IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-2601

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This rulemaking action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Friday, October 2, 2026
9:30 a.m. MT

In Person
Conference Room A - DEQ State Office, 1410 N. Hilton, Boise

Microsoft Teams meeting
Join: https://teams.microsoft.com/meet/223645207858766?p=LeDwUByXAcPzP2rGNM
Meeting ID: 223 645 207 858 766
Passcode: m7TK3rZ3

Dial in by phone
+1 208-985-2810
579257576# United States, Boise
Find a local number
Phone conference ID: 579 257 576#

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule establishes general requirements and procedures for industries eligible to apply for an air quality general minor permit. A general minor permit is a source category specific permit under which DEQ has developed standardized emission limitations, operating requirements, and monitoring and recordkeeping provisions that require minimal site-specific engineering analysis. By using standardized permit conditions for categories of emission sources with similar operations and air quality impacts, the general minor permit approach is intended to reduce administrative burden while ensuring compliance with applicable air quality standards and continued protection of public health and the environment.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2027 Idaho Legislature, the rule will become effective on July 1, 2027, unless otherwise specified in the concurrent resolution.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not applicable.

FISCAL IMPACT: 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 resulting from this rulemaking: Not applicable.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. On April 1, 2026, the Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 26-4 pages 13-14. Three public meetings were held during the negotiated rulemaking process.

At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, key information considered, and documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at Air Quality: Docket No. 58-0101-2601 | Idaho Department of Environmental Quality.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule only regulates activities that are already regulated by the federal government, and it is not broader in scope or more stringent than existing federal regulations.

INCORPORATION BY REFERENCE: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Aislinn Johns at Aislinn.Johns@deq.idaho.gov or (208) 373-0185.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 2, 2026. Submit written comments to:

Aislinn Johns
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
Aislinn.Johns@deq.idaho.gov

Dated this 2nd day of September, 2026.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
208-373-0165
Diane.Cutler@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-2601
(Only Those Sections With Amendments Are Shown.)

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH ~~228~~ 253 AND 400 THROUGH 461.

01. Agricultural Activities and Services. For the purposes of Subsection 222.02.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. (3-28-23)

02. Baseline Actual Emissions. The rate of emissions, in tons per year, of a regulated air pollutant as determined by the following provisions: (3-28-23)

a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the five (5) year period immediately preceding when the owner or operator begins actual construction of the project. The Department will allow the use of a different time period upon a determination that it is more representative of normal source operation. The average rate must: (3-28-23)

i. Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. (3-28-23)

ii. Be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. (3-28-23)

iii. For a regulated air pollutant, when a project involves multiple emissions units, use only one (1) consecutive twenty-four (24) month period to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. (3-28-23)

iv. Not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsection 007.02.a.ii. (3-28-23)

b. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the ten (10) year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Department for a permit required under these rules, whichever is earlier, except that the ten (10) year period must not include any period earlier than November 15, 1990. The average rate must: (3-28-23)

i. Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. (3-28-23)

ii. Be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. (3-28-23)

iii. Be adjusted downward to exclude any emission limitation with which the source must currently comply, had such source been required to comply with such limitations during the consecutive twenty-four (24) month period; however, if an emission limitation is part of a standard or other requirement under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the Department has taken credit for such emissions reductions in an attainment demonstration or maintenance plan. (3-28-23)

iv. For a regulated air pollutant, when a project involves multiple emissions units, use only one (1) consecutive twenty-four (24) month period to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. (3-28-23)

v. Not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsections 007.02.b.ii. and 007.02.b.iii. (3-28-23)

c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit must: equal zero (0) and, thereafter, for all other purposes, equal the unit's potential to emit. (3-28-23)

d. For a plant-wide applicability limit (PAL) for a stationary source, the baseline actual emissions must be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subsection 007.02.a, for other existing emissions units in accordance with the procedures contained in Subsection 007.02.b., and for a new emissions unit in accordance with the procedures contained in Subsection 007.02.c. (3-28-23)

03. Emissions Increase. The amount by which projected actual emissions exceed baseline actual emissions of an emissions unit. (3-28-23)

04. General Minor Permit. A source category specific permit issued pursuant to Section 230. ( )

045. Net Emissions Increase. For purposes of Sections 204 and 205, a net emissions increase is defined by the federal regulations incorporated by reference. For purposes of Section 210, a net emissions increase is an emissions increase from a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification, where: (3-28-23)

a. A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; (3-28-23)

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification and is federally enforceable at and after the time that construction of the modification commences. (3-28-23)

c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: (3-28-23)

i. The already operating or permitted source commenced construction or modification prior to July 1, 1995; or (3-28-23)

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or (3-28-23)

iii. The already operating or permitted source is an environmental remediation source subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and IDAPA 58.01.05, "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order. (3-28-23)

056. Projected Actual Emissions. (3-28-23)

a. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated air pollutant in any one (1) of the five (5) years (twelve (12) month period) following the date the unit resumes regular operation after the project, or in any one (1) of the ten (10) years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated air pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at an

existing major stationary source. (3-28-23)

b. In determining the projected actual emissions, the owner or operator of the stationary source: (3-28-23)

i. Shall consider all relevant information including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with state or federal regulatory authorities, and compliance plans under the approved state implementation plan; and (3-28-23)

ii. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and (3-28-23)

iii. Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive twenty-four (24) month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or (3-28-23)

iv. In lieu of using the method set out in Subsections 007.05.b.i. through 007.05.b.iii., may elect to use the emissions unit's potential to emit, in tons per year. (3-28-23)

067**. Reasonable Further Progress (RFP)**. Annual incremental reductions in emissions of the applicable air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. (3-28-23)

078**. Sensitive Receptor**. Any residence, building or location occupied or frequented by persons who, due to age, infirmity or other health-based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. (3-28-23)

089**. Short Term Source**. Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. (3-28-23)

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

01. Affected States. All States: (3-28-23)

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (3-28-23)

b. That are within fifty (50) miles of the Tier I source. (3-28-23)

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. (3-28-23)

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): (3-28-23)

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. (3-28-23)

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. (3-28-23)

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (3-28-23)

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (3-28-23)

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (3-28-23)

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; (3-28-23)

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (3-28-23)

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 (3-28-23)

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (3-28-23)

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. (3-28-23)

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. (3-28-23)

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. (3-28-23)

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. (3-28-23)

07. General Tier I Operating Permit. A Tier I permit issued pursuant to Section 335.~~(3-28-23)~~( )

08. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria. (3-28-23)

a. For hazardous air pollutants, the facility emits or has the potential to emit: (3-28-23)

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 (3-28-23)

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. (3-28-23)

b. For non-attainment areas, the facility is located in: (3-28-23)

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; (3-28-23)

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; (3-28-23)

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 (3-28-23)

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. (3-28-23)

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: (3-28-23)

i. Designated facilities. (3-28-23)

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. (3-28-23)

(BREAK IN CONTINUITY OF SECTIONS)

108. OBLIGATION TO COMPLY.
Receiving a permit to construct, a Tier I operating permit, a Tier II operating permit, a general minor permit, a ~~P~~permit by ~~R~~rule, or a ~~C~~certificate of ~~R~~registration for portable equipment does not relieve any owner or operator of the responsibility to comply with all applicable local, state, and federal statutes, rules, and regulations.
~~(3-28-23)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

201. PERMIT TO CONSTRUCT REQUIRED.
No owner or operator may commence construction or modification of any stationary source, facility, major facility, or major modification without first obtaining a permit to construct from the Department that satisfies the requirements of Sections 200 through 227 unless the source is exempted in any of Sections 220 through 223, or the owner or operator complies with Section 213 and obtains the required permit to construct, or the owner or operator complies with Sections 175 through 181, or the source operates in accordance with all of the applicable provisions of a permit by rule, or the source obtains a general minor permit in accordance with Sections 230-232. ~~(3-28-23)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

228. -- 2~~99~~29. (RESERVED)

230. GENERAL MINOR PERMITS.
Sections 230 through 232 establish requirements and procedures for the Department to develop and issue general minor permits. Upon addressing any public comment, the Department will finalize the general minor permit,

statement of basis, and application materials. This information will be posted on the Department's website. ( )

01. Applicability. A general minor permit can be developed by the Department for source categories that have similar operations, emissions, and applicable regulatory requirements. ( )

02. Nonmajor Requirement. Source categories that are considered a "major facility" as defined in Section 008, or a "major stationary source" as defined in 40 CFR 51.165(a)(1) and 40 CFR 52.21(b) (referenced in Sections 204 and 205) are not eligible for a general minor permit. ( )

03. Nonattainment Area Requirement. Sources operating within a designated nonattainment area are not eligible for a general minor permit. ( )

231. PROCEDURES FOR DEVELOPING GENERAL MINOR PERMITS.
General minor permits will be developed through the preparation of a proposed general minor permit, statement of basis, and supporting materials, followed by a thirty (30) day public comment period. Upon addressing any public comments, the Department will finalize the general minor permit, statement of basis, and application. This information will be posted on the Department's website. ( )

01. Requirements. Any new or modified general minor permit developed by the Department must meet all requirements in accordance with Section 203. ( )

02. Reasonable Permit Conditions. The Department will develop reasonable permit conditions for a general minor permit in accordance with Section 211. ( )

03. Request for a New Source Category. Any person may make a request to the Department to consider the development of a general minor permit for a new source category. The Department may use its discretion to determine whether to develop a new general minor permit. The request must include at minimum the following information: ( )

a. Justification for why a new general minor permit category should be developed, and ( )

b. The approximate number of sources that would be eligible for the general minor permit. ( )

04. Public Notice. The Department will provide a thirty (30) day comment period after initial publication on any proposed or modified general minor permit for a source category. Notice of the proposed general minor permit, including the proposed permit, statement of basis, and supporting materials, will be posted on the Department's website. After consideration of comments and any additional information submitted during the comment period, and within fifteen (15) days after the close of the comment period, unless the Department determines additional time is required to evaluate comments and information received or the Department determines in its discretion that a general minor permit is not appropriate, the Department will make available the general minor permit, statement of basis, response to comments, and application on the Department's website. ( )

232. PROCEDURES FOR APPLYING FOR COVERAGE UNDER A GENERAL MINOR PERMIT.
General minor permit application requirements for each source category developed by the Department will be posted on the Department's website. ( )

01. Application Procedures. Owners or operators of a new or modified source which qualifies for a general minor permit may apply for coverage using the application materials available on the Department's website. ( )

02. Fees. Owners or operators who apply for coverage under a general minor permit must submit general minor permit fees pursuant to these rules. Information about making fee payments is available on the Department's website. ( )

03. Approval Procedures. Within fifteen (15) days of receipt of the qualifying application and fee, the Department will notify the applicant in writing of the approval, or denial, of the coverage under the general minor permit. The Department will describe reasons for any denial. ( )

04. Public Notice. The public notice requirements in Section 231 do not apply to the approval of an application to be covered under the general minor permit. The Department will maintain a record of sources that are covered under a general minor permit, and this information will be made available on the Department's website. ( )

05. Contested Cases. Finalization of a general minor permit constitutes final agency action on all permit terms and conditions except applicability to an individual source. Approval of coverage for an individual source constitutes final agency action on applicability of the general minor permit to that source. Any challenge of a coverage decision is limited to whether the source meets the general minor permit's applicability criteria. ( )

233. – 299. (RESERVED)