

Dear Senators Burtenshaw, Hart, Taylor, and  
Representatives Barbieri, Furniss, Rubel:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Department of Environmental Quality:  
IDAPA 58.01.05 - Rules and Standards for Hazardous Waste-Proposed Rule (Docket No. 58-0105-2601).

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 09/18/2026. 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 10/16/2026.

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 334-4854, or send a written request to the address on the memorandum attached below.



**Terri Kondeff**  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

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

**FROM:** Legislative Drafting Attorney - Alli Olson

**DATE:** September 1, 2026

**SUBJECT:** Department of Environmental Quality

IDAPA 58.01.05 - Rules and Standards for Hazardous Waste-Proposed Rule (Docket No. 58-0105-2601)

#### Summary and Stated Reasons for the Rule

The Idaho Department of Environmental Quality submits notice of proposed rulemaking for hazardous waste rules and standards, IDAPA 58.01.05. DEQ states that the rulemaking is to ensure Idaho rules remain consistent with federal regulations. The proposed rule updates the effective date of federal regulations that are incorporated by reference, allows applications to be submitted electronically, and extends the time for which a variance may be granted. The Department also states that the proposed rule does not regulate activities that the federal government does not already regulate nor is it broader in scope or more stringent than federal regulations.

#### Negotiated Rulemaking / Fiscal Impact

DEQ states that negotiated rulemaking was not conducted since the Department has no discretion with respect to adopting EPA's federal regulations implementing the Resource Conservation and Recovery Act as directed by the Idaho Hazardous Waste Management Act. The Department also states that there will not be a negative fiscal impact greater than \$10,0000 to the general fund.

#### Statutory Authority

The Department has authority to promulgate this rule pursuant to Sections 39-105 and 39-4404, Idaho Code.

cc: Department of Environmental Quality  
Diane Cutler

#### \*\*\* PLEASE NOTE \*\*\*

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

|                                                              |                                               |                                                  |                                             |                                                |
|--------------------------------------------------------------|-----------------------------------------------|--------------------------------------------------|---------------------------------------------|------------------------------------------------|
| Paul Headlee, Deputy Director<br>Legislative Services Office | Matt Drake, Manager<br>Research & Legislation | Keith Bybee, Manager<br>Budget & Policy Analysis | April Renfro, Manager<br>Legislative Audits | Norma Clark, Manager<br>Information Technology |
|--------------------------------------------------------------|-----------------------------------------------|--------------------------------------------------|---------------------------------------------|------------------------------------------------|

Statehouse, P.O. Box 83720  
Boise, Idaho 83720-0054

Tel: 208-334-2475  
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## IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.05 – RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-2601

#### 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. This action is authorized by Chapters 1 and 44, Title 39, Idaho Code. In addition, 40 CFR 271.21(e)(1) and Section [39-4404](#), Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 19, 2026.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. Idaho's Rules and Standards for Hazardous Waste, IDAPA 58.01.05, are updated annually to maintain consistency with the federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rule updates federal regulations incorporated by reference with the July 1, 2026 Code of Federal Regulations (CFR) effective date. The July 1, 2026 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2026.

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. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2027 Idaho Legislature, the rule will become effective on July 1, 2027, unless otherwise specified in the concurrent resolution.

**FEE SUMMARY:** No fees have been imposed or increased in this rulemaking.

**FISCAL IMPACT:** 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 resulting from this rulemaking: Not applicable.

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate activities that the federal government does not already regulate, and it is not broader in scope or more stringent than existing federal regulations.

**NEGOTIATED RULEMAKING:** Pursuant to Section [67-5220](#)(2), Idaho Code, negotiated rulemaking was not conducted 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.

**INCORPORATION BY REFERENCE:** Pursuant to Section [67-5229](#)(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

Adoption of federal regulations is necessary to maintain program primacy, allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code [67-5223](#)(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference is available at [Hazardous Waste: Docket No. 58-0105-2601](#) | Idaho Department of Environmental Quality.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this proposed rulemaking, contact Albert Crawshaw at [albert.crawshaw@deq.idaho.gov](mailto:albert.crawshaw@deq.idaho.gov) or (208) 373-0554.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before August 26, 2026. Submit written comments to:

Albert Crawshaw  
Department of Environmental Quality  
1410 N. Hilton, Boise, ID 83706  
[albert.crawshaw@deq.idaho.gov](mailto:albert.crawshaw@deq.idaho.gov)

Dated this 5th day of August, 2026.

Diane Cutler  
Rules and Planning Analyst  
Department of Environmental Quality  
1410 N. Hilton Street  
Boise, Idaho 83706  
208-373-0165  
[diane.cutler@deq.idaho.gov](mailto:diane.cutler@deq.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0105-2601**  
**(Only Those Sections With Amendments Are Shown.)**

**58.01.05 – RULES AND STANDARDS FOR HAZARDOUS WASTE**

**002. INCORPORATION BY REFERENCE.**

**01. Federal Regulations Incorporated by Reference.** 40 CFR Parts 124, 260 - 268, 270, 271, 273, 278, and 279 revised as of July 1, ~~2025~~ 2026, are incorporated by reference into these rules. ~~(7-1-26)~~ ( )

**02. 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. (3-24-22)

**(BREAK IN CONTINUITY OF SECTIONS)**

**356. VARIANCE APPLICATIONS FOR TSD FACILITIES OR SITES.**

**01. Application Contents and Standard of Review.** Applications must be submitted ~~in triplicate~~ electronically and contain detailed plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the Director may require. ~~(3-24-22)~~ ( )

**02. Standard Of Review.** The Director may grant a variance only if the applicant demonstrates to the Director's satisfaction that construction and operation of the TSD facility or site in the manner allowed by the variance and any term or condition imposed as part of the variance: (3-24-22)

- a. Will avert unnecessary and significant hardship; (3-24-22)
- b. Is consistent with EPA provisions; and (3-24-22)
- c. Will not create a nuisance or a hazard to the public health, safety or the environment. (3-24-22)

**03. Public Hearings.** The Director may hold a public hearing on an initial application for a variance and will hold a public hearing on any application to renew or extend a variance. The public hearing will be held at a location in the county where the operations that are the subject of the application are conducted unless the Director determines that a different location or virtual format is more appropriate and convenient for interested members of the public. The Director will give at least twenty (20) days' notice of the hearing to the applicant by certified mail and publish at least one (1) notice in a newspaper with general circulation in either the county where the operation is conducted or the county where the hearing is to be held. The Director will maintain a complete record of the testimony and the evidence submitted at the hearing. (3-24-22)

**04. Public Information.** All information submitted as part of a variance application is public information and not subject to any claim of confidentiality. The information will be made available for public inspection at the Department's state office and following locations: (3-24-22)

- a. Application — appropriate regional office; and (3-24-22)
- b. Current list of pending applications and schedule of pending hearings — all regional offices. (3-24-22)

**05. Director's Decision.** No variance will be granted or denied until the Director has considered the relative interests of the applicant, other persons and property affected by the variance, and the public. Any variance granted will be for a period specified by the Director but not more than ~~one~~ three (+3) years. No variance will be granted or denied without a written order stating the findings upon which the decision is based. (3-24-22)(    )

**06. Applicant to Bear Costs.** The cost of public notice, recording and transcribing of testimony, and hearing facilities must be borne by the applicant whether or not a variance is granted. (3-24-22)

# **Overview of Incorporations by Reference for the DEQ Hazardous Waste Program - Docket No. 58-0105-2601, IDAPA 58.01.05**

**Required by Idaho Code § 67-5223(4)**

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Rulemaking Docket No. 58-0105-2601 describes incorporation by reference of final federal hazardous waste regulations promulgated with effective dates through June 30, 2026.

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 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 does not regulate activities that the federal government does not already regulate, and it is not broader in scope or more stringent than existing federal regulations.

The following table summarizes the Code of Federal Regulations sections the DEQ Hazardous Waste Program incorporates by reference. References are listed in the order listed in IDAPA 58.01.05, Rules and Standards for Hazardous Waste. Excluded provisions are specifically identified in the rules.

| <a href="#">40 CFR Part</a> | Title                                                                                                                                                                                             | Changes During Past Year? | Impact on Idaho |
|-----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|-----------------|
| 124                         | Procedures for Decision Making (State Procurement for RCRA or HMWA Permit Applications                                                                                                            | No                        | No              |
| 260                         | Hazardous Waste Management System                                                                                                                                                                 | No                        | No              |
| 261                         | Identification and Listing of Hazardous Waste                                                                                                                                                     | Yes                       | Yes             |
| 262                         | Standards Applicable to Generators of Hazardous Waste                                                                                                                                             | Yes                       | Yes             |
| 263                         | Standards Applicable to Transporters of Hazardous Waste                                                                                                                                           | No                        | No              |
| 264                         | Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities                                                                                                  | No                        | No              |
| 265                         | Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities                                                                                   | No                        | No              |
| 266                         | Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Facilities                                                                                        | Yes                       | Yes             |
| 267                         | Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit                                                                                            | No                        | No              |
| 268                         | Land Disposal Restrictions                                                                                                                                                                        | No                        | No              |
| 270                         | Hazardous Waste Permit Program                                                                                                                                                                    | Yes                       | Yes             |
| 271                         | Requirements for Authorization of State Hazardous Waste Programs                                                                                                                                  | No                        | No              |
| 273                         | Standards for Universal Waste Management                                                                                                                                                          | No                        | No              |
| 278                         | 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 | No                        | No              |
| 279                         | Standards for the Management of Used Oil                                                                                                                                                          | No                        | No              |

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These changes are discussed in more detail below. Links to the pdf files associated with the Federal Register notices are denoted in parentheses as hyperlinks.

**The following parts were revised and may have minimal or no impact on Idaho facilities:**

**40 CFR Parts 261 262, 266, and 270**

**1 [Phasedown of Hydrofluorocarbons: Management of Certain Hydrofluorocarbons and Substitutes under the American Innovation and Manufacturing Act of 2020](#)**

EPA established an emissions reduction and reclamation program for the management of hydrofluorocarbons that includes requirements for leak repair and installation and use of automatic leak detection systems for certain equipment using refrigerants containing hydrofluorocarbons and certain substitutes including:

- Certain refrigerant-containing equipment to be serviced and/or repaired with reclaimed hydrofluorocarbons,
- Initial installation and servicing and/or repair of fire suppression equipment to use recycled hydrofluorocarbons,
- Technician training, and recycling of hydrofluorocarbons are required prior to the disposal of fire suppression equipment containing hydrofluorocarbons,
- Removal of hydrofluorocarbons from disposable cylinders before discarding them, and
- Certain recordkeeping, reporting, and labeling requirements.

**2 [Hazardous Waste Generator Improvements Rule, the Hazardous Waste Pharmaceuticals Rule, and the Definition of Solid Waste Rule - Technical Corrections](#)**

In 2026, EPA finalized five amendments that were included in a partial withdrawal of direct final rule on December 6, 2023. Those amendments include technical corrections and clarify specific provisions in the existing hazardous waste regulations that were promulgated in the following three rulemakings: Hazardous Waste Generator Improvements Rule, the Hazardous Waste Pharmaceuticals Rule, and the Definition of Solid Waste Rule.