



November 12, 2021

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Paula Wilson
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
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Re: IDAPA Rulemaking Docket 58-0101-2101

Dear Paula:

Thank you for the opportunity to comment on the draft rule authored by the Department to achieve Zero-Based-Regulation consistent with Governor Little's Executive Order 2020-01. Stoel Rives provides legal advice on air quality compliance and permitting to many members of the regulated community. The rules covered by this rulemaking docket are fundamental to that work.

The proposed changes are many and comprehensive. Our review is incomplete. We request an additional thirty (30) days to submit comments on the draft revisions to the air quality rules.

Initial general comments for consideration by the Department include:

- Please explain the global change of vocabulary from "shall" to "will" or to "must."
- Please consider that the deletion of provisions in reliance on "incorporation by reference" is inconsistent. The approach is a refreshing streamlining of our rules and could be applied more consistently to prompt a reader to refer to the applicable federal provisions. For example, in some cases definitions or provisions of 40 CFR Part 52 and Part 70 are deleted and in other instances retained. Where the Idaho version of the regulation or definition is the same as the federal, consider deleting it from IDAPA and relying on the federal rule, for example "Responsible Official."
- Please consider if references to 40 CFR Part 52 should also include a reference to 40 CFR Part 51.
- Please consider if IDAPA definitions are appropriately separated into IDAPA 006, 007, and 008, or if one Definitions section would make reading the rules easier. Section specific terms could be moved and defined within the substantive area for ease of use, for example "Mercury Best Available Control Technology."

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- Please confirm that the remaining definitions are consistent with federal rule versions, where appropriate, for example “actual emissions” and “new stationary source or facility.”

Stoel Rives is still reviewing the draft rule and intends to propose specific suggested edits to individual sections for consideration by the Department. For example, some clarification to IDAPA 125, 126, and 130-136 may ease use of these sections. Additional time is needed to complete this work.

In addition, Stoel Rives observes that additional improvements to the air quality rules could be tackled in future rulemakings. We will provide those to the Department soon.

Stoel Rives will continue to review and identify opportunities to assist with this rulemaking.

Sincerely,

A handwritten signature in blue ink, appearing to read "Krista K. McIntyre", with a long horizontal flourish extending to the right.

Krista McIntyre