

Dear Senators HEIDER, Nuxoll, Bock, and  
Representatives RAYBOULD, Eskridge, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Department of Environmental Quality:

IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho (Docket No. 58-0101-1403);

IDAPA 58.01.05 - Rules and Standards for Hazardous Waste (Docket No. 58-0105-1401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 09/03/2014. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/01/2014.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the  
memorandum attached below.



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Environment, Energy & Technology Committee

**FROM:** Principal Legislative Research Analyst - Katharine Gerrity

**DATE:** August 14, 2014

**SUBJECT:** Department of Environmental Quality

IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho (Docket No. 58-0101-1403)

IDAPA 58.01.05 - Rules and Standards for Hazardous Waste (Docket No. 58-0105-1401)

### **1. IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho**

The Department of Environmental Quality submits notice of proposed rule at IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho. According to the department, the rulemaking is necessary to ensure Idaho's rules are consistent with federal regulations. The department notes that the rulemaking updates citations to federal regulations incorporated by reference to include those revised as of July 1, 2014.

The department notes that negotiated rulemaking was not conducted due to the simple nature of the rulemaking and because the department has no discretion with respect to adopting the federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program. The department confirms that the rule does not regulate an activity not regulated by the federal government and is not broader in scope or more stringent than federal regulations. The rulemaking appears to be authorized pursuant to sections 39-105 and 39-107, Idaho Code.

### **2. IDAPA 58.01.05 - Rules and Standards for Hazardous Waste**

The Department of Environmental Quality submits notice of proposed rule at IDAPA 58.01.05 - Rules and Standards for Hazardous Waste. According to the department, these rules are updated annually to maintain consistency with EPA federal regulations implementing RCRA as directed by the Idaho Hazardous Waste Management Act. The department notes that the proposed rule updates the federal regulations incorporated by reference to include those revised as of July 1, 2014, and makes technical corrections as recommended in the most recent EPA Incorporation by Reference Guidance. The department notes that the state has historically adopted both required and optional federal regulations so that Idaho's hazardous waste rules are the same as federal requirements. The department adds that optional federal regulations usually allow more flexibility to

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

the regulated community. The department also states that required federal regulations are necessary to maintain program primacy.

The department states that negotiated rulemaking was not conducted due to the simple nature of the rulemaking and because the department has no discretion with respect to adopting EPA's federal regulations implementing RCRA as directed by the Idaho Hazardous Waste Management Act. The department confirms that the rule does not regulate an activity not regulated by the federal government and is not broader in scope or more stringent than federal regulations. The rulemaking appears to be authorized pursuant to chapters 44 and 58, Title 39, Idaho Code, and is in compliance with 40 CFR 271.21(e) and section 39-4404, Idaho Code, which require DEQ to adopt amendments to federal law as proposed under the docket.

cc: Department of Environmental Quality  
Paula J. Wilson

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1403

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(1) of the Clean Air Act. It also updates citations to other federal regulations necessary to retain state primacy of Clean Air Act programs.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this proposed rulemaking will be held as follows:

**Tuesday, September 9, 2014, 3:00 p.m.**

**Department of Environmental Quality  
Conference Room A  
1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208)373-0418.

**DESCRIPTIVE SUMMARY:** This rulemaking is necessary to ensure that the Rules for the Control of Air Pollution in Idaho are consistent with federal regulations. This proposed rule updates citations to federal regulations incorporated by reference at Section 107 to include those revised as of July 1, 2014.

Members of the regulated community who may be subject to Idaho's air quality rules, special interest groups, public officials, and members of the public who have an interest in the regulation of air emissions from sources in Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2014 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2015 legislative session if adopted by the Board and approved by the Legislature. DEQ will submit the final rule to EPA for approval.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Incorporation by reference is necessary to ensure that the state rules are consistent with federal regulations. Information for obtaining a copy of the federal regulations is included in the rule.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting the federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**FISCAL IMPACT STATEMENT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact Tiffany Floyd at [tiffany.floyd@deq.idaho.gov](mailto:tiffany.floyd@deq.idaho.gov) or (208) 373-0440.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 9, 2014.

DATED this 1st day of July, 2014.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-1403**  
**(Only those Sections being amended are shown.)**

**107. INCORPORATIONS BY REFERENCE.**

**01. General.** Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

**02. Availability of Referenced Material.** Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

- a.** All federal publications: U.S. Government Printing Office at [www.gpoaccess.gov/ecfr](http://www.gpoaccess.gov/ecfr); (3-20-14)
- b.** Statutes of the state of Idaho: <http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm>; and (3-20-14)
- c.** All documents herein incorporated by reference: (7-1-97)
  - i.** Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. (7-1-97)
  - ii.** State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

**03. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: (5-1-94)

- a.** Requirements for Preparation, Adoption, and Submittal of Implementation Plans, [40 CFR Part 51](#) revised as of July 1, 201~~3~~4. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: ~~(3-20-14)~~(    )
- i.** All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and (3-30-07)
- ii.** Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. (3-30-07)
- b.** National Primary and Secondary Ambient Air Quality Standards, [40 CFR Part 50](#), revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- c.** Approval and Promulgation of Implementation Plans, [40 CFR Part 52](#), Subparts A and N and Appendices D and E, revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- d.** Ambient Air Monitoring Reference and Equivalent Methods, [40 CFR Part 53](#), revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- e.** Ambient Air Quality Surveillance, [40 CFR Part 58](#), revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- f.** Standards of Performance for New Stationary Sources, [40 CFR Part 60](#), revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- g.** National Emission Standards for Hazardous Air Pollutants, [40 CFR Part 61](#), revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- h.** Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008, [40 CFR Part 62, Subpart HHH](#), revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- i.** National Emission Standards for Hazardous Air Pollutants for Source Categories, [40 CFR Part 63](#), revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- j.** Compliance Assurance Monitoring, [40 CFR Part 64](#), revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- k.** State Operating Permit Programs, [40 CFR Part 70](#), revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- l.** Permits, [40 CFR Part 72](#), revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- m.** Sulfur Dioxide Allowance System, [40 CFR Part 73](#), revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- n.** Protection of Stratospheric Ozone, [40 CFR Part 82](#), revised as of July 1, 201~~3~~4. ~~(3-20-14)~~(    )
- o.** Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
- p.** Medical Waste Combustors, [Section 39-128, Idaho Code \(1992\)](#). (3-20-14)
- q.** Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, [40 CFR Part 93](#), Subpart A, Sections 93.100 through 93.129, revised as of July 1, 2013, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (3-20-14)

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-1401

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 20, 2014. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** Idaho's Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's (EPA's) federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rule updates the federal regulations incorporated by reference to include those revised as of July 1, 2014, and makes technical corrections as recommended in the most recent EPA Incorporation By Reference Guidance.

Groups interested in hazardous waste and handlers of hazardous waste including generators, transporters, and treatment, storage, and disposal facilities may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2014 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2015 legislative session if adopted by the Board and approved by the Legislature.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Idaho has historically adopted both required and optional federal regulations so that Idaho's hazardous waste rules are the same as federal requirements. Optional federal regulations usually allow more flexibility to the regulated community; required federal regulations are necessary to maintain program primacy. Adoption by reference allows DEQ to keep its rules up to date with federal regulation changes and minimizes the EPA Region 10 effort needed to keep Idaho's authorization current. Adoption by reference also simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting EPA's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**FISCAL IMPACT STATEMENT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed rulemaking, contact John Brueck at [john.brueck@deq.idaho.gov](mailto:john.brueck@deq.idaho.gov) or (208)373-0458.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before September 3, 2014.

Dated this 1st day of July, 2014.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0105-1401**  
**(Only those Sections being amended are shown.)**

**002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.**

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260 - 268, 270, 273, 278, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2012<sup>4</sup>, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~(4-4-13)~~( )

**01. Exceptions.** Nothing in 40 CFR Parts 260 - 268, 270, 273, 278, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (5-8-09)

**02. Availability of Referenced Material.** The federal regulations adopted by reference throughout these rules are maintained at the following locations: (7-2-97)

- a. U.S. Government Printing Office, <http://www.gpoaccess.gov/ecfr/index.html>; and (4-7-11)
- b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316; and (7-2-97)
- c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (7-2-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. HAZARDOUS WASTE MANAGEMENT SYSTEM.**

40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012<sup>4</sup>. For purposes of 40 CFR 260.10, in the definition of hazardous waste constituent, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 260.20, "Federal Register" shall be defined as the Idaho Administrative Bulletin. ~~(4-4-13)~~( )

**005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.**

40 CFR Part 261 and all Subparts ~~(excluding 261.4(b)(17))~~, except the language "in the Region where the sample is

collected” in 40 CFR 261.4(e)(3)(iii), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012<sup>4</sup>. For purposes of 40 CFR 261.10 and 40 CFR 261.11, “Administrator” shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 261.41(a), Regional Administrator shall be defined as U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification required under this section should also be sent to the Director. For purposes of 40 CFR 261.4(b)(11)(ii), 40 CFR 261.39(a)(5), and 40 CFR 261 Appendix IX, “EPA” shall be defined as the U.S. Environmental Protection Agency.

(4-4-13)( )

**01. Excluded Wastes.** Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by Envirosafe Services of Idaho, Inc. (ESII) at ESII’s facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

**a. Verification Testing Requirements.** Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)

**b. Initial Verification Testing.** (3-16-96)

**i.** For purposes of Subsections 005.01.b., “new source” shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.01.d. (3-16-96)

**ii.** Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

(1) The waste profile information; and (3-16-96)

(2) The name and address of the generator. (3-16-96)

**iii.** The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

**iv.** If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)

**v.** CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d.; and (3-16-96)

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.01.b.iv. (3-16-96)

**vi.** For purposes of Subsections 005.01.b. and 005.01.c., “batch” shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)

**c. Subsequent Verification Testing.** (3-16-96)

**i.** Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct

subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-16-96)

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.01.d.; or (3-16-96)

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

**d. Delisting Levels.** (3-16-96)

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):

antimony	0.06	mercury	0.009
arsenic	0.50	nickel	1
barium	7.60	selenium	0.16
beryllium	0.010	silver	0.30
cadmium	0.050	thallium	0.020
chromium	0.33	vanadium	2
lead	0.15	zinc	70

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)

**e. Modification of Treatment Process.** (3-16-96)

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)

ii. After ESII's receipt of written approval from the Department, and subject to any conditions

included with the approval, ESII may implement the proposed modification. (3-16-96)

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Waste Management and Remediation Division, 1410 N. Hilton, Boise, Idaho 83706. (3-29-12)

**f.** Records and Data Retention and Submittal. (3-16-96)

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

**g.** Facility Merger and Name Change. On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from EnviroSAFE Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to EnviroSAFE Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. (3-15-02)

## **006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.**

**01. Incorporation by Reference.** 40 CFR Part 262 and all Subparts (~~excluding Subparts I and J and 40 CFR 262.10(j), 262.34(j),(k),(l)~~), except for the language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012~~4~~. For purposes of 40 CFR ~~262.53~~, 262.55, ~~and 262.56, and 262.57(b)~~, "~~Administrator~~ EPA" shall be defined as the U.S. Environmental Protection Agency ~~Administrator~~. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.21, 262.51, 262.53, 262.54(e), 262.54(g)(1), 262.55, 262.56, 262.60, and 262.85(g), EPA or Environmental Protection Agency shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262 Subparts E, F, H, and 40 CFR 262.41(a)(4), "United States or U.S." shall be defined as the United States. (4-4-13)( )

**02. Generator Emergency Notification.** In addition to the emergency notification required by 40 CFR 265.56(d)(2), 262.34(d)(5)(iv)(C), (see 40 CFR 262.34(a)(4)), 263.30(c)(1), and 264.56(d)(2), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (3-15-02)

**007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.**

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012<sup>4</sup>. For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), “United States” shall be defined as the United States. ~~(4-4-13)~~( )

**008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.**

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), ~~264.1(g)(12)~~, 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012<sup>4</sup>. For purposes of 40 CFR Subsection 264.12(a), “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.71(a)(3) and 264.1082(c)(4)(ii), “EPA” shall be defined as the U.S. Environmental Protection Agency. ~~(4-4-13)~~( )

**009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.**

40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), ~~265.1(c)(15)~~, 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)) ~~and~~, except the language contained in 40 CFR 265.340(b)(2) as replaced with, “The following requirements continue to apply even when the owner or operator has demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part,” are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012<sup>4</sup>. For purposes of 40 CFR Subsection 265.12(a), “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.71(a)(3) and 265.1083(c)(4)(ii), “EPA” shall be defined as the U.S. Environmental Protection Agency. ~~(4-4-13)~~( )

**010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.**

40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012<sup>4</sup>. ~~(4-4-13)~~( )

**011. LAND DISPOSAL RESTRICTIONS.**

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012<sup>4</sup>, except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.2(j) “EPA” shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), “Administrator” shall be defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), “D009” is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.) ~~(4-4-13)~~( )

**012. HAZARDOUS WASTE PERMIT PROGRAM.**

40 CFR Part 270 and all Subparts, except 40 CFR ~~270.1(c)(2)(ix)~~, 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012<sup>4</sup>. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), “EPA” and “Administrator” or “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. ~~(4-4-13)~~( )

**013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).**

40 CFR Part 124, Subparts A, B and G are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012<sup>4</sup>, except that ~~the last sentence of 40 CFR 124.10(b)(1)~~, 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e),

124.10(b), and 124.10(c)(1)(ii) “EPA” and “Administrator” or “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. ~~(4-4-13)~~( )

**014. (RESERVED)**

**015. STANDARDS FOR THE MANAGEMENT OF USED OIL.**

**01. Incorporation by Reference.** 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012~~4~~. For purposes of 40 CFR 279.43(c)(3)(ii) “Director” shall be defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. ~~(4-4-13)~~( )

**02. Used Oil as a Dust Suppressant.** 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this application to EPA. This petition to the State must: (2-11-94)

**a.** Be submitted to the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255; and (2-11-94)

**b.** Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

**016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.**

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012~~4~~. For purposes of 40 CFR 273.32(a)(3), “EPA” shall be defined as the U.S. Environmental Protection Agency. ~~(4-4-13)~~( )

**017. CRITERIA FOR THE MANAGEMENT OF GRANULAR MINE TAILINGS (CHAT) IN ASPHALT CONCRETE AND PORTLAND CEMENT CONCRETE IN TRANSPORTATION CONSTRUCTION PROJECTS FUNDED IN WHOLE OR IN PART BY FEDERAL FUNDS.**

40 CFR Part 278 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012~~4~~. ~~(4-4-13)~~( )

**018. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT.**

40 CFR Part 267 and all Subparts, except 40 CFR 267.150, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2012~~4~~. ~~(4-4-13)~~( )