

Overview of Incorporations by Reference for the DEQ Hazardous Waste Program - Docket No. 58-0105-1901 Required by Idaho Code § 67-5223(4)

Rulemaking Docket No. 58-0105-1901 describes incorporation by reference of final federal hazardous waste regulations promulgated with effective dates from July 1, 2018, through June 30, 2019.

Incorporation by reference of federal hazardous waste regulations is a routine procedure that DEQ performs annually to: 1) satisfy the consistency and stringency requirements of the Hazardous Waste Management Act (HWMA – Idaho Code § 39-4404); 2) meet the legislative intent to avoid the existence of duplicative, overlapping or conflicting state and federal regulatory systems; and 3) provide authority for DEQ to maintain primacy and authorization to operate the federal Resource Conservation and Recovery Act (RCRA) program in lieu of EPA.

This proposed rule is neither broader in scope nor more stringent than federal regulations, and does not regulate an activity that is not regulated by the federal government.

The following parts were revised and may have an impact on Idaho facilities:

Parts 260, 261, and 262

Safe Management of Recalled Airbags: In this rule, EPA provides an exemption for the collection of airbag waste from hazardous waste requirements. Specifically, the rule addresses the public health issue posed by management and disposal of defective Takata airbags. In May 2015 the US Department of Transportation (DOT) issued a national recall of airbag inflators manufactured by Takata due to a defect in their propellant. Discarded airbags meet the definition of ignitable hazardous waste and reactive hazardous waste. Under this rule, airbag waste is exempt from hazardous waste requirements as long as certain requirements are met. This exemption will provide a more expedited removal of defective airbags from vehicles at dealerships, salvage yards and other locations for safe and environmentally sound disposal.

This provision should have little to no impact on Idaho Facilities.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 – RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis (IBRS)

EFFECTIVE DATE: This rule has been adopted by the Idaho Board of Environmental Quality (Board) and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Sixty-fifth Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under docket no. 58-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This 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.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 7, 2019, Vol. 19-8, pages 147 through 153. DEQ received no public comments, and the rule has been adopted as initially proposed. More information regarding this rule docket is available at www.deq.idaho.gov/58-0105-1901.

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: For assistance on questions concerning the rulemaking, contact Caroline Moores at caroline.moores@deq.idaho.gov or (208) 373-0554.

Dated this 14th day of November, 2019.

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