

Revisions to Proposed adopted by the Board on November 17, 2022, Docket No. 58-0101-2101

Revisions in Sections 002, 006.31, 008.02, 008.04, 009, 387, 791.01, and 794.02 are highlighted in yellow. The effective date of the deletion of Sections 517 through 527 has been clarified and highlighted in gray.

**002. WRITTEN INTERPRETATIONS.**

The Department of Environmental Quality has written statements that pertain to the interpretation of or compliance with these rules at 1410 N. Hilton, Boise, Idaho, the Department regional offices, and <https://www.deq.idaho.gov>. ( )

**006. GENERAL DEFINITIONS.**

**31. Modification.** ( )

a. Any physical change in, or change in the method of operation of, a stationary source or facility that:

~~i. Results results~~ in an emission increase as defined in Section 007 or that would result in the emission of any regulated air pollutant not previously emitted; ~~and~~ ( )

~~ii. Any physical change in, or change in the method of operation of, a stationary source or facility that would would~~ result in an increase in the emissions rate of any state only toxic air pollutant, or emissions of any state only toxic air pollutant not previously emitted. ( )

~~bc.~~ Fugitive emissions are not considered in determining whether a permit is required for a modification unless required by federal law. ( )

~~ed.~~ Routine maintenance, repair and replacement are not considered physical changes and the following are not considered a change in the method of operation: ( )

i. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; ( )

ii. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and ( )

iii. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material before January 6, 1975, and use of such fuel or raw material is not specifically prohibited in a permit. ( )

**008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.**

**01. Affected States.** All States: ( )

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or ( )

b. That are within fifty (50) miles of the Tier I source. ( )

**02. Allowance.** An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide.

**0203. Applicable Requirement.** All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): ( )

**a.** Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. ( )

**b.** Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. ( )

**c.** Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; ( )

**d.** Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; ( )

**e.** Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; ( )

**f.** Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128; ( )

**g.** Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; ( )

**h.** Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and ( )

**i.** Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. ( )

**j.** Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 336. ( )

**04. Designated Representative.** A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit.

**0305. Draft Permit.** The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. ( )

**0406. Final Permit.** The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. ( )

**0507. General Permit.** A Tier I permit issued pursuant to Section 335. ( )

**0608. Major Facility.** A facility (as defined in Section 006) is major if the facility meets any of the following criteria. ( )

**a.** For hazardous air pollutants, the facility emits or has the potential to emit: ( )

**i.** Ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides,

which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station must not be aggregated with emissions from other similar emission units within the facility; or ( )

ii. Twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station must not be aggregated with emissions from other similar emission units within the facility. ( )

b. For non-attainment areas, the facility is located in: ( )

i. A “serious” particulate matter (PM10 or PM2.5) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM10 or PM2.5; ( )

ii. A “serious” carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide; ( )

iii. An ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds; or ( )

iv. An ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen are not included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is “marginal” or “moderate,” one hundred (100) tpy or more, if the area is “serious,” fifty (50) tpy or more, if the area is “severe,” twenty-five (25) tpy or more, and if the area is “extreme,” ten (10) tpy or more. ( )

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant. The fugitive emissions are not considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: ( )

i. Designated facilities. ( )

ii. All other source categories regulated by 40 CFR Part 60, 61 or 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. ( )

**009. DEFINITIONS FOR THE PURPOSES OF 40 CFR PARTS 60, 61 AND 63.**  
Notwithstanding the definitions listed in Sections 006 through 008, the definitions in 40 CFR Parts 60, 61 and 63 will have the meaning given in those Parts, except that the term “Administrator” means “Department.”

**009010. – 106. (RESERVED)**

(BREAK)

**387. TIER I REGISTRATION FEE.**

Sections 387 through 397 set the procedures for the annual registration and fee assessment for Tier I sources, including facilities that obtained air quality permits that limited potential emissions below Tier I source levels during the previous year. Any person owning or operating a Tier I source during the previous calendar year must by April 1 of each year, register with the Department and submit the following information [using forms available described at http://www.deq.idaho.gov](http://www.deq.idaho.gov): ( )

**01. Facility Information.** The name, address, telephone number and location of the facility; ( )

**02. Owner/Operator Information.** The name, address and telephone numbers of the owners and operators; ( )

**03. Facility Emission Units.** The number and type of emission units present at the facility or the Tier I permit number for the facility; and ( )

**04. Pollutant Registration.** The actual emissions from the previous calendar year for oxides of sulfur (Sox), oxides of nitrogen (Nox), particulate matter (PM10), and volatile organic compounds (VOC) calculated using methods to include, but not limited to, continuous emissions monitoring (CEMS), certified source tests, material balances (mass-balance), state/industry emission factors, or AP-42 emission factors applied to throughput, actual operating hours, production rates, in-place control equipment, or the types of materials processed, stored, or combusted. ( )

(BREAK)

**Note:** Sections 517 through 527 remain in effect until the repeal of Idaho Code § 39-116B on July 1, 2023 (see [Senate Bill No. 1254](#)).

**517. MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM.**

**01. Purpose.** The purpose of Sections 517 through 527 is to set forth the minimum standards for a motor vehicle inspection and maintenance program, established pursuant to Section 39-116B, Idaho Code, for registered motor vehicles as defined in Section 49-123, Idaho Code. This program is designed to follow the basic inspection and maintenance program defined in 40 CFR 51.352.

**02. Applicability.** Sections 517 through 527 apply only to the counties of Ada and Canyon and the cities of Boise, Eagle, Garden City, Meridian, Kuna, Star, Caldwell, Greenleaf, Melba, Middleton, Nampa, Notus, Parma, and Wilder.

**03. Options.**

**a.** Section 39-116B, Idaho Code, provides the counties and cities listed in Subsection 517.02 with the following implementation options. The counties and cities may:

i. Enter into a joint exercise of powers agreement with the Director to implement a motor vehicle inspection and maintenance program; or

ii. Obtain Department approval to implement an alternative motor vehicle emissions control strategy that will result in emissions reductions equivalent to that of a motor vehicle inspection and maintenance program.

**b.** If neither of the options listed in Subsection 517.03.a. are selected, the Department shall implement the motor vehicle inspection and maintenance program.

**04. Governing Authority.** For the purpose of Sections 517 through 527, governing authority means the governing entity responsible for the development and implementation of the motor vehicle inspection and maintenance program. The governing entity may be the counties and cities listed in Subsection 517.02 or the Department. The governing authority shall adopt Sections 517 through 527 of these rules.

**05. Exemptions.** Sections 517 through 527 do not apply to the following:

**a.** Electric or hybrid motor vehicles;

**b.** Motor vehicles with a model year less than five (5) years old;

- c. Motor vehicles with a model year older than 1981;
- d. Classic automobiles as defined by Section 49-406A, Idaho Code;
- e. Motor vehicles with a maximum vehicle gross weight of less than fifteen hundred (1500) pounds;
- f. Motor vehicles registered as motor homes as defined by Section 49-114, Idaho Code;
- g. Motorized farm equipment; and
- h. Registered motor vehicles engaged solely in the business of agriculture.

**518. REQUIREMENTS FOR LICENSING AUTHORIZED INSPECTION STATIONS OR RETEST STATIONS.**

**01. General.**

a. No person or enterprise shall in any manner represent any place as an inspection station or retest station unless such station is operated under a valid license issued by the governing authority.

b. No license for any inspection station or retest station may be assigned, transferred or used by other than the original applicant for that specific station.

**02. Applications for License.** Applications for license as an inspection station or retest station shall be made on the forms provided by the governing authority. No license shall be issued unless the governing authority finds that the facilities, tools and equipment of the applicant comply with the requirements set forth in Subsections 518.03 or 518.04.

**03. Requirements for Licensed Inspection Stations.** In order to qualify for issuance and continuance of an inspection station license, an establishment must meet the following requirements:

- a. Must have a permanent location;
- b. Must ensure that at least one employee, who has been issued an emissions technician license by the governing authority, is on duty at all times of station operation;
- c. Must demonstrate the ability to perform the emissions test and comply with reporting and recordkeeping requirements established by the governing authority;
- d. Must obtain and maintain in force appropriate business liability insurance; and
- e. Must have the tools, equipment and supplies, as required by the governing authority, available for performance of the emissions test.

**04. Requirements for Licensed Retest Stations.** In order to qualify for issuance and continuance of a retest station license, an establishment must meet the requirements listed in Subsection 518.03.

**05. Approval Procedure.**

a. Applications received by the governing authority will be reviewed for completeness and an inspection of the facility will be performed. An inspection report will be prepared for the governing authority's review.

b. Stations which meet the requirements of Subsections 518.01 through 518.04 will be granted an inspection station license or retest station license and issued a station sign. The station sign and license shall be posted in a conspicuous place, readily visible to the public. The station sign and license shall remain the property of

the governing authority.

**06. Revocation of Inspection Station or Retest Station License.** The governing authority has the authority to issue warnings and suspend or revoke a station license upon a showing that emission tests are not being performed in accordance with these rules and any other specifications or procedures enacted by the governing authority.

**519. REQUIREMENTS FOR LICENSING AUTHORIZED EMISSIONS TECHNICIANS.**

**01. Applications for License.** Application for a license as an emissions technician shall be filed with the governing authority. Applications for the emissions technician license shall be completed on forms provided by the governing authority.

**02. Requirements for Issuance of an Emissions Technician License.** An applicant must demonstrate the knowledge and skill necessary to perform an emissions test of motor vehicle engines. The governing authority shall require the minimum standards set forth in 40 CFR 51.367, incorporated by reference into these rules at Section 107.

**03. Revocation of Emissions Technician License.** The governing authority has the authority to issue warnings and suspend or revoke an emissions technician license upon a showing that emission tests are not being performed in accordance with these rules or any other specifications or procedures enacted by the governing authority.

**520. INSPECTION FREQUENCY.**

The inspection shall occur no more than once every two (2) years. If the owner of the motor vehicle obtains a waiver pursuant to Section 526, the motor vehicle must be inspected the following year.

**521. TEST PROCEDURE REQUIREMENTS.**

The governing authority shall require the minimum standards set forth in 40 CFR 51.357(a), incorporated by reference into these rules at Section 107.

**522. TEST STANDARDS.**

The governing authority shall require the minimum standards set forth in 40 CFR 51.357(b), incorporated by reference into these rules at Section 107.

**523. TEST EQUIPMENT.**

The governing authority shall require the minimum standards set forth in 40 CFR 51.358, incorporated by reference into these rules at Section 107.

**524. INSPECTION FEE.**

The fee for a motor vehicle inspection, as established in Section 39-116B(2)(g), Idaho Code, shall not exceed twenty dollars (\$20) per vehicle. This fee is necessary to carry out the provisions of Sections 517 through 527 and to fund an air quality public awareness and outreach program.

**525. PUBLIC OUTREACH.**

The governing authority shall issue a pamphlet for distribution to owners of motor vehicles. The pamphlet shall include, but not be limited to, the reasons for and the methods of the inspection. The governing authority may also establish and operate an informational hotline, website, or any other means of outreach that is deemed to be efficient and effective by the governing authority.

**526. WAIVERS.**

The governing authority shall require the minimum standards set forth in 40 CFR 51.360(a), incorporated by reference into these rules at Section 107. If the owner of the motor vehicle obtains a waiver, the motor vehicle must be inspected the following year.

**01. Financial Hardship.** If repairs required under Section 526 pose a financial hardship on the owner

of the motor vehicle, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a). Such determination of hardship shall be made on a case-by-case basis by the governing authority.

**02. Public Service Vehicles Operating Less than 1,000 Miles Per Year.** For public service vehicles owned by a governmental entity and operated less than one thousand (1,000) miles per year, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a).

**527. EXTENSIONS.**

The governing authority shall have the authority to grant extensions for vehicles or vehicle owners temporarily located outside of a testing area that cannot easily be returned to an area for testing. The extension shall not exceed one (1) year. For active-duty military personnel and their families stationed outside the applicable testing area specified in Subsection 517.02, a time extension not to exceed the testing period is available. Military extensions shall be renewed with current military orders.

**Note:** The deletion of Sections 517 through 527 is not effective until the repeal of Idaho Code § 39-116B on July 1, 2023 (see [Senate Bill No. 1254](#)).

~~**517. MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM.**~~

~~**01. Purpose.** The purpose of Sections 517 through 527 is to set forth the minimum standards for a motor vehicle inspection and maintenance program, established pursuant to Section 39-116B, Idaho Code, for registered motor vehicles as defined in Section 49-123, Idaho Code. This program is designed to follow the basic inspection and maintenance program defined in 40 CFR 51.352.~~

~~**02. Applicability.** Sections 517 through 527 apply only to the counties of Ada and Canyon and the cities of Boise, Eagle, Garden City, Meridian, Kuna, Star, Caldwell, Greenleaf, Melba, Middleton, Nampa, Notus, Parma, and Wilder.~~

~~**03. Options.**~~

~~**a.** Section 39-116B, Idaho Code, provides the counties and cities listed in Subsection 517.02 with the following implementation options. The counties and cities may:~~

~~**i.** Enter into a joint exercise of powers agreement with the Director to implement a motor vehicle inspection and maintenance program; or~~

~~**ii.** Obtain Department approval to implement an alternative motor vehicle emissions control strategy that will result in emissions reductions equivalent to that of a motor vehicle inspection and maintenance program.~~

~~**b.** If neither of the options listed in Subsection 517.03.a. are selected, the Department shall implement the motor vehicle inspection and maintenance program.~~

~~**04. Governing Authority.** For the purpose of Sections 517 through 527, governing authority means the governing entity responsible for the development and implementation of the motor vehicle inspection and maintenance program. The governing entity may be the counties and cities listed in Subsection 517.02 or the Department. The governing authority shall adopt Sections 517 through 527 of these rules.~~

~~**05. Exemptions.** Sections 517 through 527 do not apply to the following:~~

~~**a.** Electric or hybrid motor vehicles;~~

~~**b.** Motor vehicles with a model year less than five (5) years old;~~

- ~~c. Motor vehicles with a model year older than 1981;~~
- ~~d. Classic automobiles as defined by Section 49-406A, Idaho Code;~~
- ~~e. Motor vehicles with a maximum vehicle gross weight of less than fifteen hundred (1500) pounds;~~
- ~~f. Motor vehicles registered as motor homes as defined by Section 49-114, Idaho Code;~~
- ~~g. Motorized farm equipment; and~~
- ~~h. Registered motor vehicles engaged solely in the business of agriculture.~~

~~**518. REQUIREMENTS FOR LICENSING AUTHORIZED INSPECTION STATIONS OR RETEST STATIONS.**~~

~~**01. General.**~~

- ~~a. No person or enterprise shall in any manner represent any place as an inspection station or retest station unless such station is operated under a valid license issued by the governing authority.~~
- ~~b. No license for any inspection station or retest station may be assigned, transferred or used by other than the original applicant for that specific station.~~

~~**02. Applications for License.** Applications for license as an inspection station or retest station shall be made on the forms provided by the governing authority. No license shall be issued unless the governing authority finds that the facilities, tools and equipment of the applicant comply with the requirements set forth in Subsections 518.03 or 518.04.~~

~~**03. Requirements for Licensed Inspection Stations.** In order to qualify for issuance and continuance of an inspection station license, an establishment must meet the following requirements:~~

- ~~a. Must have a permanent location;~~
- ~~b. Must ensure that at least one employee, who has been issued an emissions technician license by the governing authority, is on duty at all times of station operation;~~
- ~~c. Must demonstrate the ability to perform the emissions test and comply with reporting and recordkeeping requirements established by the governing authority;~~
- ~~d. Must obtain and maintain in force appropriate business liability insurance; and~~
- ~~e. Must have the tools, equipment and supplies, as required by the governing authority, available for performance of the emissions test.~~

~~**04. Requirements for Licensed Retest Stations.** In order to qualify for issuance and continuance of a retest station license, an establishment must meet the requirements listed in Subsection 518.03.~~

~~**05. Approval Procedure.**~~

- ~~a. Applications received by the governing authority will be reviewed for completeness and an inspection of the facility will be performed. An inspection report will be prepared for the governing authority's review.~~
- ~~b. Stations which meet the requirements of Subsections 518.01 through 518.04 will be granted an inspection station license or retest station license and issued a station sign. The station sign and license shall be posted in a conspicuous place, readily visible to the public. The station sign and license shall remain the property of~~

the governing authority.

~~06. — Revocation of Inspection Station or Retest Station License.~~ The governing authority has the authority to issue warnings and suspend or revoke a station license upon a showing that emission tests are not being performed in accordance with these rules and any other specifications or procedures enacted by the governing authority.

#### ~~519. — REQUIREMENTS FOR LICENSING AUTHORIZED EMISSIONS TECHNICIANS.~~

~~01. — Applications for License.~~ Application for a license as an emissions technician shall be filed with the governing authority. Applications for the emissions technician license shall be completed on forms provided by the governing authority.

~~02. — Requirements for Issuance of an Emissions Technician License.~~ An applicant must demonstrate the knowledge and skill necessary to perform an emissions test of motor vehicle engines. The governing authority shall require the minimum standards set forth in 40 CFR 51.367, incorporated by reference into these rules at Section 107.

~~03. — Revocation of Emissions Technician License.~~ The governing authority has the authority to issue warnings and suspend or revoke an emissions technician license upon a showing that emission tests are not being performed in accordance with these rules or any other specifications or procedures enacted by the governing authority.

#### ~~520. — INSPECTION FREQUENCY.~~

The inspection shall occur no more than once every two (2) years. If the owner of the motor vehicle obtains a waiver pursuant to Section 526, the motor vehicle must be inspected the following year.

#### ~~521. — TEST PROCEDURE REQUIREMENTS.~~

The governing authority shall require the minimum standards set forth in 40 CFR 51.357(a), incorporated by reference into these rules at Section 107.

#### ~~522. — TEST STANDARDS.~~

The governing authority shall require the minimum standards set forth in 40 CFR 51.357(b), incorporated by reference into these rules at Section 107.

#### ~~523. — TEST EQUIPMENT.~~

The governing authority shall require the minimum standards set forth in 40 CFR 51.358, incorporated by reference into these rules at Section 107.

#### ~~524. — INSPECTION FEE.~~

The fee for a motor vehicle inspection, as established in Section 39-116B(2)(g), Idaho Code, shall not exceed twenty dollars (\$20) per vehicle. This fee is necessary to carry out the provisions of Sections 517 through 527 and to fund an air quality public awareness and outreach program.

#### ~~525. — PUBLIC OUTREACH.~~

The governing authority shall issue a pamphlet for distribution to owners of motor vehicles. The pamphlet shall include, but not be limited to, the reasons for and the methods of the inspection. The governing authority may also establish and operate an informational hotline, website, or any other means of outreach that is deemed to be efficient and effective by the governing authority.

#### ~~526. — WAIVERS.~~

The governing authority shall require the minimum standards set forth in 40 CFR 51.360(a), incorporated by reference into these rules at Section 107. If the owner of the motor vehicle obtains a waiver, the motor vehicle must be inspected the following year.

~~01. — Financial Hardship.~~ If repairs required under Section 526 pose a financial hardship on the owner

~~of the motor vehicle, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a). Such determination of hardship shall be made on a case by case basis by the governing authority.~~

~~**02. Public Service Vehicles Operating Less than 1,000 Miles Per Year.** For public service vehicles owned by a governmental entity and operated less than one thousand (1,000) miles per year, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a).~~

~~**527. EXTENSIONS.**~~

~~The governing authority shall have the authority to grant extensions for vehicles or vehicle owners temporarily located outside of a testing area that cannot easily be returned to an area for testing. The extension shall not exceed one (1) year. For active duty military personnel and their families stationed outside the applicable testing area specified in Subsection 517.02, a time extension not to exceed the testing period is available. Military extensions shall be renewed with current military orders.~~

(BREAK)

**791. GENERAL CONTROL REQUIREMENTS.**

**01. Prohibition.** No owner or operator of a nonmetallic mineral processing plant ~~will~~ **may** allow, suffer, or cause the emissions of any air pollutant to the atmosphere in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. ( )

**02. Control of Fugitive Dust.** In accordance with Sections 650 and 651, owners and operators of nonmetallic mineral processing plants must take all reasonable precautions to prevent the generation of fugitive dust. In determining what is reasonable, consideration will be given to factors such as the proximity to human habitations and/or activities and atmospheric conditions that might affect the movement of particulate matter. ( )

(BREAK)

**794. PERMIT REQUIREMENTS.**

No owner or operator may commence construction, reconstruction, modification or operation of any nonmetallic mineral processing plant regardless of whether or not the source is an affected facility pursuant to 40 CFR 60.670(e) without first obtaining a permit or complying with Sections 795 through 799. The owner or operator must comply with the permitting requirements of Subsection 794.02 or Subsection 794.03 and the applicable portions of Subsection 794.04 and/or Subsection 794.05. ( )

**01. Permit by Rule Eligibility.** New major facilities or major modifications subject to Sections 204 and 205 are not eligible for a Permit by Rule. ( )

**02. Permit by Rule.** Owners and operators of nonmetallic mineral processing plants that meet ~~all of all~~ the applicable requirements set forth in Sections 795 through 799 are deemed to have a permit by rule (PBR) and ~~will are~~ **not be** required to obtain a permit to construct under Sections 200 through 227. ( )

**03. Permit to Construct.** Owners and operators of nonmetallic mineral processing plants that do not meet all of the requirements set forth in Sections 795 through 799, or that operate or intend to operate a nonmetallic mineral processing plant at a single site of operations for more than twelve (12) consecutive months, or that choose to construct and operate under specific permit requirements rather than the provisions of the permit by rule must obtain a permit to construct pursuant to Sections 200 through 227. An existing permit to construct will be considered valid until the permit is modified, incorporated into a Tier II operating permit, or terminated by the Department. ( )

**04. Tier I Operating Permits.** Owners and operators of nonmetallic mineral processing plants that are affected facilities subject to a requirement of 40 CFR Part 60 are Tier I sources as defined in Section 006. Tier I sources must comply with the applicable permitting requirements of Sections 300 through 397. ( )

**05. Tier II Operating Permits.** Owners and operators of nonmetallic mineral processing plants that are required by the Department or choose to obtain a Tier II operating permit pursuant to Sections 400 through 409 must operate in accordance with the specific provisions of the Tier II operating permit until such time as the operating permit is terminated in writing by the Department. The Department may require owners and operators of nonmetallic mineral processing plants to obtain a Tier II operating permit whenever the Department determines that:( )

**a.** Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or ( )

**b.** Specific emissions standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. ( )