

# Overview of Incorporations by Reference for the DEQ Air Quality Division, Docket No. 58-0101-2301

## IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho

Required by Idaho Code § 67-5223(4)

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Rulemaking Docket No. 58-0101-2301 describes incorporation by reference of final federal regulations promulgated with effective dates through July 1, 2023.

An efficient way to implement new or updated federal regulations is to incorporate them by reference into state rule. Reproducing the Code of Federal Regulations (CFR) in state rule is impractical and costly. Therefore, when possible, DEQ incorporates federal regulations by reference. Sections with no changes are also incorporated to ensure the state rules are consistent with federal regulations and to provide one set of rules for industry to follow. Idaho industry is required to comply with all applicable new and updated federal rules regardless of whether DEQ incorporates them by reference.

In addition, for DEQ to be the implementing authority for the Clean Air Act in the state of Idaho, the agency is required to (1) implement the National Ambient Air Quality Standards (NAAQS) and (2) implement an air quality operating permit program for facilities with significant emissions.

- (1) **National Ambient Air Quality Standards Implementation**—If an area in Idaho exceeds a NAAQS, DEQ will develop a state plan to improve air quality in that area. Whenever EPA updates a federal standard, DEQ also must demonstrate to EPA that it can implement the new standard. To obtain the appropriate authority to implement a new standard, DEQ incorporates by reference the following sections from [Title 40 Code of Federal Regulations](#) (40 CFR) Parts 50, 51, 52, 53, and 58.
- (2) **Operating Permit Program**—Operating permit requirements are outlined under 40 CFR Parts 64 and 70. To write these permits in Idaho, DEQ must have the authority to include all of the applicable federal requirements. These requirements are contained in 40 CFR Parts 52, 60, 61, 62, 63, 73, and 82.

To maintain authority for implementing the Clean Air Act in Idaho, DEQ is required to continually demonstrate that our air quality program meets minimum federal requirements.

Note, if DEQ's air program does not meet EPA's minimum requirements, EPA could impose sanctions on Idaho as outlined in the Clean Air Act ([42 USC § 7509](#)). Under certain circumstances, these sanctions could include withholding federal highway funds or DEQ operating funds.

Overview of Incorporations by Reference for the DEQ Air Quality Division

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The following table summarizes the CFR sections the air quality division incorporates by reference.

<u>40 CFR Part</u>	Title	Changes During Past Year?	Impact on Idaho	Number of pages with changes
50	National primary and secondary ambient air quality standards	No	—	—
51	Requirements for preparation, adoption, and submittal of implementation plans	Yes	Yes	2
52	Subparts A and N and Appendices D and E: Approval and promulgation of implementation plans	Yes	Yes	2
53	Ambient air monitoring reference and equivalent methods	No	—	—
58	Ambient air surveillance	No	—	—
60	Standards of performance for new stationary sources	Yes	Yes	87
61	National emission standards for hazardous air pollutants	No	—	—
62	Subpart HHH: Federal plan requirements for hospital/medical/infectious waste incinerators constructed on or before December 1, 2008	No	—	—
63	National emission standards for hazardous air pollutants for source categories	Yes	Yes	63
64	Compliance assurance monitoring	No	—	—
70	State operating permit programs	No	—	—
72	Permits	No	—	—
73	Sulfur dioxide allowance system	No	—	—
82	Protection of stratospheric ozone	Yes	Yes	13

These changes are discussed in more detail below. The associated Federal Register notices are denoted in parentheses as hyperlinks.

***The following parts were revised:***

**National Ambient Air Quality Standards (NAAQS) Implementation**

The NAAQS implementation rules promulgated by EPA in this time period are mostly administrative in nature.

A more detailed summary of the Code of Federal Register changes that impact NAAQS implementation is given below.

**Part 51:** Requirements for preparation, adoption, and submittal of implementation plans

- States are required to have a state implementation plan, which includes the rules and area-specific plans that address NAAQS. This section outlines the state implementation plan requirements for state environmental agencies.
- There were two updates in this section. One updated the list of compounds excluded from the definition of volatile organic compounds ([FR-2023-02-08](#)) and the other corrected source testing regulations ([FR-2023-03-29](#)).

**Part 52,** Subparts A and N and Appendices D and E: Approval and promulgation of implementation plans

- This section contains general provisions associated with state implementation plans and Idaho-specific state implementation plan actions.
- Subpart N - Idaho: EPA promulgated two changes in this section. The first focused on Idaho's state implementation plan that approved Idaho's incorporation by reference of federal rules ([FR-2023-03-29](#)) and the second approved a statute change related to the Idaho DEQ Board composition ([FR-2023-05-26](#)).

**Operating Permit Program Implementation**

A detailed summary of the Code of Federal Regulation changes impacting DEQ's operating permit program is given below.

**Part 60:** Standards of performance for new stationary sources

- The section describes the permitting requirements for new facilities of specific industries.
- This year's revisions included seven updates: one focused on stationary engines ([FR-2022-08-10](#)), one updated regulations for lead acid battery manufacturing facilities ([FR-2023-02-23](#)), one updated regulations for heavy duty engines ([FR-2023-01-24](#)), one updated performance standards for industrial surface coating ([FR-2023-03-27](#)), one corrected source testing regulations ([FR-2023-03-29](#)), one updated a test method for dioxins and furans ([FR-2023-03-20](#)), and one updated emission limits for volatile organic compounds for auto surface coating operations ([FR-2023-05-09](#)).

**Part 63:** National emission standards for hazardous air pollutants

- This section addresses national emission standards for hazardous air pollutants for specific sources of pollution.
- There are currently nine updates to rules in this section that DEQ is incorporating by reference: these apply to stationary engines ([FR-2022-08-10](#)), paint stripping and surface coating operations ([FR-2022-11-10](#)), large facilities with boilers ([FR-2022-10-06](#)), site remediation ([FR-2022-12-22](#)), lead acid battery manufacturing facilities ([FR-2023-02-23](#)), miscellaneous coating operations ([FR-2023-02-22](#)), wood preserving facilities ([FR-2023-03-08](#)), one corrected source testing regulations ([FR-2023-03-29](#)), and one updated a test method for dioxins and furans ([FR-2023-03-20](#)).

**Part 82:** Protection of stratospheric ozone

- The purpose of this section is to implement the Montreal Protocol, which addresses substances that deplete the ozone layer.
- There was one update to the rules in this section that updated the list of acceptable refrigerants ([FR-2023-04-28](#)).

The updates associated with DEQ's operating permit program do not impact most Idaho facilities. The two most relevant are related to paint stripping and surface coating operations. One change made minor clarifications and requires electronic reporting, but no revisions to the stringency of the regulation were made. The other one revised emission limits for volatile organic compounds to reflect updated control technologies.

***The following parts were not revised:***

**Part 50:** National primary and secondary ambient air quality standards

- This section contains the air quality standards that EPA promulgates for the criteria pollutants: coarse and fine particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), ozone, sulfur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), lead, and carbon monoxide (CO).

**Part 53:** Ambient air monitoring reference and equivalent methods

- DEQ is required to implement a NAAQS monitoring program in Idaho. Any updates to approved monitoring methods are included in this section. Approved industrial monitoring methods are also included in this section.

**Part 58:** Ambient air surveillance

- This section describes the requirements for states to operate a monitoring program.

**Part 61:** National emission standards for hazardous air pollutants

- This section addresses the national emission standards for certain hazardous air pollutants.

**Part 62**, Subpart HHH: Federal plan requirements for hospital/medical/infectious waste incinerators constructed on or before December 1, 2008

- This section describes the requirements for hospital/medical/infectious waste incinerators. DEQ took delegation of these federal plan requirements.

**Part 64**: Compliance assurance monitoring

- This section outlines the compliance assurance monitoring requirements for emission units at major sources of pollution.

**Part 70**: State operating permit programs

- This section describes the minimum requirements for state permitting programs.

**Part 72**: Permits

- This section establishes permit requirements under the acid rain program.

**Part 73**: Sulfur dioxide allowance system

- This part establishes the requirements and procedures for an SO<sub>2</sub> pollutant trading program.
- Idaho currently does not have any sources participating in a pollutant trading program.