Overview of Incorporations by Reference for the DEQ Air Quality Division, Docket No. 58-0101-2603
IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho

Required by Idaho Code § 67-5223(4)

Rulemaking Docket No. 58-0101-2603 describes incorporation by reference of final federal regulations promulgated with effective dates through July 1, 2026.

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.

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	no	—
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	—
58	Ambient air surveillance	no	—
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	no	—
63	National emission standards for hazardous air pollutants for source categories	yes	yes
64	Compliance assurance monitoring	no	—
70	State operating permit programs	yes	yes
72	Permits	no	—
73	Sulfur dioxide allowance system	no	—
82	Protection of stratospheric ozone	no	—

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 include updates to state implementation plan (SIP) requirements, the most notable being EPA's approval of Idaho regional haze SIP for the second implementation period. A more detailed summary of the Code of Federal Regulations changes that impact NAAQS implementation is given below.

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

- This section outlines the state implementation plan requirements for state environmental agencies.
- There is one update to this part. EPA extended the SIP due date for the Regional Haze third implementation period (FR 2026-01-06).

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.
- There are two updates to this part. EPA approved Idaho's Regional Haze Plan for the second implementation period (FR 2026-09-05). The other was EPA's routine notebook update to materials that are incorporated by reference into Idaho's SIP (FR 2026-05-29).

Operating Permit Program Implementation

A detailed summary of the Code of Federal Regulations' 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. Notable changes include revised methane standards and extended compliance dates for the oil and gas industry, updated requirements for combustion turbines, and reinstatement of operating permit affirmative defense provisions.

Part 60: New Source Performance Standards

- This section describes the permitting requirements for new and modified facilities of specific industries.
- There are four updates to this part. One revised standards and establishes emission guidelines for small municipal solid waste combustors and institutional waste incinerators (FR 2025-06-30) and another for large municipal waste combustors (FR 2026-03-10). EPA also established size-based categories and revised NOx limits for new and modified combustion turbines (FR 2026-01-15). The final changes impacted the oil and gas industry, which extended compliance deadlines (FR 2025-12-03), and relaxed requirements for flares and vent gas (FR-2026-04-09).

Part 63: National Emission Standards for Hazardous Air Pollutants (NESHAP)

- This section addresses national emission standards for hazardous air pollutants for specific sources of pollution.

- There are ten updates to this part. EPA conducted technology reviews that impacts several sectors of industry including, iron and steel manufacturing (FR 2025-12-03), rescinding a compliance extension for coke ovens (FR 2025-12-05), establishing limits and electronic reporting for chemical manufacturing area sources (FR 2026-04-01), and hazardous waste combustors (FR 2026-06-03). Another repealed 2024 mercury and air toxic standards for coal and oil- fired power plants (FR 2026-02-24). One change removes renewable electricity from the Renewable Fuel Standard program (FR 2026-04-01). Two changes impacted for polyether polyols production that are used in materials such as foams and adhesives, one removed affirmative defense provisions (FR 2025-09-02) and the other revised ethylene oxide standards and requirements (FR 2026-03-18). Other changes updated the code of federal regulations to reflect the congressional review act revocations that restored the 2020 Major-to-Area Source reclassification rule and (FR 2026-01-02) and removed the 2024 amendments for hazardous air pollutants for the rubber tire manufacturing industry (FR 2026-06-22).

Part 70: State Operating Permit Programs

- This section describes the minimum requirements for state permitting programs.
- There was one change to this part. EPA reinstated the emergency affirmative defense provisions in state and federal Title V operating permit regulations; Idaho had previously removed these provisions per the 2023 rule (FR 2026-06-01).

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 (PM10 and PM2.5), ozone, sulfur dioxide (SO2), nitrogen dioxide (NO2), 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 61: National emission standards for hazardous air pollutants

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

Part 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

- This section describes the requirements for municipal solid waste landfills. DEQ took delegation of these federal plan requirements.

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 medical 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 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_2 pollutant trading program. Idaho currently does not have any sources participating in a pollutant trading program.