

Overview of Incorporations by Reference for the DEQ Air Quality Division, Docket No. 58-0101-2501

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

Required by Idaho Code § 67-5223(4)

Rulemaking Docket No. 58-0101-2501 describes incorporation by reference of final federal regulations promulgated with effective dates through July 1, 2025.

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 new and existing facilities.

- (1) **National Ambient Air Quality Standards Implementation**—If an area in Idaho exceeds a NAAQS for a particular pollutant, 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**— 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, 72, 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.

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

| 40 CFR Part | Title | Changes During Past Year? | Impact on Idaho |
|-------------|--|---------------------------|-----------------|
| 50 | National primary and secondary ambient air quality standards | Yes | Yes |
| 51 | Requirements for preparation, adoption, and submittal of implementation plans | Yes | Yes |
| 52 | Subparts A and N and Appendices D and E: Approval and promulgation of implementation plans | Yes | Yes |
| 53 | Ambient air monitoring reference and equivalent methods | No | No |
| 58 | Ambient air surveillance | Yes | Yes |
| 60 | Standards of performance for new stationary sources | Yes | Yes |
| 61 | National emission standards for hazardous air pollutants | No | — |
| 62 | Subpart OOO: Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014. | No | — |
| 62 | Subpart HHH: Federal plan requirements for hospital/medical/infectious waste incinerators constructed on or before December 1, 2008 | Yes | Yes |
| 63 | National emission standards for hazardous air pollutants for source categories | Yes | Yes |
| 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 |

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 notable action is EPA's approval of Idaho's Revisions to Air Quality Regulations that implement changes that resulted from streamlining Idaho's air rules through the zero-based rulemaking process. Another notable action was EPA's change in the secondary standards for sulfur dioxide. A more detailed summary of the Code of Federal Register changes that impact NAAQS implementation is given below.

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 (PM₁₀ and PM_{2.5}), ozone, sulfur dioxide (SO₂), nitrogen dioxide (NO₂), lead, and carbon monoxide (CO).
- There were three updates in this section. One updated the national standard and data requirements for secondary sulfur dioxide (SO₂) ([FR 2024-12-27](#)). Another corrects the implementation dates and clarifies entities they apply to with regards to the measurement of ozone in the atmosphere ([FR 2025-01-16](#)). The last change provides corrections to the annual PM_{2.5} NAAQS requirements ([FR 2024-12-19](#)).

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 four updates to this section. One addresses inflation adjustments for civil monetary penalties imposed by EPA ([FR 2024-11-08](#)). Another updates EPA's guideline on preferred air quality models used in the Air Quality Permit to Construct Program ([FR 2024-11-29](#)) (delayed effective date 3/21/2025 ([FR 2025-01-28](#))). The third change clarifies implementation requirements and timeframes for reclassified nonattainment areas for the ozone standard ([FR 2025-01-17](#)). The fourth change added minor formatting corrections for the new source review section ([FR 2024-10-22](#)).

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. This part also includes the prevention of significant deterioration (PSD) program requirements.
- Subpart A: EPA made a formatting change in the PSD requirements for consistency ([FR 2024-10-22](#)).
- Subpart N- Idaho: EPA promulgated four changes in this section. Two of these are EPA's approval of Idaho's state plan, updating the annual incorporation by reference ([FR 2024-11-18](#)) and implementing the changes made during the Zero-Based Rulemaking ([FR 2024-12-05](#)). One is EPA's periodic update to the regulatory materials that are incorporated by reference in Idaho's SIP ([FR 2025-06-27](#)). The other addresses

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requirements for interstate transport of ozone for applicable states, that does not apply to Idaho ([FR 2024-12-05](#)).

Part 58: Ambient air surveillance

- This section describes the requirements for states to operate an ambient air quality monitoring program.
- There was one update to this section, it included corrections to the annual PM2.5 NAAQS requirements ([FR 2024-12-19](#)).

Operating Permit Program Implementation

A detailed summary of the Code of Federal Regulation changes impacting DEQ's operating permit program is given below. The updates associated with DEQ's operating permit program do not impact most Idaho facilities. The most relevant are new electronic reporting requirements for reciprocating internal combustion engines, and new volatile organic compound emission limits for bulk gasoline distribution facilities.

Part 60: New Source Performance Standards

- This section describes the permitting requirements for new and modified facilities of specific industries.
- This year's revisions included eight updates. One outlines new greenhouse gas standards and requirements for new coal and oil fired power plants ([FR 2024-05-09](#)), synthetic organic chemical manufacturing industry ([FR 2024-05-16](#)), internal combustion engines ([FR 2024-08-30](#)), organic liquid storage vessels ([FR 2024-10-15](#)), and bulk gasoline terminals ([FR 2024-05-08](#)). Three provide corrections to regulatory text for air curtain incinerators ([FR 2024-11-14](#)), clarifying language for new and existing oil and natural gas sources ([FR 2024-08-01](#)), and formatting corrections to the incorporation by reference sections for new source performance standards ([FR 2024-07-05](#)).

Part 62, Subpart N: Approval and promulgation of state plans for designated facilities and pollutants

- This section describes the requirements for existing designated facilities to comply with new federal regulations.
- There was one change to this section, EPA approved Idaho's request to take delegation of the federal plan requirements for hospital/medical/infectious waste incinerators constructed on or before December 1, 2008 ([FR 2024-08-02](#)).

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 eleven updates to rules in this section that DEQ is incorporating by reference: these apply to coal and oil fired electric utility steam generating units ([FR 2024-05-07](#)), coke ovens ([FR 2024-07-05](#)), lime manufacturing plants ([FR 2024-07-16](#)), rubber tire manufacturing ([FR 2024-11-29](#)),* dry cleaning facilities ([FR 2025-01-07](#)),

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integrated iron and steel Manufacturing ([FR 2025-03-31](#)), synthetic organic chemical manufacturing industry and polymers and resins industry ([FR 2024-05-16](#)), reciprocating internal combustion engines ([FR 2024-08-30](#)) and gasoline distribution ([FR 2024-05-08](#)). EPA removed the affirmative defense provisions for hazardous pollutants for the oil and gas industry ([FR 2024-10-22](#)). There was also a change outlining requirements for major sources that reclassify as area sources ([FR 2024-09-10](#)).**

* Rubber tire manufacturing (FR 2024-11-29): rule change no longer in effect because of H.J.Res. 61 – 119th Congress (2025-2026).

** Reclassification of Major Sources as Area Sources (FR 2024-09-10): rule change no longer in effect because of S.J. Res 31 – 119th Congress (2025-2026).

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 were three updates to the rules in this section that updated the list of acceptable substances for refrigeration and air conditioning and foam blowing sectors ([FR 2024-12-11](#)), commercial and Industrial refrigeration ([FR 2024-06-13](#)) and established recordkeeping and reporting requirements for ozone depleting substances ([FR 2024-10-10](#)).

The following parts were not revised:

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 61: National emission standards for hazardous air pollutants

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

Part 62, Subpart 000: Federal plan requirements for municipal solid waste landfills that commenced construction on or before July 17, 2014 and have not been modified or reconstructed since July 17, 2014

- This section describes the requirements for municipal solid waste landfills. 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.

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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 SO₂ pollutant trading program. Idaho currently does not have any sources participating in a pollutant trading program.