Agenda Slide

- Welcome and Introductions
- Rulemaking Overview
 - Questions
- Street Sweepings
- Overview and Discussion
- Public Comment
- Next Meeting

Zero-Based Regulation (ZBR)- Rulemaking Process

ZBR is...

- initiated in compliance with Executive Order No. 2020-01,
- conducted every 5 years,
 - the Solid Waste Management Rules (SWMRs) are up for legislative review in 2026
- to perform critical and comprehensive review of all rule chapters, and
- to increase clarity, and ease of use of the rule set.

ZBR goals are...

- to remove obsolete, outdated, unnecessary regulations,
- to improve rule consistency and simplify the rules
- to reduce redundancy and remove repeated definitions (defined by statute, other rules, or federal regulations),
- eliminate archaic language such as “shall” and reduce the use of “must”.

Example of Definition Changes

02. Municipal Solid Waste Landfill Applicability. Sections 000 through 007, and Sections 994 through 999 apply to all MSWLFs, as specified therein. (3-24-22)

005. DEFINITIONS.

In addition to the definitions found in Sections 39-103 and 7403, Idaho Code, and IDAPA 58.01.02, “Water Quality Standards,” IDAPA 58.01.11, “Ground Water Quality Rule,” and IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho” the terms in this chapter have the following definitions.

01. Active Portion. That part of a unit where waste had been, or may be, disposed of, treated, or otherwise managed, and that has not been closed in accordance with applicable rules. (3-24-22)

02. Backyard Composting. Composting operations used only by the owner or person in control of a residential dwelling unit to process garbage and yard waste generated at that dwelling unit. (3-24-22)

03. Beneficial Use. Various uses of ground water in Idaho including, but not limited to, domestic water supplies, industrial water supplies and agricultural water supplies. A beneficial use is defined as actual current and projected future uses of ground water. (3-24-22)

~~**04. Commercial Solid Waste Facility.** A MSWLF owned and operated as an enterprise conducted with the intent of making a profit by any individual, association, firm, or partnership for the disposal of solid waste, but excluding a MSWLF owned or operated by a political subdivision, state or federal agency or, municipality or a MSWLF owned or operated by any individual, association, firm, or partnership exclusively for the disposal of solid waste generated by such individual, association, firm, or partnership. (3-24-22)~~

05. Composting Facility. See definition of Processing Facility. (3-24-22)

Example of Archaic Language Changes

05. Wood or Mill Yard Debris Facilities. ~~All Wood and Mill Yard Debris~~ Facilities that are not exempt from these Rules as provided in Section 001.03 ~~shall~~ will be regulated as Tier I Facilities unless, based on site-specific criteria including but not limited to site geology, site soils, groundwater characteristics, distance to surface waters, and site climatic data, the Department determines the facility is more appropriately regulated under a different tier classification. Facilities not regulated as a Tier I Facility ~~shall~~ will be regulated as a Tier II Facility unless the Department determines the facility manages waste in a manner that will form toxic leachate or gas.(3-24-22)

06. Site Specific Classification. An owner or operator of a facility classified as a Tier I, Tier II or Tier III facility may request to be regulated pursuant to the requirements of a lower classification. An owner or operator requesting site specific classification must submit information demonstrating to the Department that, ~~when in compliance with the requirements of a lower classification,~~ the facility ~~would~~ will not cause contamination, toxic leachate or gas, or concentrations of a substance that exceeds the standards in ~~the~~ IDAPA 58.01.01, ~~“Rules for the Control of Air Pollution in Idaho.”~~ The information included in any request under this subsection shall include:(3-24-22)

- a. Characterization of waste and expected quantities of waste; (3-24-22)
- b. Site characterization including;
 - i. Site geology report; (3-24-22)
 - ii. Site soils report; (3-24-22)

ZBR Process Timeline

Draft Rule Published

Fall/Winter of '24

- Docket number generated
- Initiates public meetings

Meetings

Winter of '24/Spring of '25

- At least two meetings.
- Information will be published.
- Will have public comment period deadlines.

Rule Published

Spring/ Summer '25

- Final rule goes to DFM
 - Published. Triggers 21-day comment period
- Fall '25
- DEQ Board review & approval

Street Sweepings

Overview and Discussion

- What Are Street Sweepings or Street Sweeping Debris (Q1, Q2)?
 - White Paper
 - Trash, Leaves, Fines, Gravel
- RCRA and State Definitions of Solid Waste (Q3)
 - Federal Approval of the Idaho Solid Waste Program
 - Test (verb)
- Street Sweepings in Idaho (Q4)
 - Tier II
 - Testing and Discontinue
 - Ad Hoc Approval of a Beneficial Use (daily cover)
 - Future Preauthorization of Beneficial Reuses

Q1: Why this Meeting?

A: Question raised about how the current definition of Solid Waste encompasses Street Sweepings.

- Legal interpretations relating to words in law
- Practical considerations relating to the content of sweepings

In this meeting we are going to focus on the latter and determine if a clarification to the former is necessary.

Q2: Is there a Consensus on the Treatment of Sweepings as Waste and If So, Why?

What Are Street Sweepings or Street Sweeping Debris?

- Tetra Tech White Paper
- Trash, Leaves, Fines, Gravel Collected Together
- Processing (screening)
- Composting?

Are Sweepings Always Regulated (other states)?

- Attorney General Analysis and Tetra Tech White Paper

Q3: If Change or Clarification to Idaho Law is Necessary, What are the Factors and How can it be Accomplished?

- All State's RCRA-derived SW Programs are Approved by USEPA
- State and Federal Definitions Follow the Same Pattern:
 1. Is it a (solid) waste?
 - Verbs: dispose, discarded, discharge, deposit, injection, dumping, spilling, leaking, leaching, migration, placing. Sometimes abandoned, released
 - From what? A tank, a process, an activity? YES
 - Whether something is a (solid) waste is the result of applying the definition as a TEST. The result of applying the test is very INCLUSIVE

Definitions:

40 CFR 258.2 AND IDAPA 58.01.06.005.43

Solid waste means any garbage, or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

Definitions (Cont.):

Not all materials meeting the definition of solid waste are regulated. Some materials or activities are EXCLUDED

1. Federal exclusions
2. See 58.01.06.001.03, "Wastes Not Regulated Under These Rules"
3. See 58.01.06.001.04, "Solid Waste Management Facilities Not Regulated Under These Rules"

CONCLUSION: Solid Waste Definitions are INCLUSIVE.
Exemptions are narrow and specifically identified.

Q4: How have Sweepers in Idaho Managed Street Sweepings Historically?

1. **Landfilling.** Municipal Landfills or Tier II cell disposal
2. **Alternative Daily Cover.** Requires screening of leaves & trash
3. **Illegal disposal.** Testing required to confirm low risk and either move the material for proper disposal, permitting of the current location, if possible, or one-time "pass" and discontinue illegal disposal. What alternatives are available will be site-specific and dependent on analytical test results.
4. **Other Beneficial Use.** Upon specific or categorical DEQ approval. Similar to other minimally-contaminated soils

Public Comments

- **Submit scoping meeting comments in writing by email to Matt Beeter, matthew.beeter@deq.idaho.gov, and copy Amanda Henderson, Amanda.Henderson@deq.idaho.gov, by August 1, 2024.**
- Additional opportunities to submit public comments will be available following the ZBR public meetings in the Fall of 2024 and Spring of 2025.

Next Meeting

Tentatively Scheduled for December 12, 2024

Thank you!



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