

## **IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**

#### **DOCKET NO. 58-0101-2101 (ZBR CHAPTER REWRITE)**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Idaho Board of Environmental Quality (Board) and is now pending review by the 2023 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected. However, the deletion of Sections 517 through 527, Motor Vehicle Inspection and Maintenance Program, will not become effective until July 1, 2023; those sections will remain in effect until July 1, 2023.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This rulemaking action is authorized by Sections 39-105, 39-107, 39-114, and 39-115. This rulemaking updates federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of Idaho's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act. It also updates citations to other federal regulations necessary to retain state primacy of Clean Air Act programs.

**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, September 7, 2022, [Vol. 22-9, pages 325 through 488](#).

After consideration of public comments, sections 002, 006.31, 008.02, 008.04, 009, 387, 791.01, and 794.02 have been revised. The effective date of the deletion of Sections 517 through 527 due to legislative action has been clarified (see [Senate Bill No. 1254](#).) The remainder of the rule has been adopted as initially proposed. The Board meeting documents are available at <https://www.deq.idaho.gov/air-quality-docket-no-58-0101-2101/> or by contacting the undersigned.

**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.

**FEE SUMMARY:** With exception of the revised Title V permitting fees, this rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in prior rules. The fee categories and statutory authorities are crop residue burn fee, Idaho Code § 39-114(4); and application fee for industrial or commercial air pollution source permits, Idaho Code § 39-115(3).

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning the rulemaking, contact the undersigned.

Dated this 7th day of December, 2022

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DOCKET NO. 58-0101-2201 – ADOPTION OF PENDING FEE RULE  
(Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made to the pending fee rule.  
*Italicized red text* indicates changes between the text of the proposed rule as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,  
Volume 22-9, September 7, 2022, pages 325 through 488.

This rule has been adopted as a pending fee rule by the agency and is now awaiting  
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE FOR DOCKET NO. 58-0101-2201  
(Only those sections or subsections that have changed from the original proposed text  
are printed in this Bulletin following this notice.)

**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>.

( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**006. GENERAL DEFINITIONS.**

**01. Accountable.** Any SIP emission trading program must account for the aggregate effect of the emissions trades in the demonstration of reasonable further progress, attainment, or maintenance. ( )

**02. Actual Emissions.** The actual rate of emissions of a pollutant from an emissions unit as determined below: ( )

**a.** Actual emissions as of a particular date equal the average rate, in tons per year, at which the unit emitted the pollutant during a consecutive 24-month period that precedes the particular date and is representative of normal source operation. The Department will allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions must be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. ( )

**b.** The Department may presume that the source-specific allowable emissions for the unit are equivalent to actual emissions of the unit. ( )

**c.** For any emissions unit (other than an electric utility steam generating unit as specified below) which has not yet begun normal operations on the particular date, actual emissions equal the potential to emit of the unit on that date. ( )

**d.** For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change equal the representative actual annual

emissions of the unit, provided the source owner or operator maintains and submits to the Department, on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ten (10) years may be required by the Department if it determines such a period to be more representative of normal source post-change operations. ( )

**03. Air Quality.** The specific measurement in the ambient air of a particular air pollutant at any given time. ( )

**04. Allowable Emissions.** The allowable emissions rate of a stationary source or facility calculated using the maximum rated capacity of the source or facility (unless the source or facility is subject to federally enforceable limits that restrict the operating rate, or hours of operation, or both) and the most stringent of the following: ( )

**a.** The applicable standards set forth in 40 CFR Parts 60, 61, and 63. ( )

**b.** Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or ( )

**c.** The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date. ( )

**05. Ambient Air.** That portion of the atmosphere, external to buildings, to which the general public has access. ( )

**06. Ambient Air Quality Violation.** Any ambient concentration that causes or contributes to an exceedance of a national ambient air quality standard as determined by 40 CFR Part 50. ( )

**07. Attainment Area.** Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular air pollutant or air pollutants. ( )

**08. Commence Construction or Modification.** Initiation of physical on-site construction activities on an emissions unit that are permanent. Such activities include, but are not limited to, fabrication, erection, installation, or modification of a stationary source or facility, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, that mark the initiation of the change. ( )

**09. Control Equipment.** Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. ( )

**10. Controlled Emission.** An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. ( )

**11. Criteria Air Pollutant.** Any of the following: PM10; PM2.5; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. ( )

**12. Emission.** Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. ( )

**13. Emission Standard.** A permit or regulatory requirement established by the Department or EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction. ( )

**14. Emissions Unit.** An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. ( )

**15. Environmental Remediation Source.** A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and has an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition limits remediation projects to five (5) years or less of total operation. ( )

**16. Existing Stationary Source or Facility.** Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. ( )

**17. Facility.** All of the pollutant-emitting activities that belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities are considered as part of the same industrial grouping if they belong to the same Major Group (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual. The fugitive emissions are not considered in determining whether a permit is required unless required by federal law. ( )

**18. Federal Land Manager.** The Secretary of the department with authority over the Federal Class I Area (or the Secretary's designee). ( )

**19. Federally Enforceable.** All limitations and conditions which are enforceable by EPA and the Department under the Clean Air Act, including those requirements developed pursuant to 40 CFR Parts 60 and 61 requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Parts 51, 52, 60, or 63. ( )

**20. Fuel-Burning Equipment.** Any furnace, boiler, or other apparatus, including all stacks and appurtenances thereto, that burns fuel for the primary purpose of producing heat or power by indirect heat transfer. ( )

**21. Fugitive Dust.** Fugitive emissions composed of particulate matter. ( )

**22. Fugitive Emissions.** Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. ( )

**23. Gasoline.** Any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motorboats. Gasoline also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels, which is defined as fuel suitable for diesel engines; a compressed or liquefied gas obtained as a by-product in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles. ( )

**24. Gasoline Cargo Tank.** Any tank or trailer used for the transport of gasoline from sources of supply to underground gasoline storage tanks. ( )

**25. Gasoline Dispensing Facility (GDF).** Any facility with underground gasoline storage tanks used for dispensing gasoline. ( )

**26. Hazardous Air Pollutant (HAP).** Any air pollutant listed pursuant to Section 112(b) of the Clean Air Act. Hazardous Air Pollutants are regulated air pollutants. ( )

**27. Incinerator.** Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. ( )

**28. Integral Vista.** A view perceived from within the mandatory Class I Federal Area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal Area. ( )

**29. Mandatory Class I Federal Area.** Any area identified in 40 CFR 81.400 through 81.437. ( )

**30. Mercury Best Available Control Technology (MBACT).** An emission standard for mercury (including elemental mercury and mercury compounds) based on the maximum degree of reduction practically achievable as specified by the Department on an individual case-by-case basis considering energy, economic and environmental impacts, and other relevant impacts specific to the source. A Department approved MBACT is valid until the source subject to the MBACT is modified. If the proposed modification to the source subject to MBACT occurs within ten (10) years of the MBACT determination, a new MBACT review is not triggered if the source can meet the existing MBACT requirements. If the proposed modification occurs more than ten (10) years after the MBACT determination, then the proposed modification will be subject to a new MBACT review. ( )

**31. Modification.** ( )

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

**b.** *Any physical change in, or change in the method of operation of, a stationary source or facility that 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.* ( )

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

**d.** 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. ( )

**32. National Ambient Air Quality Standard (NAAQS).** National primary and secondary ambient air quality standards under Section 109 of the Clean Air Act (CAA) are set forth in 40 CFR Part 50 and incorporated by reference in Section 107. Primary standards define levels of air quality that EPA has determined, with an adequate margin of safety, to protect public health. Secondary standards define levels of air quality necessary to protect public welfare from any known or anticipated adverse effects of a pollutant. Pollutants subject to a NAAQS are termed criteria pollutants. Geographic areas are designated as unclassifiable, attainment, or nonattainment of the NAAQS. Section 110 of the CAA and 40 CFR Parts 51 and 52, incorporated by reference in Section 107, requires states to submit state implementation plans to meet, attain, and maintain the NAAQS. ( )

**33. New Stationary Source or Facility.** ( )

**a.** Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or ( )

**b.** The restart of a non-operating facility is considered a new stationary source or facility if: ( )

- i. The restart involves a modification to the facility; or ( )
- ii. If after the facility has been in a non-operating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing non-operating facility, then the Department will, within five (5) working days of receipt of the application notify the facility of receipt of the application for a Permit to Construct. To not be considered a new stationary source or facility within thirty (30) working days upon receipt of this notification, the facility must provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. ( )
- 34. Nonattainment Area.** Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. ( )
- 35. Particulate Matter.** Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. Emissions are measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157. PM10 is all particulate matter in the ambient air with an aerodynamic diameter less than or equal to ten (10) micrometers. PM2.5 is all particulate matter in the ambient air with an aerodynamic diameter less than or equal to two point five (2.5) micrometers. ( )
- 36. Potential to Emit/Potential Emissions.** The maximum capacity of a facility or stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility or source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, is treated as part of its design if the limitation or the effect it would have on emissions is state or federally enforceable. Secondary emissions do not count in determining the potential to emit of a facility or stationary source. ( )
- 37. Portable Equipment.** Equipment designed to be dismantled and transported from one (1) job site to another. ( )
- 38. Process or Process Equipment.** Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. ( )
- 39. Regulated Air Pollutant.**
- a.** For purposes of determining applicability of major source permit to operate requirements, issuing, and modifying permits pursuant to Sections 300 through 397, and in accordance with Title V of the federal Clean Air Act amendments of 1990, 42 U.S.C. Section 7661 et seq., “regulated air pollutant” has the same meaning as in Title V of the federal Clean Air Act amendments of 1990, and any applicable federal regulations promulgated pursuant to Title V of the federal Clean Air Act amendments of 1990, 40 CFR Part 70; ( )
- b.** For purposes of determining applicability of any other operating permit requirements, issuing, and modifying permits pursuant to Sections 400 through 409, the federal definition of “regulated air pollutant” as defined in Subsection 006.39.a. also applies; ( )
- c.** For purposes of determining applicability of permit to construct requirements, issuing, and modifying permits pursuant to Sections 200 through 227, except Section 214, and in accordance with Part D of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7501 et seq., “regulated air pollutant” means those air contaminants that are regulated in non-attainment areas pursuant to Part D of Subchapter I of the federal Clean Air Act and applicable federal regulations promulgated pursuant to Part D of Subchapter I of the federal Clean Air Act, 40 CFR 51.165; and ( )
- d.** For purposes of determining applicability of any other major or minor permit to construct requirements, issuing, and modifying permits pursuant to 200 through 227, except Section 214, “regulated air pollutant” means those air contaminants that are regulated in attainment and unclassifiable areas pursuant to Part C of

Subchapter I of the federal Clean Air Act, 40 CFR 52.21, and any applicable federal regulations promulgated pursuant to Part C of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7470 et seq. ( )

**40. Replicable.** Any SIP procedures for applying emission trading must be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. ( )

**41. Responsible Official.** One (1) of the following: ( )

**a.** For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either: ( )

i. The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars); or ( )

ii. The delegation of authority to such representative is approved in advance by the Department. ( )

**b.** For a partnership or sole proprietorship: a general partner or the proprietor, respectively. ( )

**c.** For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Section 123, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). ( )

**d.** For Phase II sources: ( )

i. The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and ( )

ii. The designated representative for any other purposes under 40 CFR Part 70. ( )

**42. Secondary Emissions.** Emissions that occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification that causes the secondary emissions. Secondary emissions include emissions from any offsite support facility that would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions that come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. ( )

**43. Significant.** In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following: ( )

**a.** Criteria Pollutant Significant emission rate.

Criteria Pollutant	Emission Rate (tons/year)
CO	100
NO <sub>x</sub>	40

Criteria Pollutant	Emission Rate (tons/year)
SO <sub>2</sub>	40
Ozone as NO <sub>x</sub>	40
Ozone as VOC	40
PM	25
PM <sub>10</sub>	15
PM <sub>2.5</sub>	10
PM <sub>2.5</sub> as SO <sub>2</sub>	40
PM <sub>2.5</sub> as NO <sub>x</sub>	40
Pb	0.6
Any regulated air pollutant not listed in this definition.	Greater than 0

( )

**b.** Non criteria pollutant significant emission rate.

Non-Criteria Pollutant	Emission Rate (tons/year)
H <sub>2</sub> S	10
TRS (including H <sub>2</sub> S)	10
Reduced sulfur compounds (including H <sub>2</sub> S)	10
H <sub>2</sub> SO <sub>4</sub> mist	7
Fluorides	3
Any regulated pollutant not listed in this definition and not a TAP	Greater than zero

( )

**c.** Other pollutants with a significant emission rate.

Other	Measured as	Emission rate (tons/year)
Municipal waste combustor organics	total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans	$3.5 \times 10^{-6}$
Municipal waste combustor metals	Particulate matter	15
Municipal waste combustor acid gases	SO <sub>2</sub> and hydrogen chloride	40
Municipal solid waste landfills	Nonmethane organic compounds	50
Any new or modified major source within 10 kilometers of a Class I area	Any regulated air pollutant	Any rate or net increase with a 24-hour impact of $\geq 1 \mu\text{g}/\text{m}^3$

( )

44. **Significant Contribution.** Any increase in ambient concentrations which would exceed the following:

Pollutant	Annual	Averaging time (hours)			
		24	8	3	1
SO <sub>2</sub>	1.0 $\mu\text{g}/\text{m}^3$	5 $\mu\text{g}/\text{m}^3$		25 $\mu\text{g}/\text{m}^3$	
PM <sub>10</sub>	1.0 $\mu\text{g}/\text{m}^3$	5 $\mu\text{g}/\text{m}^3$			
PM <sub>2.5</sub>	0.3 $\mu\text{g}/\text{m}^3$	1.2 $\mu\text{g}/\text{m}^3$			
NO <sub>2</sub>	1.0 $\mu\text{g}/\text{m}^3$				
CO			0.5 $\text{mg}/\text{m}^3$		2 $\text{mg}/\text{m}^3$

( )

45. **Source.** A stationary source. ( )

46. **Source Operation.** The last operation preceding the emission of air pollutants when this operation: ( )

a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and ( )

b. Is not an air cleaning device. ( )

47. **Stack.** Any point in a source arranged to conduct emissions to the ambient air, including a chimney,

flue, conduit, or duct but not including flares. ( )

**48. Stationary Source.** Any building, structure, facility, emissions unit, or installation which emits or may emit any air pollutant. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. ( )

**49. Tier I Source.** Any of the following: ( )

**a.** Any source located at any major facility as defined in Section 008; ( )

**b.** Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60, and required by EPA to obtain a Part 70 permit; ( )

**c.** Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, and required by EPA to obtain a Part 70 permit, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); ( )

**d.** Any Phase II source; and ( )

**e.** Any source in a source category designated by the Department. ( )

**50. Toxic Air Pollutant.** An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. ( )

**51. TRS (Total Reduced Sulfur).** Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. ( )

**52. Unclassifiable Area.** An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. ( )

**53. Uncontrolled Emission.** An emission which has not been treated by control equipment. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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.* ( )

**03. 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.* ( )

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

**06. 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. ( )

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

**08. 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.”* ( )

**010. -- 106. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

**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 *described* at <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 IN CONTINUITY OF SECTIONS)**

**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.

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

519. REQUIREMENTS FOR LICENSING AUTHORIZED EMISSIONS TECHNICIANS.

520. INSPECTION FREQUENCY.

521. TEST PROCEDURE REQUIREMENTS.

522. TEST STANDARDS.

523. TEST EQUIPMENT.

524. INSPECTION FEE.

525. PUBLIC OUTREACH.

526. WAIVERS.

527. EXTENSIONS.

**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. –527. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

791. GENERAL CONTROL REQUIREMENTS.

01. **Prohibition.** No owner or operator of a nonmetallic mineral processing plant *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 IN CONTINUITY OF SECTIONS)**

**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 the applicable requirements set forth in Sections 795 through 799 are deemed to have a permit by rule (PBR) and *are* not 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. ( )