

Idaho's Pollutant Discharge Elimination System (IPDES)

IPDES Rules Draft 4.1 and
Response to Comments

May 15, 2015



IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY



IPDES RULES 4.0 – COMMENTS RECEIVED

- Environmental Protection Agency
- Idaho Conservation League
- Idaho Mosquito and Vector Control Assoc.
- Idaho Water Users Association
- Sorrento Lactalis



SUMMARY OF 4.0 COMMENTS

- Grammatical, Citations, Consistency with CFR
 - Including consistency with existing individual and general permits



SUMMARY OF 4.0 COMMENTS

- Grammatical, Citations, Consistency with CFR
- Definitions
 - Consistency with CFR & 2010 NPDES Permit Writers' Manual
 - DEQ to revise and update Definitions for June 12 meeting



SUMMARY OF 4.0 COMMENTS

- Grammatical, Citations, Consistency with CFR
- Definitions
- Definition of Upset (300.14.a and Definitions)

14. Upset Terms and Conditions [40 CFR 122.41(n)(2)–(n)(4)]

a. In any enforcement action for noncompliance with ~~technology-based~~ permit effluent limitations, a permittee may claim upset, as defined in Section 010.XX, as an affirmative defense. A permittee seeking to establish the occurrence of an upset has the burden of proof.

Upset. ~~Upset means a~~ An exceptional incident in which there is unintentional and temporary noncompliance with ~~technology-based~~ permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.



SUMMARY OF 4.0 COMMENTS

- Grammatical, Citations, Consistency with CFR
- Definitions
- Definition of Upset (300.14.a and Definitions)
- Change Language in Section 130.03.a (General Permits):



SUMMARY OF 4.0 COMMENTS

- Section 130.03.a
 - From 40 CFR 124.52(b) to 40 CFR 122.28(b)(3)(ii)

03. Case-by-Case Requirements for Individual Permits [40 CFR ~~122.28(b)(3)(ii) and 124.52(b)~~ (c)].

a. ~~The Department may require any owner or operator authorized by a general permit to apply for an individual IPDES permit as provided in Subsection 130.02.c. only if the owner or operator has been notified in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a time for the owner or operator to file the application, and a statement that on the effective date of the individual IPDES permit, the general permit as it applies to the individual permittee shall automatically terminate. The Department may grant additional time upon request of the applicant. Whenever the Department decides that an individual permit is required under this Section, except as provided in 111.03.b, the Department shall notify the discharger in writing of that decision and the reasons for it, and shall send an application form with the notice. The discharger must apply for a permit under Section 105 within 60 days of notice, unless permission for a later date is granted by the Department.~~



SUMMARY OF 4.0 COMMENTS

- Grammatical, Citations, Consistency with CFR
- Definitions
- Definition of Upset (300.14.a and Definitions)
- Change Language in Section 130.03.a (General Permits):
- Individual vs. General Permits (Section 130):
 - Determination of individual vs. general permit
 - Applicable conditions
 - Issuing, modifying, revoking and reissuing, or terminating general permits



SUMMARY OF 4.0 COMMENTS

- Grammatical, Citations, Consistency with CFR
- Definitions
- Definition of Upset (300.14.a and Definitions)
- Change Language in Section 130.03.a (General Permits):
- Individual vs. General Permits (Section 130):
- Interaction with USFWS (Section 109.02.e):



SUMMARY OF 4.0 COMMENTS

- Grammatical, Citations, Consistency with CFR
- Definitions
- Definition of Upset (300.14.a and Definitions)
- Change Language in Section 130.03.a (General Permits):
- Individual vs. General Permits (Section 130):
- Interaction with USFWS (Section 109.02.e):
- Legal Authority and Procedures to Enforce 40 CFR 403 & 503
- Consistency of Enforcement Provisions with CFR (Section 500)
 - Enforcement of Clean Water Act Violations
 - Citizen Suit Enforcement



QUESTIONS/COMMENTS/CONCERNS

