

IDAHO ADMINISTRATIVE BULLETIN

June 6, 2012 -- Volume 12-6

Idaho Department of Administration
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IDAHO ADMINISTRATIVE BULLETIN

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Preface

The Idaho Administrative Bulletin is an electronic-only, online monthly publication of the Office of the Administrative Rules Coordinator, Department of Administration, that is published pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all official rulemaking notices, official rule text, executive orders of the Governor, and all legislative documents affecting rules that are statutorily required to be published in the Bulletin. It may also include other rules-related documents an agency may want to make public through the Bulletin.

State agencies are required to provide public notice of all proposed rulemaking actions and must invite public input once formal rulemaking procedures have been initiated. The public receives notice that an agency has initiated formal rulemaking procedures through the Idaho Administrative Bulletin and a Public Notice of Intent (legal notice) that publishes in specific newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties may submit written comments to the agency or request public hearings of the agency if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual “Notice of Rulemaking” for each proposed rule that is published in the Bulletin.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a “logical outgrowth” of the proposed rule. The agency may now adopt and publish the pending rule. A pending rule is “pending” legislative review for final approval. The pending rule is the agency’s final version of the rulemaking that will be forwarded to the legislature for review and final approval. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is identified by the calendar year and issue number. For example, Bulletin **11-1** refers to the first Bulletin issued in calendar year **2011**; Bulletin **12-1** refers to the first Bulletin issued in calendar year **2012**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **12-1** refers to January 2012; Volume No. **12-2** refers to February 2012; and so forth. Example: The Bulletin published in January 2011 is cited as Volume **11-1**. The December 2011 Bulletin is cited as Volume **11-12**.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is an electronic-only, online compilation of all final and enforceable administrative rules of the state of Idaho that are of full force and effect. Any temporary rule that is adopted by an agency and is of force and effect is codified into the Administrative Code upon becoming effective. All pending rules that have been approved by the legislature during the legislative session as final rules and any temporary rules that are extended supplement the Administrative Code. These rules are codified into the Administrative Code upon becoming effective. Because proposed and pending rules are not enforceable, they are published in the Administrative Bulletin only and cannot be codified into the Administrative Code.

To determine if a particular rule remains in effect or whether any amendments have been made to the rule, refer to the **Cumulative Rulemaking Index**. Link to it on the Administrative Rules homepage at adminrules.idaho.gov.

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

Idaho’s administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises distinct rulemaking actions: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings incorporate or require all of these actions. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a “Notice of Intent to Promulgate - Negotiated Rulemaking” in the Administrative Bulletin by the agency is optional. This process normally results in the formulation of a proposed rule and the initiation of formal rulemaking procedures. One result, however, may also be that formal rulemaking is not initiated and no further action is taken by the agency. The rulemaking effectively stops before it gets started.

PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a “Notice of Rulemaking - Proposed Rule” in the Bulletin. This notice must include:

- a) the specific statutory authority (from Idaho Code) for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;
- c) 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 when the pending rule will become effective; provided, however, that notwithstanding Section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or enforceability of the rule.
- d) the text of the proposed rule prepared in legislative format;
- e) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;
- f) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;
- g) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and
- h) the deadline for public (written) comments on the proposed rule.

Any proposed rulemaking that is submitted for publication in the Bulletin that would impose a fee or charge must be accompanied by a cost/benefit analysis that is prepared by the agency. This cost/benefit analysis must estimate, as reasonably as possible, the costs to the agency to implement the rule and the estimated costs that would be borne by citizens or the private sector. This analysis is filed with the Director of Legislative Services Office who then forwards it to the appropriate germane joint subcommittee assigned to review the promulgating agency’s proposed rules.

When incorporating by reference, the notice of proposed rulemaking must include a brief synopsis detailing the need to incorporate by reference any additional materials into the rule. The agency must also provide information regarding access to the incorporated materials. At a minimum, and when available, the agency must provide an electronic link to the documents that can be accessed on a website or post this information on its own website, or both. This link can be placed into the rule and activated once it is posted on the Coordinator’s website.

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may adopt the pending rule. Because a proposed rule is not enforceable, it has no effective date, even when published in conjunction with a temporary rule that is of full force and effect. An agency may vacate (terminate) a rulemaking after the publication of a proposed rule if it decides, for whatever reason, not to proceed further to finalize the rulemaking. The publication of a “Notice of Vacation of Proposed Rulemaking” in the Bulletin officially stops the formal rulemaking process.

TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) protection of the public health, safety, or welfare; or
- b) compliance with deadlines in amendments to governing law or federal programs; or
- c) conferring a benefit.

If a rulemaking meets one or more of the above legal criteria and the governor determines that it is necessary that a rule become effective prior to receiving legislative authorization and without allowing for any public input, the agency may proceed and adopt a temporary rule. The law allows an agency to make a temporary rule immediately effective upon adoption. However, a temporary rule that imposes a fee or charge may be adopted only if the governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

The statute that regulates rulemaking in Idaho requires that the text of all proposed rulemakings publish in the Bulletin in order for the rulemaking to be valid. This is true for all temporary rules as well. In most cases, the agency wants the temporary rule to also become a final rule and in most of these cases, the temporary rule and the proposed rule text is identical. In this event, both rulemakings may be promulgated concurrently yet they remain separate rulemaking actions. The rulemaking is published in the Bulletin as a temporary/proposed rule. Combining the rulemaking allows for a single publication of the text in the Bulletin.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. The agency must publish a notice of rescission to effectively rescind the temporary rule. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rule that is being vacated, the agency, in most instances, will rescind the temporary rule.

PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Rulemaking - Pending Rule." This includes:

- a) a statement giving the reasons for adopting the rule;
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;
- c) the date the pending rule will become final and effective and a statement that the pending rule may be rejected, amended or modified by concurrent resolution of the legislature;
- d) an identification of any portion of the rule imposing or increasing a fee or charge and a statement that this portion of the rule shall not become final and effective unless affirmatively approved by concurrent resolution of the legislature;
- (e) the specific statutory authority for the rulemaking including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking; and

- (f) 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 when the pending rule will become effective; provided however, that notwithstanding section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or the enforceability of the rule.

Agencies are required to republish the text of the pending rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the sections or their subparts that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the "Notice of Rulemaking - Adoption of Pending Rule" is published.

FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is of full force and effect.

No pending rule adopted by an agency becomes final and effective until it has been submitted to the legislature for review and approval. Where the legislature finds that an agency has violated the legislative intent of the authorizing statute, a concurrent resolution may be adopted to reject the rulemaking in whole or in part. A "Notice of Rulemaking - Final Rule" and the final codified text must be published in the Bulletin for any rule that is wholly or partially rejected by concurrent resolution of the legislature. Unless rejected by concurrent resolution, a pending rule that is reviewed by the legislature becomes final and effective at the end of the session in which it is reviewed without any further legislative action. All pending rules that are approved by concurrent resolution become final and effective upon adoption of the concurrent resolution unless otherwise stated. In no event can a pending rule become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule that is final and effective may be applied retroactively, as provided in the rule.

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

Internet Access - The Administrative Code and Administrative Bulletin are available on the Internet at the following address: adminrules.idaho.gov

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone (208) 332-1820.

The Idaho Administrative Code - annual subscription on CD-ROM. The Code is an annual compilation of all final administrative rules and all enforceable temporary rules and also includes all executive orders of the Governor that have published in the Bulletin, all legislative documents affecting rules, a table of contents, reference guides, and a subject index.

The Idaho Administrative Bulletin - annual subscription available on individual CD-ROM sent out monthly. The Bulletin is an official monthly publication of the State of Idaho and is available for purchase on CD-ROM only. Yearly subscriptions or individual CD-ROM's are available for purchase.

Internet Access - The Administrative Code and Administrative Bulletin, and many other rules-related documents are available on the Internet at the following address: adminrules.idaho.gov

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the **Idaho Administrative Bulletin** are organized by a numbering schematic. Each state agency has a two-digit identification code number known as the “**IDAPA**” number. (The “IDAPA” Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit “TITLE” number is assigned. There are “CHAPTER” numbers assigned within the Title and the rule text is divided among major sections that are further subdivided into subsections. An example IDAPA number is as follows:

IDAPA 38.05.01.200.02.c.ii.

“**IDAPA**” refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

“**38.**” refers to the Idaho Department of Administration

“**05.**” refers to Title **05**, which is the Department of Administrations’s Division of Purchasing

“**01.**” refers to Chapter **01** of Title 05, “Rules of the Division of Purchasing”

“**200.**” refers to Major Section **200**, “Content of the Invitation to Bid”

“**02.**” refers to Subsection 200.02.

“**c.**” refers to Subsection 200.02.c.

“**ii.**” refers to Subsection 200.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. Each rulemaking that is filed with the Coordinator is assigned a “DOCKET NUMBER.” The docket number is a series of numbers separated by a hyphen “-”, (**38-0501-1201**). Rulemaking dockets are published sequentially by IDAPA number (the two-digit agency code) in the Bulletin. The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-1201”

“**38-**” denotes the agency’s **IDAPA** number; in this case the Department of Administration.

“**0501-**” refers to the **TITLE AND CHAPTER** numbers of the agency rule being promulgated; in this case the Division of Purchasing (**TITLE 05**), Rules of the Division of Purchasing (**Chapter 01**).

“**1201**” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in **calendar year 2012**. A subsequent rulemaking on this same rule chapter in calendar year 2012 would be designated as “**1202**”. The docket number in this scenario would be 38-0501-**1202**.

Within each Docket, only the affected sections of chapters are printed. (See **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section “200” appears before Section “345” and so on). Whenever the sequence of the numbering is broken the following statement will appear:

(BREAK IN CONTINUITY OF SECTIONS)

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2012

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
12-1	January 2012	*November 25, 2011	January 4, 2012	January 25, 2012
12-2	February 2012	January 13, 2012	February 1, 2012	February 22, 2012
12-3	March 2012	February 10, 2012	March 7, 2012	March 28, 2012
12-4	April 2012	March 9, 2012	April 4, 2012	April 25, 2012
12-5	May 2012	April 6, 2012	May 2, 2012	May 23, 2012
12-6	June 2012	May 4, 2012	June 6, 2012	June 27, 2012
12-7	July 2012	June 8, 2012	July 4, 2012	July 25, 2012
12-8	August 2012	July 6, 2012	August 1, 2012	August 22, 2012
12-9	September 2012	August 3, 2012	September 5, 2012	September 26, 2012
12-10	October 2012	**August 31, 2012	October 3, 2012	October 24, 2012
12-11	November 2012	October 5, 2012	November 7, 2012	November 28, 2012
12-12	December 2012	November 2, 2012	December 5, 2012	December 26, 2012

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2013

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
13-1	January 2013	*November 30, 2012	January 2, 2013	January 23, 2013
13-2	February 2013	January 11, 2013	February 6, 2013	February 27, 2013
13-3	March 2013	February 8, 2013	March 6, 2013	March 27, 2013
13-4	April 2013	March 8, 2013	April 3, 2013	April 24, 2013
13-5	May 2013	April 5, 2013	May 1, 2013	May 22, 2013
13-6	June 2013	May 10, 2013	June 5, 2013	June 26, 2013
13-7	July 2013	June 7, 2013	July 3, 2013	July 24, 2013
13-8	August 2013	July 5, 2013	August 7, 2013	August 28, 2013
13-9	September 2013	August 2, 2013	September 4, 2013	September 25, 2013
13-10	October 2013	**August 30, 2013	October 2, 2013	October 23, 2013
13-11	November 2013	October 4, 2013	November 6, 2013	November 27, 2013
13-12	December 2013	November 8, 2013	December 4, 2013	December 25, 2013

****Last day to submit a proposed rulemaking before moratorium begins and last day to submit a pending rule to be reviewed by the legislature.***

*****Last day to submit a proposed rule in order to have the rulemaking completed and submitted for review by legislature.***

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IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 25-2710, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Wednesday, July 11, 2012 -- 10:00 a.m. (MDT)

Wednesday, July 18, 2012 -- 10:00 a.m. (MDT)

Wednesday, August 1, 2012 -- 10:00 a.m. (MDT)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho State Department of Agriculture addressed to Kathryn Mink, Section Manager Feed, Fertilizer & Seed. Individuals may also attend the public meetings to be conducted on the above dates during which the Idaho State Department of Agriculture will allow oral comments or presentations to be made.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

1. Add new Section 011 - Exemptions, to define those processing byproducts and production wastes that will be exempt from registration. Exempted products to be determined.
2. Add new Section 020 - Registration & Fees, to set in rule a negotiated fee of not more than \$100 for registration of commercial feeds.
3. Add a Subsection 050.01.h., inclusion of statements and promotion on company websites or other internet based customer interfaces into the definition of "labeling."

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule (if available), contact Kathryn Mink, Section Manager Feed, Fertilizer & Seed at (208) 332-8620.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 20, 2012.

DATED this 17th day of May, 2012

Brian J. Oakey,
Deputy Director
Idaho State Department of Agriculture

2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 39-4107 and 39-4109, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking are scheduled by the Idaho Building Code Board and will be held as follows:

<p>Monday, June 18, 2012 -- 9:30 a.m. (MST) Monday, August 20, 2012 -- 9:30 a.m. (MST)</p>
<p>Idaho Division of Building Safety 1090 E. Watertower Meridian, ID 83642</p>

<p>Video Conferencing Will Be Available At:</p>
<p>1250 Ironwood Drive, Suite 220 Coeur d'Alene, ID 83814</p> <p>2055 Garrett Way, Building 2, Suite 7 Pocatello, ID 83201</p>

Additional public meetings may also be scheduled at the same locations after the first meeting occurs on June 18, 2012 at the discretion of the Board. Such additional meetings, if any, will be announced at the meetings identified in this Notice. Notice of such additional meetings will also be provided by the Division of Building Safety in accordance with the requirements of the Open Meeting Law, Section 67-2340, et seq., Idaho Code.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any comments, questions, recommendations, or ideas in writing to the Idaho Building Code Board on designated forms available on the Division of Building Safety website at <http://dbs.idaho.gov/> and at the DBS offices in Meridian, Coeur d'Alene, and Pocatello, Idaho. Individuals may also attend the public meetings to be conducted on the above dates during which the Idaho Building Code Board will allow oral comments or presentations to be made relative to the written submissions received by the Board or the negotiation discussions that result from the Board's consideration of such submissions. Compliance with the process identified by the Division of Building Safety and proper completion of the designated forms are mandatory for anyone interested in participating in the negotiated rulemaking process, and/or in having their responses or recommendations considered by the Board.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Pursuant to Sections 39-4107 and 39-4109, Idaho Code, the Idaho Building Code Board has the authority through the promulgation of rules to adopt and amend building codes which establish the building construction and safety standards in the state of Idaho. These codes include the International Building Code, International Residential Code, International Energy Conservation Code, and the International Existing Building Code. The Building Code Board desires to adopt new editions of these codes and make amendments thereto, or amend provisions of existing codes as it determines necessary through the negotiated rulemaking process. The Board seeks the participation of the affected industry, enforcement jurisdictions, and the public at large in this rulemaking process to ensure that due consideration is given to the varying views about the adoption of codes and the amendments to codes for application in Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 14, 2012.

DATED this 2nd day of May, 2012.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83542
Phone: (208) 332-8986
Fax: (877) 810-2840

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 19, 2012.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 33-105, 33-107, 33-116, and 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 20, 2012.

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 the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amendments to IDAPA 08.02.03 are intended to show that the state of Idaho recognizes home school students as having received a secondary education.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Recent changes to the federal requirements for student eligibility for federal financial aid require that students who do not have a high school diploma obtain a GED, unless they have been educated in a home school recognized by the state. The existing language in Idaho Code implies, but does not clearly state, that home schooled students are recognized as having received a secondary education. Without this recognition, students would be required to obtain a GED prior to applying for federal financial aid at our public institutions for the Fall 2012 semester.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were of a non controversial nature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tracie Bent, Chief Planning and Policy Officer at (208)332-1582 or tracie.bent@osbe.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 27, 2012.

DATED this 25th day of April, 2012.

Tracie Bent
Chief Planning and Policy Officer
Office of the State Board of Education
650 W. State St
PO Box 83720
Boise, ID 83720-0037
Phone: (208)332-1582
Fax: (208)3342632

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR DOCKET NO. 08-0203-1201**

118. HOME SCHOOL.

Any student not attending a public or private school within the state of Idaho may, as an alternative, receive educational instruction in a home school setting at the direction of the student's parent or guardian. A home schooled student is required to receive such instruction in subjects commonly and usually taught in the public schools of the state of Idaho. (4-19-12)T

118. -- 127. (RESERVED)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202(b), 56-203(7), 56-203(9), 56-209(g), 56-250 through 56-257, and 56-260 through 56-266, Idaho Code, as amended in House Bill 260.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The proposed rules provided the administration and policies needed to implement reimbursement changes made in statute. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [December 7, 2011, Idaho Administrative Bulletin, Vol. 11-12, pages 59 through 61.](#)

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: The 2011 Legislature adopted House Bill 260 which identified and implemented state general fund savings associated with this rulemaking. These savings were included in the Department's appropriation budgets for the current state fiscal year.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Robert Kellerman at (208) 364-1994.

DATED this 4th day of May, 2012.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

DOCKET NO. 16-0309-1101 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 11-12, December 7, 2011, pages 59 through 61.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2013 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1204

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 56-202, 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Wednesday, June 20, 2012 -- 4:00 p.m. (MDT)

**Medicaid Central Office
Conference Room D-East and West
3232 Elder Street
Boise, ID 83705**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

1. Attend the negotiated rulemaking meeting and participate in the negotiation process;
2. Participate in the meeting via teleconference: **1-888-706-6468**, participant code: **797069**;
3. Provide oral or written recommendations, or both, at the negotiated rulemaking meeting;
4. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

In 2011, the Idaho Legislature approved the Children's System Redesign. Under the redesign, the Department is moving from a one-size-fits-all system that was only able to deliver therapy, to a system that provides a continuum of care based on the child's level of need. The new array of benefits replaces developmental therapy and intensive behavioral intervention (IBI) services.

Removing developmental disabilities benefits from the State plan directly impacts the school-based service providers who deliver the same services. Rule changes are needed to incorporate replacement services for school-based providers when developmental therapy and IBI are no longer available starting July 1, 2013.

The Department has worked in collaboration with the State Department of Education, the Idaho Association of School Administrators, and several other school district representatives as part of a School-Based Medicaid Committee, to identify replacement services (both new and existing) that can be used to address children's developmental disabilities needs in the school setting. While developing these services, the committee kept in mind the purpose of Medicaid funding in the schools and regulations that must be followed under the State Plan authority.

Prior to the submission of proposed rules, the Department is seeking public input on the replacement services for school-based services that are scheduled to be implemented on July 1, 2013.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Lauren Ertz at (208) 287-1169.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 29, 2012.

DATED this 4th day of May, 2012.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1203

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 56-202, 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Wednesday, June 20, 2012, 4:00 p.m. (MDT)

**Medicaid Central Office
Conference Room D-East and West
3232 Elder Street
Boise, ID 83705**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

1. Attend the negotiated rulemaking meeting and participate in the negotiation process;
2. Participate in the meeting via teleconference: **1-888-706-6468**, participant code: **797069**;
3. Provide oral or written recommendations, or both, at the negotiated rulemaking meeting;
4. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The Idaho Department of Health and Welfare implemented the Children's System Redesign on July 1, 2011. Under the redesign, the Department is moving from a one-size-fits-all system that was only able to deliver therapy, to a system that provides a continuum of care based on the child's level of need. The new array of redesign benefits replaces developmental therapy and intensive behavioral intervention (IBI) services currently available under the State Plan.

Additionally, rules pertaining to the children's redesign services were approved by the Idaho Legislature during the 2011 legislative session. To transition children from developmental therapy and IBI to the redesign system, the Legislature approved a phased implementation plan to enroll children into the redesign according to their birthdays. The phased implementation plan has required the Department to operate both the old and new systems concurrently over the span of the transition year. The intent of keeping the old benefits in place (developmental therapy and IBI) was to ensure that families have services until their designated transition time to avoid any gap in services for their child. The next step in the process is to phase out these old benefits.

Prior to the submission of proposed rules for the next phase of the redesign, the Department is seeking public input on changes to children's developmental disabilities services scheduled for implementation on July 1, 2013.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Lauren Ertz at (208) 287-1169.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 29, 2012.

DATED this 4th day of May, 2012.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)

DOCKET NO. 16-0612-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The proposed rules aligned the Idaho Child Care Program rules with other Department eligibility assistance program rules regarding business processes. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [January 4, 2012, Idaho Administrative Bulletin, Vol. 12-1, pages 126 through 133](#).

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: There is no fiscal impact to state general funds. This program is 100% federally funded.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner at (208) 334-5656.

DATED this 4th day of May, 2012.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

DOCKET NO. 16-0612-1201 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin,
[Volume 12-1, January 4, 2012, pages 126 through 133](#).**

**This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2013 Idaho State Legislature for final adoption.**

IDAPA 20 - DEPARTMENT OF LANDS

20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

DOCKET NO. 20-0201-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 58-104(6), 58-105 and 38-1304, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Monday, July 16, 2012 -- 1:00 p.m. to 5:00 p.m.

**Idaho Department of Lands
Garnet Conference Room
300 North 6th Street, Suite 103
Boise, Idaho**

**Monday, July 23, 2012
1:00 p.m. to 4:00 p.m.
and 5:30 p.m. to 8:30 p.m.**

**Idaho Department of Lands
Sundance Conference Room
3284 West Industrial Loop
Coeur d'Alene, Idaho**

Additional meetings may be scheduled as needed through July 23, 2012.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Please contact Ara Andrea at (208) 769-1525 or aandrea@idl.idaho.gov to be added to the e-mail list of interested parties. This list will be used to keep people informed of the rulemaking process.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The Idaho Forest Practices Act Advisory Committee (FPAAC) is comprised of 9 voting members across the state of Idaho representing family forest owners, industrial forest owners, fisheries biologists, citizens at large, and logging operators. This committee is statutorily charged with advising the Idaho State Board of Land Commissioners, in cooperation with the Idaho Department of Lands (IDL), in rulemaking matters associated with the Idaho Forest Practices Act. As a result of quadrennial water-quality audits conducted by the Idaho Department of Environmental Quality (IDEQ) in 2000 and 2004, FPAAC has been working over the last 10 years to develop a science-based shade/streamside retention rule that is based on Idaho forest riparian data. The proposed shade rule will allow forest landowners to select from two options which are meant to address both shade and large wood recruitment in streams. In addition to the shade rule, the FPAAC committee has identified and approved other minor FPA rule changes since 2006. The proposed changes include:

- * Recognition of all formal land-management agreements with US Fish & Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS)
- * Increased flexibility of landowners and operators to perform timber-salvage operations following wildfire, insect infestations and wind events;
- * Protection of soils and riparian areas from any ground-based equipment usage in steep, unstable or stream-adjacent areas;
- * Assignment of reforestation responsibility to the landowner at the time of harvest;
- * Clearer definitions of wet areas and the associated equipment-exclusion areas;
- * Lower stocking minimums for drier, southern forest types; and
- * New science-based streamside-tree-retention minima for Class I streams (shade rule) that allow forest landowners to select between two options.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Ara Andrea at (208) 769-1525 or aandrea@idl.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2012.

DATED this 15th day of May, 2012.

Ara Andrea
Service & Regulatory Program Manager
Idaho Department of Lands
3284 West Industrial Loop
Coeur d'Alene, Idaho 83815
(208) 769-1525/Fax (208) 769-1524
aandrea@idl.idaho.gov

IDAPA 20 - DEPARTMENT OF LANDS

20.03.14 - RULES GOVERNING GRAZING, FARMING, CONSERVATION, NONCOMMERCIAL RECREATION, AND COMMUNICATION SITE LEASES

DOCKET NO. 20-0314-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Wednesday, June 27, 2012 -- 1:00 p.m. - 4:30 p.m.

Wednesday, July 11, 2012 -- 1:00 p.m. - 4:30 p.m.

Thursday, July 19, 2012 -- 1:00 p.m. - 4:30 p.m.

Wednesday, July 25, 2012 -- 1:00 p.m. - 4:30 p.m.

Wednesday, August 1, 2012 -- 1:00 p.m. - 4:30 p.m.

Idaho Department of Lands, Garnet Conference Room
300 North 6th Street, Boise, Idaho

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following: Please contact Neil Crescenti at (208) 334-0278 or ncrescenti@idl.idaho.gov to be added to the email list of interested persons. This list will be used to keep people informed of the rulemaking process.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The Department has drafted proposed changes to the current rule to be used as a starting point for negotiation. Key changes include:

- Addition of requirements for management proposals per Senate Bill 1271 to Section 020.02.
- Clarification of the appeals process procedures associated with conflicted lease applications in Section 020.02.
- Rewording of Subsection 040.01 to broaden language applicable to multiple lease activities.
- Removal of Section 021 - Rights Reserved to the Department, which is addressed contractually through the Department's lease templates.
- Removal of Section 054 - Cropland Lease Hardship Claims, which will be addressed programmatically.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Neil Crescenti at (208) 334-0278 or ncrescenti@idl.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 1, 2012.

DATED this 15th day of May, 2012.

Neil Crescenti, Program Manager
Grazing, Farming and Conservation
Idaho Department of Lands

300 N 6th Street, Suite 103
P.O. Box 83720, Boise, ID 83720
(208) 334-0278 / Fax (208) 334-3698

IDAPA 28 - DEPARTMENT OF COMMERCE

28.02.06 - IDAHO SMALL BUSINESS FEDERAL FUNDING ASSISTANCE ACT RULES

DOCKET NO. 28-0206-1201 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 1, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Title 67, Chapter 47, the Idaho Small Business Federal Funding Assistance Act, Sections 67-4702(2) and 67-4723A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 20, 2012.

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 the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The state intends to provide incentive funding for Idaho companies that commit private resources toward the process of attracting federal grants. The Department of Commerce shall administer this program of state grants to assist and incentivize new, emerging, and expanding Idaho small, for-profit businesses in the development of federal funding proposals that lead to the development of commercial products or services. The Department shall administer this program in such a way as to avoid favoritism of any particular enterprise and to maximize the public purposes of increasing the number of submitted proposals from Idaho small businesses and increasing the number of grant awards to these businesses. Particular attention shall be paid to the encouragement of companies that have not competed for federal funding awards in the past.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To provide immediate benefit to new, emerging, and expanding Idaho small, for-profit businesses in the development of federal funding proposal for receiving federal grants.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no fee imposed by this rulemaking.

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:

The program is an annual appropriation of \$50,000 from the general fund. The impact to the Department would be minimal. The entire \$50,000 will be used to offset business proposals development costs through individual awards not to exceed \$4,000. No additional funds or capital items are necessary.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt a temporary rule that provides immediate assistance to small businesses.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no documents or materials incorporated by reference in this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Gloria Mabbutt at (208) 334-2650, extension 2139.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 27, 2012.

Dated this 14th day of May, 2012.

Jeffery Sayer
Director
Idaho Department of Commerce
700 West State St.
P.O. Box 83720
Boise, ID 83720-0093
Phone: (208) 334-2470 Fax: (208) 334-2631

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR DOCKET NO. 28-0206-1201**

**IDAPA 28
TITLE 02
CHAPTER 06**

28.02.06 - IDAHO SMALL BUSINESS FEDERAL FUNDING ASSISTANCE ACT RULES

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Sections 67-4702(2) and 67-4723A, Idaho Code. (6-1-12)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 28.02.06, "Idaho Small Business Federal Funding Assistance Act Rules." (6-1-12)T

02. Scope. These rules establish the process and procedures for application of the Idaho Small Business Federal Funding Assistance Grant. They also define the terms and conditions for the awarding of these grants to qualified small businesses. The program is state-funded and operated by the Idaho Department of Commerce. (6-1-12)T

03. Purpose. The purpose of the program is to have a self-sustaining, on-going state grant program to assist and encourage small businesses to apply for and win federal grant awards. Federal grant awards will be used to create new innovative products or services to expand and grow their companies. Each state grant provided to businesses will be used to reimburse companies for qualified expenses incurred in completing a federal grant proposal. To create a self-sustaining, on-going state grant program, small businesses accepting a state grant resulting in winning a federal grant award will agree to repay the state grant. This will help replenish the state grant fund and create a consistent, sustainable state fund that will provide a continuous source of funding for small businesses in the future. (6-1-12)T

002. WRITTEN INTERPRETATIONS.

These rules may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. These documents are available for public inspection in the Department of Commerce office. (6-1-12)T

003. ADMINISTRATIVE APPEALS.

IDAPA 11.04.01, "Idaho Rules of Administrative Procedure of the Attorney General," Section 100, et. seq., shall apply. (6-1-12)T

004. INCORPORATION BY REFERENCE.

No documents or additional materials have been incorporated by reference into this rule. (6-1-12)T

005. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The street address of the Idaho Department of Commerce is 700 W. State Street, Boise, Idaho 83720-0093. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The telephone number of the Department is (208) 334-2470. The Department's facsimile number is (208) 334-2631. (6-1-12)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Department records are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (6-1-12)T

007. -- 010. (RESERVED)

011. DEFINITIONS.

For the purposes of these rules, the following words are defined. (6-1-12)T

01. Department. The Idaho State Department of Commerce. (6-1-12)T

02. Federal Funding. Grants available to for-profit businesses as awarded by federal agencies through small business innovative research grants, small business technology transfer research grants, broad area announcements or other grant programs. (6-1-12)T

03. Self-Sustaining Program. Qualified small businesses accepting a state grant resulting in a federal grant award will agree to repay the grant and replenish the state grant fund. These funds shall be used for future grants to small businesses. (6-1-12)T

04. Small Business. An Idaho for-profit business with five hundred (500) or fewer employees. (6-1-12)T

05. State Grants, Grant Funds, or State Funds. A grant award of up to four thousand dollars (\$4,000) limited exclusively to the reimbursement of claimable expenses incurred by an Idaho small business pursuant to the process of competing for federal funding awards. (6-1-12)T

012. STATE OBJECTIVES.

01. Incentive Funding. The state intends to provide incentive funding for Idaho companies that commit private resources toward the process of attracting federal grants. The Department shall administer this program of state grants to assist and incentivize new, emerging, and expanding Idaho small, for-profit businesses in the development of federal funding proposals that lead to the development of commercial products or services. The Department shall administer this program in such a way as to avoid favoritism of any particular enterprise and to maximize the public purposes of increasing the number of submitted proposals from Idaho small businesses and increasing the number of grant awards to these businesses. Particular attention will be given to companies that have not previously competed for federal funding awards who will be encouraged to apply. (6-1-12)T

02. State Grants. (6-1-12)T

a. Incentive funding shall be provided through state grants that reimburse a small business up to four

thousand dollars (\$4,000). A small business that wins a small federal grant and has been reimbursed for expenses for submission of the grant proposal will agree to reimburse the state grant fund. (6-1-12)T

b. Companies that win federal awards in excess of two hundred fifty thousand dollars (\$250,000) will agree to reimburse the fund for up to five times the amount of their state grant or twenty thousand dollars (\$20,000). These reimbursements will replenish the incentive fund. (6-1-12)T

03. Selection of Recipients. Small business grant recipients will be selected by a review board to determine their compliance with program requirements. The application process is based on merit and the competitiveness of eligible businesses. Close attention to these requirements is necessary to prepare a successful project. Department staff is available for technical assistance as needed and contacting Department staff is encouraged to assist in determining eligibility for a proposed project. (6-1-12)T

013. ELIGIBLE APPLICANTS.

In order to be eligible for an Idaho Small Business Federal Funding Assistance Act grant an applicant must be an Idaho-owned, for-profit and independently operated business with five hundred (500) employees or less. The principle researcher must be employed by the business. (6-1-12)T

014. ELIGIBLE COSTS.

01. Costs. Eligible business proposal development costs shall be offset through individual awards not to exceed four thousand dollars (\$4,000). Eligible development costs include, but are not limited to, travel to visit technical experts, technical assistance visits with staff or coaches, technical reviews by qualified subject matter experts, commercialization plan coaching, company staff time to write the proposal, and use of a technical writer, graphic artist or federal grant coach. (6-1-12)T

a. Of the four thousand dollar (\$4,000) grant, five hundred dollars (\$500) will be awarded for submitting the proposal to the federal agency at least three (3) weeks prior to the federal agency's submission deadline. If the proposal is submitted and accepted by the appropriate federal agency on or before the federal agency's submission deadline, the small business applicant qualifies for five hundred dollars (\$500) in incentive funding. (6-1-12)T

b. Documentation must be provided by the federal funding agency prior to receiving these funds. Representatives of the Idaho state grant funds reserve the right to refuse early submittal funding if, in their sole judgment, a federal funding proposal is incomplete or lacking in sufficient detail. (6-1-12)T

02. Number of Awards. Applicants shall not receive more than one (1) award for each innovative project idea during any state of Idaho fiscal year (July 1 - June 30). Applicants may receive additional funds by submitting a different and distinct innovative project idea, though particular attention shall be paid to encourage companies that have not competed for federal funding awards in the past to apply for state grant funds. (6-1-12)T

03. Reimbursement. State grant funds will be made on a reimbursement basis. Disbursement of the state grant will be made to grantees once a Grant Contract Agreement has been duly executed between the grantee and the Department. Payment of the award will be made after the grantee has submitted invoices or receipts for eligible costs to the Department grant fund manager. The Grant Contract Agreement shall also include a pay-back clause. (6-1-12)T

04. Technical Assistance. When applicable, a Department grant fund manager will provide development support and proposal review services to selected applicants. Written responses will be used to assist applicants with proposal writing assessment of technical and commercial feasibility. (6-1-12)T

015. GRANT APPLICATION PROCESS.

01. Application Review. An Idaho fund review board will evaluate all grant applications and ultimately award or deny assistance. The review board may include public and private sector participants as the Department grant fund manager deems appropriate. The review board will evaluate and rank Idaho small business grant applications based on award criteria set in these rules. The review board shall have the sole discretion in

determining which applications meet these criteria. The review board may require that grant applicants fulfill additional requirements as a condition of receiving an award, if it is determined these requirements are vital to the success of the federal grant proposal. (6-1-12)T

02. Application Format. All sections of the application must follow the content and format instructions outlined in these rules. The application will be used to evaluate the applicants' eligibility for a grant. The application serves as an important first step in the development of a competitive project proposal to a federal agency. The application assists the review board and the applicant in identifying shortcomings or problem areas that need to be addressed. Proposals that do not follow the content and format instructions outlined in these rules will be deemed non-responsive. (6-1-12)T

a. All pages of the application must be in Times New Roman font, twelve-point size (12). All margins shall be one (1) inch in width. (6-1-12)T

b. Applicants must not disclose proprietary or confidential information in the application. Applications marking information as "Confidential," "Trade Secret," or "Proprietary" will be considered to be non-responsive. (6-1-12)T

c. All applications must be submitted electronically. Adobe PDF or Microsoft Word document format is required. (6-1-12)T

03. Application. The application shall include the following sections: (6-1-12)T

a. Summary Page. The summary shall be limited to one (1) page. Information shall include: (6-1-12)T

i. Name of applicant business or for-profit entity; (6-1-12)T

ii. Postal and physical business address; (6-1-12)T

iii. Number of years in business; (6-1-12)T

iv. Telephone number and facsimile number; (6-1-12)T

v. Project manager's name; (6-1-12)T

vi. Principle researcher's name; (6-1-12)T

vii. Targeted federal agency; (6-1-12)T

viii. Agency topic and subtopic title; (6-1-12)T

ix. URL for agency solicitation; (6-1-12)T

x. Statement describing the project; (6-1-12)T

xi. Submission due date to the federal agency; (6-1-12)T

xii. Preliminary project title; (6-1-12)T

xiii. Estimated project length; (6-1-12)T

xiv. Estimated project cost; (6-1-12)T

xv. Date of application submission; and (6-1-12)T

xvi. Signature of authorized person submitting the application. (6-1-12)T

b. Main Body. Three (3) pages are recommended for the main body with a maximum of five (5) pages. The main body of the application shall contain the following headings and information: (6-1-12)T

i. Project description. The project description is limited to two hundred and fifty (250) words. It must include the problem or opportunity, project objectives, description of the effort, anticipated results, and potential commercial applications. (6-1-12)T

ii. Business history. The business history shall provide background information on the applicant's existing or potential business, mission, primary customers, and any other pertinent information. (6-1-12)T

iii. Technical point of contact (TPOC). The applicant must show there has been contact with the federal agency by providing a brief synopsis of the TPOC's comments and recommendations. (6-1-12)T

iv. Market research and literature reviews. This section must show what other work is currently being conducted in the area being addressed. Who are the competitors? Why is the solution better or more innovative? Are there existing patents related to the technology being proposed? (6-1-12)T

v. Prior research experience. The applicant must describe relevant research partners or collaborators used in the development of the proposal. Experience in conducting research in other non-related areas must be included to demonstrate knowledge and experience to design and manage a successful research project. (6-1-12)T

vi. Commercialization approach. The applicant must describe the commercialization approach that will be pursued. This includes identifying the primary customer, the size of the market, who will manufacture the product and where it will be manufactured. The applicant must also address how long it will take for the product to be ready for the market. (6-1-12)T

vii. Prior federal grant awards. The applicant shall list prior federal grant awards received or applied for in the past five (5) years. This includes the year of submission or award, amount of award, agency, topic area, title and whether it was a Small Business Innovation Research or Small Business Technical Transfer grant, Phase I or Phase II award, broad area announcement or other grants. (6-1-12)T

c. Cost justification. This section is limited to one (1) page. It outlines designated expenditures of up to four thousand dollars (\$4,000) from the state fund. When proposals are being developed, one thousand dollars (\$1,000) of this funding may be automatically set aside as incentive funding to encourage timely proposal development. Of the one thousand dollars (\$1,000) incentive funds, five hundred dollars (\$500) is designated and reserved as early submittal incentive funding. The remaining five hundred dollars (\$500) is provided upon proof of timely final proposal submission to the appropriate federal agency's solicitation. (6-1-12)T

i. Total reimbursement cannot exceed four thousand dollars (\$4,000), including the one thousand dollars in incentive funding. (6-1-12)T

ii. The following format shall be used to list each budget item noting the expenses the small business applicant expects to incur. Eligible expenses are shown in Section 014 of these rules.

Discretionary Spending

Proposal development/preparations expenses	\$
Private-sector support or consulting	\$
Other (add as many rows as necessary)	\$
TOTAL - Not to exceed	\$ 3,000

Incentive Funding

Early submittal incentive funding (three weeks prior to federal agency deadline)	\$ 500
Proof of successful proposal submission to federal funding agency	\$ 500
TOTAL	\$ 1,000

Applicants must provide a brief narrative that itemizes the costs and states the importance of receiving this funding as part of the project proposal development effort. (6-1-12)T

d. Resumes/Biographies. Resumes and biographies shall be limited to five (5) pages. Individual team member, consultant, or subcontractor resumes must be no longer than one (1) page. Full or part-time status must be noted. If the applicant is applying for a research and development grant, a resume or biography for the principal investigator is mandatory and must be clearly marked. Resumes must include education, skills, professional organizations/affiliations, awards, employment history, and published research papers, and other relevant information or areas of research/specialization. (6-1-12)T

015. -- 999. (RESERVED)

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 67-5221(1) and 63-105A, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows: TBD

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

1. Attend the negotiated rulemaking meeting and participate in the negotiation process;
2. Attend through a teleconference;
3. Provide oral or written recommendations, or both, at the negotiated rulemaking meeting; and/or
4. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

- * Income Tax Rule 130 is being amended consistent with House Bill 364 to clarify the treatment of pensions received by certain retired police officers and firefighters. The definition of disability is changed to a more clear definition as found in Section 49-117(7)(b)(iv), Idaho Code.
- * Income Tax Rule 140 is being amended consistent with House Bill 485 to revise the eligibility criteria for taking a state income tax deduction for installing energy efficiency upgrade measures within existing residences.
- * Income Tax Rule 171 is being changed to clarify what constitutes non-qualifying property for the Idaho capital gains deduction.
- * Income Tax Rules 290, 291 & 877 are being amended consistent with House Bill 582 to revise the options of pass-through entities. The pass-through entity may file a composite return for non-residents and pay the tax due or the entity can do backup withholding under Section 63-3036B, Idaho Code.
- * Income Tax Rule 600 is being changed to clarify that excess inclusion income should not be subject to Idaho modifications.
- * Income Tax Rule 700 is being amended consistent with House Bill 634 to clarify that the Texas margins tax is an income tax and would be included as a tax qualifying for the Idaho credit for income taxes paid to other states.
- * Income Tax Rule 714 is being changed to clarify the current practice of applying Idaho investment tax credit limitations first to mobile property and then to used property.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, if available, contact Cynthia Adrian (208) 334-7544.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned.

DATED this 4th day of May, 2012.

Cynthia Adrian
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7544

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 67-5221(1) and 63-105A, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows: TBD

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

1. Attend the negotiated rulemaking meeting(s) and participate in the negotiation process;
2. Attend through a teleconference;
3. Provide oral or written recommendations, or both, at the negotiated rulemaking meeting; and/or
4. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

- * Rule 012 is being amended to clarify the nature of certain property typically installed by contractors.
- * Rule 024 is being amended to address tangible personal property purchased for resale by a business when the property is primarily rented to an entity with substantially similar ownership as the owner of the property.
- * Rule 027 is being amended to address digital goods and the use of software accessed over the internet.
- * Rule 030 is being amended to address the purchase of tickets and vouchers for admission when the ticket or voucher is acquired with the intent to resell it.
- * Rule 037 is being amended to clarify the exemption for the purchase and use of aircraft primarily utilized in transporting freight or passengers, to define several terms in relation to that exemption, and to reflect statutory changes enacted in the last legislative session that exempted the sales of repair parts installed into aircraft owned by a nonresident.
- * Rule 041 is being amended to reflect statutory changes enacted in the last legislative session that exempted the purchase and consumption of beverages given away as part of a free tasting.
- * Rule 043 is being amended to clarify whether certain fees or charges added onto the sale of tangible personal property, such as fuel surcharges or environmental fees, should be included in the taxable sales price.
- * Rule 044 is being amended to address the trade in of merchandise in which cash is received for all or part of the value of that merchandise and to define the term "trade down."
- * Rule 047 is being amended to address the purchase of tickets and vouchers for admission and for the right to use a recreational facility when the ticket or voucher is acquired with the intent to resell it.
- * Rule 051 is being amended to address discount coupons and vouchers sold by third parties and to reflect statutory changes enacted in the last legislative session that exempted the purchase and consumption of beverages given away as part of a free tasting.
- * Rule 067 is being amended to address the nature of property installed in buildings constructed for a specific purpose, such as a movie theater or stadium, which would require significant structural

modification to serve any other purpose.

- * Rule 072 is being amended to define the term “recent sales price” and to clarify tangible personal property removed from a resale inventory.
- * Rule 079 is being amended to address the purchase and use of maintenance supplies for an inactive production facility with no current plans to start production.
- * Rule 095 is being amended to define “money operated dispensing equipment” to include machines operated by credit or debit cards.
- * Rule 101 is being amended to reflect statutory changes enacted in the last legislative session that changed the period for reviewing the ongoing IRP use tax exemption.
- * Rule 105 is being amended to clarify tangible personal property removed from a resale inventory and to reflect statutory changes enacted in the last legislative session that exempted the purchase and consumption of beverages given away as part of a free tasting.
- * Rule 109 is being amended to define “amusement device” to include machines operated by debit or credit card and prepaid cards.
- * Rule 128 is being amended to address current policy and procedure regarding temporary seller’s permits and to make minor technical corrections to bring rule in line with current policy and procedure for various other permits.
- * Rule 129 is being amended to address the purchase of tickets and vouchers for the right to use a recreational facility when the ticket or voucher is acquired with the intent to resell it.
- * Rule 130 is being amended to clarify current policy and procedure regarding temporary seller’s permits.
- * Rule 136 is being amended to clarify procedures and requirements to claim and receive a rebate under Section 63-3641, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, if available, contact McLean Russell at (208) 334-7531.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned.

DATED this 4th day of May, 2012.

McLean Russell
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7531

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1203

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 67-5221(1) and 63-105A, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows: TBD

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

1. Attend the negotiated rulemaking meeting and participate in the negotiation process;
2. Attend through a teleconference;
3. Provide oral or written recommendations, or both, at the negotiated rulemaking meeting; and/or
4. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

- * Rule 131 is being amended to give guidance to county assessors on how to handle foreclosure sales. This proposed change adopts the International Association of Assessing Officer's "Standard on Verification and Adjustment of Sales.
- * New Rule 608 conforms with the provisions of House Bill 584a and provides that the homeowner's exemption continues for one year after the death of the individual who has previously qualified. The new proposed rule will explain that the homestead must continue to the claimant's estate without change in the owner of record and that property that are in life estates will not continue to get the exemption.
- * Rule 630 conforms with the provisions of House Bill 356 and requires that an annual application be submitted to the county in order to claim the property tax exemption under Section 63-4501 I.C. (New Capital Investments Incentive Act). Rule 630 also clarifies what information is required to be listed on the notice that serves as the annual exemption application.
- * Rule 714 is being amended to define the terms "sufficient equity" and proportional share and provides that properties encumbered with reverse mortgages need to be excluded from the property tax deferral program. This new proposed rule defines sufficient equity in specific dollars computed by multiplying the properties current property tax times a factor yet to be determined (10 to 50), excludes parcels encumbered with reverse mortgages, and clarifies that the proportional share is the taxpayer's equity in the property subject to the property tax deferral.
- * Rule 995 is being amended to identify the specific Bureau of the Census reports from which the populations for cities and counties are obtained for purposes of sales tax distribution.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, if available, contact Alan Dornfest (208) 334-7544.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned.

DATED this 4th day of May, 2012.

Alan Dornfest
Tax Policy Supervisor
State Tax Commission

P.O. Box 36
Boise, ID 83722-0410
(208) 334-7544

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.04.06 - RULES GOVERNING USE OF THE EXTERIOR OF STATE PROPERTY IN THE CAPITOL MALL AND OTHER STATE FACILITIES

DOCKET NO. 38-0406-1201

NOTICE OF RULEMAKING - AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is May 14, 2012.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has amended the current temporary rule promulgated and adopted under Docket No. 38-0406-1201. This agency action for this amendment to the temporary rule is authorized pursuant to Section 67-5226 and 67-5907, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the temporary rule and a statement of any change between the text of the temporary rule and text of the amended temporary rule with an explanation for any changes:

The chapter is amended to clarify the priority of the state of Idaho's maintenance and improvement of state property. The chapter is also amended to explain that an event or exhibit may continue to use state property indefinitely if the event or exhibit does not use state property for a twenty-four (24) hour period between each consecutive seven (7) day period.

The text of the original temporary rule was published in the [May 2, 2012 Idaho Administrative Bulletin, Vol. 12-5, pages 91 through 98](#).

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that amending the temporary rule is appropriate for the following reasons:

House Bill No. 693, passed by the 2012 Idaho Legislature, provides authority for the Director of the Department of Administration to promulgate rules governing use of the facilities governed by these rules. The Bill directed that the rules be promulgated within thirty (30) days of the Bill's effective date.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

ACCEPTANCE OF WRITTEN PUBLIC COMMENT: Although not required by law, the Department of Administration will accept written public comment for the purpose of developing proposed rules at the address set forth below through 5:00 p.m. on Friday, June 15, 2012.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this temporary rule, contact Teresa Luna, Director, at (208) 332-1826.

DATED this 14th day of May, 2012.

Teresa Luna
Director
Department of Administration
650 w. State St.
P. O. Box 83720
Boise, ID 83720-0013
Phone: (208) 332-1826
Fax: (208) 334-2307

**THE FOLLOWING IS THE AMENDED TEXT OF THE TEMPORARY RULE
FOR DOCKET NO. 38-0406-1201**

100. DEFINITIONS.

01. Capitol Mall Properties. The grounds, exterior of buildings, exterior of improvements, and real property set forth in Section 67-5709(2)(a) and (b), Idaho Code. The Capitol Mall Properties do not include the Idaho State Capitol or its grounds. (4-17-12)T

02. Commemorative Installation. Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. (4-17-12)T

03. Department. The Department of Administration. (4-17-12)T

04. Director. The Director of the Department of Administration or his designee. (4-17-12)T

05. Event. Any press conference, performance, ceremony, presentation, meeting, rally, reception or gathering of people held at the State Facilities. As used in this definition, a rally is a gathering of two (2) or more people for the purpose of actively promoting a cause or position. A rally is not the transit of individuals, without stopping to promote a cause or position, through the State Facilities. (4-17-12)T

06. Exhibit. Any temporary Commemorative Installation and any attended or unattended display, including but not limited to equipment, machines, vehicles, samples, paintings, sculptures, arts and crafts, photographs, signs, banners or other graphic displays. (4-17-12)T

07. Multi-agency Facilities. The grounds, exterior of buildings, exterior of improvements, and real property set forth in Section 102 of these rules. (4-17-12)T

08. Other State Properties. The grounds, exterior of buildings, exterior of improvements, and real property set forth in Section 101 of these rules. (4-17-12)T

09. Private Event. Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. (4-17-12)T

10. Public Use. Use that is not an Event, Exhibit or use by a public officer, official, employee, contractor, agency, board or commission for state of Idaho business. (4-17-12)T

11. Security Personnel. A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. (4-17-12)T

12. State Business Day. Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. (4-17-12)T

13. State Events and Exhibits. All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. (4-17-12)T

14. State Facilities. The Capitol Mall Properties, the Multi-agency Facilities, and the Other State Properties. Use of the phrase "at the State Facilities" shall include the exterior of buildings, exterior of improvements and the grounds and real property comprising the State Facilities. (4-17-12)T

15. State Maintenance and Improvements. Maintenance or improvement of the State Facilities by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes but is not limited to grounds maintenance such as mowing, watering, landscaping, aerating, resodding, fertilizing and planting, and

structural maintenance such as pressure washing, painting, window cleaning and re-glazing. Improvement for the purpose of this definition includes but is not limited to the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. (5-14-12)T

(BREAK IN CONTINUITY OF SECTIONS)

200. USE OF STATE FACILITIES.

01. Authorized Uses by the Public. Except as provided otherwise in these rules, the State Facilities are available for use by the public for the following: (4-17-12)T

a. Events. Events not within Subsection 200.01.c. of this rule shall be held only in the locations and during the hours set forth in these rules. Events, including Private Events, shall not exclude any member of the public from attending the Event. (4-17-12)T

b. Exhibits. Exhibits not within Subsection 200.01.c. of this rule shall be held only in the locations and during the hours set forth in these rules. Exhibits shall not exclude any member of the public from attending the Exhibit. (4-17-12)T

c. State Events and Exhibits. State Events and Exhibits may occur in any portion of the State Facilities. The Director may waive all or a portion of these rules for a State Event or Exhibit. (4-17-12)T

02. Limited Uses By the Public. Except as provided otherwise in these rules, the State Facilities are available for use by the public for Private Events. Private Events must not interfere with Public Use of the State Facilities, including but not limited to tours and the conduct of public business. (4-17-12)T

03. Prohibited Uses. The following uses are prohibited at the State Facilities: (4-17-12)T

a. Commercial Activity. The State Facilities shall not be used for any activity conducted for profit and no persons shall solicit to sell any merchandise or service at the State Facilities. The following are not commercial activity prohibited by this subsection: (4-17-12)T

i. Events for public employees or their relatives describing employee benefits and approved by a state of Idaho agency. (4-17-12)T

ii. Concessions authorized by law. (4-17-12)T

iii. Vaccinations may be provided in exchange for a fee without the prior written permission of the Director where approved by a state of Idaho agency, board, commission or elected official. (4-17-12)T

b. Camping. Pursuant to Section 67-1613, Idaho Code, camping is prohibited at the State Facilities. Camping includes use of the State Facilities for living accommodation purposes such as sleeping, making preparations for sleeping, cooking, storing personal belongings, and using a tent or other shelter for sleeping. (4-17-12)T

04. Priority of Uses. State Maintenance and Improvements shall have priority over all other use of the State Facilities. State Events and Exhibits shall have priority over public Events and Exhibits, Public Use, and Private Events. ~~(4-17-12)T~~ (5-14-12)T

201. EVENT AND EXHIBIT DURATION.

The duration of an Event or Exhibit shall not exceed eleven (11) consecutive hours, or seven (7) consecutive days, including time for set-up and clean-up. An Event or Exhibit may continue to use the State Facilities after a seven (7)

consecutive day period if the Event or Exhibit does not use the State Facilities for twenty-four (24) hours or more between each seven (7) consecutive day period. Events and Exhibits shall not continue beyond the hours for Event or Exhibit use of the State Facilities set forth in Section 302 of these rules. Exhibits must be removed at the earlier of the conclusion of the Event or the daily conclusion of the hours for Event and Exhibit use of the State Facilities.

~~(4-17-12)T~~(5-14-12)T

(BREAK IN CONTINUITY OF SECTIONS)

302. HOURS AND LOCATIONS OF USE.

01. Hours. The hours for Events and Exhibits at the State Facilities are 7:00 a.m. to 6:00 p.m. Events and Exhibits shall not interfere with State Maintenance and Improvements in accordance with the maintenance and improvement schedule published at the website address set forth in Section 005 of these rules. ~~(4-17-12)T~~(5-14-12)T

02. Locations. Event and Exhibits are not permitted at the parking facilities set forth in Section 67-5709(2)(b), Idaho Code. In addition to limitations on the interference with access set forth in Section 301 of these rules and compliance with all fire and safety codes, all Events and Exhibits at the State Facilities shall be at least fifteen (15) feet from the exterior walls and windows of buildings. (4-17-12)T

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.04.08 - RULES GOVERNING USE OF IDAHO STATE CAPITOL EXTERIOR

DOCKET NO. 38-0408-1201

NOTICE OF RULEMAKING - AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is May 14, 2012.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has amended the current temporary rule promulgated and adopted under Docket No. 38-0408-1201. This agency action for this amendment to the temporary rule is authorized pursuant to Section 67-5226 and 67-5907, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the temporary rule and a statement of any change between the text of the temporary rule and text of the amended temporary rule with an explanation for any changes:

The chapter is amended to clarify the priority of the state of Idaho's maintenance and improvement of state property. The chapter is also amended to explain that an event or exhibit may continue to use state property indefinitely if the event or exhibit does not use state property for a twenty-four (24) hour period between each consecutive seven (7) day period.

The text of the original temporary rule was published in the [May 2, 2012 Idaho Administrative Bulletin, Vol. 12-5, pages 105 through 115](#).

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that amending the temporary rule is appropriate for the following reasons:

House Bill No. 693, passed by the 2012 Idaho Legislature, provides authority for the Director of the Department of Administration to promulgate rules governing use of the facilities governed by these rules. The Bill directed that the rules be promulgated within thirty (30) days of the Bill's effective date.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

ACCEPTANCE OF WRITTEN PUBLIC COMMENT: Although not required by law, the Department of Administration will accept written public comment for the purpose of developing proposed rules at the address set forth below through 5:00 p.m. on Friday, June 15, 2012.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this temporary rule, contact Teresa Luna, Director, at (208) 332-1826.

DATED this 14th day of May, 2012.

Teresa Luna
Director
Department of Administration
650 w. State St.
P. O. Box 83720
Boise, ID 83720-0013
Phone: (208) 332-1826
Fax: (208) 334-2307

**THE FOLLOWING IS THE AMENDED TEXT OF THE TEMPORARY RULE
FOR DOCKET NO. 38-0408-1201**

100. DEFINITIONS.

01. Commemorative Installation. Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. (4-17-12)T

02. Department. The Department of Administration. (4-17-12)T

03. Director. The Director of the Department of Administration or his designee. (4-17-12)T

04. Event. Any press conference, performance, ceremony, presentation, meeting, rally, reception or gathering of people held on the State Capitol Exterior. As used in this definition, a rally is a gathering of two (2) or more people for the purpose of actively promoting a cause or position. An Event is not the transit of individuals, without stopping to promote a cause or position, through the State Capitol Exterior. (4-17-12)T

05. Exhibit. Any temporary Commemorative Installation and any attended or unattended display, including but not limited to equipment, machines, vehicles, products, samples, paintings, sculptures, arts and crafts, photographs, signs, banners or other graphic displays. (4-17-12)T

06. Jefferson Steps. The building entrance at the second floor of the State Capitol, the steps extending from the entrance, and the hard surface extending between the steps and the public sidewalk along Jefferson Street. (4-17-12)T

07. Permit. A written authorization issued by the Director allowing use of the State Capitol Exterior as set forth in the Permit. (4-17-12)T

08. Private Event. Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. (4-17-12)T

09. Public Use. Use that is not an Event, Exhibit or use by a public officer, official, employee, contractor, agency, board or commission for state of Idaho business. (4-17-12)T

10. Security Personnel. A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. (4-17-12)T

11. State Business Day. Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. (4-17-12)T

12. State Capitol Exterior. The exterior of the Idaho State Capitol, the real property, the grounds, and the improvements on the exterior of the Idaho State Capitol or its grounds, all of which is located at capitol square as identified on the Boise City original townsite plat filed in the Ada County Recorder's office in book 1 on page 1. The State Capitol Exterior is bounded by the following streets: State Street, Sixth Street, Jefferson Street, and Eighth Street. (4-17-12)T

13. State Events and Exhibits. All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. (4-17-12)T

14. State Maintenance and Improvements. Maintenance or improvement of the State Capitol Exterior by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes but is not limited to grounds maintenance such as mowing, watering, landscaping, aerating, resodding, fertilizing and planting, and structural maintenance such as pressure washing, painting, window cleaning and re-glazing. Improvement for the purpose of this definition includes but is not limited to the following: construction of new buildings or portions of

buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. (5-14-12)T

(BREAK IN CONTINUITY OF SECTIONS)

201. EVENT AND EXHIBIT DURATION.

- 01. Duration.** The duration of an Event or Exhibit on the State Capitol Exterior, including time for set-up and clean-up, shall not exceed the following: (4-17-12)T
- a.** Four (4) consecutive hours on the Jefferson Street Steps; (4-17-12)T
 - b.** Eleven (11) consecutive hours on the State Capitol Exterior; (4-17-12)T
 - c.** Seven (7) consecutive days on the State Capitol Exterior. An Event or Exhibit may continue to use the State Capitol Exterior after a seven (7) consecutive day period if the Event or Exhibit does not use the State Capitol Exterior for twenty-four (24) hours or more between each seven (7) consecutive day period; and ~~(4-17-12)T~~(5-14-12)T
 - d.** Beyond the hours for Event or Exhibit use of the State Capitol Exterior set forth in Section 302 of these rules. (4-17-12)T
- 02. Removal of Exhibits.** Exhibits must be removed at the earlier of the conclusion of the Event or the daily conclusion of the hours for Event and Exhibit use of the State Capitol Exterior. (4-17-12)T

(BREAK IN CONTINUITY OF SECTIONS)

302. HOURS AND LOCATIONS OF USE.

- 01. Hours.** The hours for Events and Exhibits on the State Capitol Exterior are as follows: (4-17-12)T
- a.** General Hours. The general hours for Events and Exhibits are 7:00 a.m. to 6:00 p.m. Events and Exhibits shall not interfere with State Maintenance and Improvements in accordance with the maintenance and improvement schedule published at the website address set forth in Section 005 of these rules. ~~(4-17-12)T~~(5-14-12)T
 - b.** Legislative Sessions. When either house of the legislature or a legislative committee is in session prior to or following general hours for an Event or Exhibit, the State Capitol Exterior will be open for an Event or Exhibit thirty (30) minutes before commencement of the session and closed thirty (30) minutes after adjournment of the legislative body conducting business. (4-17-12)T
 - c.** Public Events in the State Capitol. When any Event is publicly scheduled in the interior of the Idaho State Capitol outside the general hours for an Event or Exhibit, the State Capitol Exterior will be open for an Event or Exhibit thirty (30) minutes before commencement of the Event and closed thirty (30) minutes after the published time for the conclusion of the Event. (4-17-12)T
- 02. Locations.** In addition to limitations on the interference with access set forth in Section 301 of these rules and compliance with all fire and safety codes, all Events and Exhibits on the State Capitol Exterior shall be on the Jefferson Street Steps or on hard surfaces, including concrete and granite, on the State Capitol Exterior, and shall be at least fifteen (15) feet from the exterior walls and windows of the Idaho State Capitol. Events or Exhibits may use the Jefferson Street Stairs for podiums, equipment, standing, and seating, subject to compliance with fire and safety codes. No persons shall place items on, sit or stand on stairways other than the Jefferson Street Steps. (4-17-12)T

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

LOCHSA RIVER SUBBASIN TEMPERATURE TMDLS (HUC 17060303)

DOCKET NO. 58-0000-1206

NOTICE OF FINAL DECISION

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Lochsa River Subbasin Temperature Total Maximum Daily Loads (TMDLs).

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Lochsa River Subbasin Temperature TMDLs. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Lochsa River Subbasin Temperature TMDLs (Hydrologic Unit Code 17060303) addresses forty-three (43) assessment units (AUs)/pollutant combinations, twelve (12) of which are listed as impaired on Idaho's 2010 Section 303(d) list. DEQ completed TMDLs for all AUs/pollutant combinations deemed water quality impaired. DEQ has submitted this TMDL document to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at <http://www.deq.idaho.gov/lochsa-river-subbasin> or by contacting Ms. Marti Bridges, TMDL Program Manager, (208)373-0382, marti.bridges@deq.idaho.gov.

Dated this 21st day of May, 2012.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

AMERICAN FALLS SUBBASIN TMDL PLAN (HUC 17040206)

DOCKET NO. 58-0000-1207

NOTICE OF FINAL DECISION

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the American Falls Subbasin Total Maximum Daily Load (TMDL) Plan.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the American Falls TMDL Plan. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the American Falls TMDL (Hydrologic Unit Code 17040206) addresses nineteen (19) assessment units (AUs)/pollutant combinations listed as impaired on Idaho's 2010 § 303(d) list and six (6) unlisted but impaired AUs. DEQ completed TMDLs for all AUs/pollutant combinations deemed water quality impaired. DEQ has submitted this TMDL document to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at <http://www.deq.idaho.gov/american-falls-subbasin> or by contacting Ms. Marti Bridges, TMDL Program Manager, (208)373-0382, marti.bridges@deq.idaho.gov.

Dated this 21st day of May, 2012.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1201

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. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

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

Tuesday, July 10, 2012 -- 3:30 p.m.

**Department of Environmental Quality
Conference Room B
1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to make various “housekeeping” revisions such as updates for consistency with federal regulations, clarification, and typographical corrections to certain air quality permitting rule sections, related definitions, and the toxic air pollutant sections.

Members of the regulated community who may be subject to Idaho's air quality rules as well as special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may be interested in commenting on this proposed rule. 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.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2012 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2013 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held during negotiations conducted pursuant to Section 67-5220, Idaho Code, and IDAPA 58.01.23.810-815. On March 7, 2012, the Notice of Negotiated Rulemaking was published in the [Idaho Administrative Bulletin, Vol. 12-3, page 34](#), and a preliminary draft rule was made available for public review. A meeting was held on April 4, 2012. Members of the public participated in the negotiated rulemaking process by attending the meeting and by submitting written comments. The negotiated rulemaking record, which includes the negotiated rule drafts, written public comments received, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at www.deq.idaho.gov/58-0101-1201.

IDAHO CODE 39-107D STATEMENT: Section 585, Toxic Air Pollutants Non-Carcinogenic Increments, and Section 586, Toxic Air Pollutants Carcinogenic Increments, do regulate an activity not regulated by the federal government. The federal government does not regulate toxic air pollutants for the state of Idaho; therefore, the proposed rule revisions in Sections 585 and 586 are not broader in scope or more stringent than federal regulations. Notably, if a toxic air pollutant becomes subject to a federal regulation, that federal regulation applies in lieu of the state rules in accordance with Subsection 210.20. The remainder of the proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208)373-0440, martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before July 10, 2012.

DATED this 19th day of April, 2012.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 58-0101-1201

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. (4-5-00)

02. Act. The Environmental Protection and Health Act of 1972 as amended (Sections 39-101 through 39-130, Idaho Code). (5-1-94)

03. Actual Emissions. The actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following: (4-5-00)

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. (4-5-00)

b. The Department may presume that the source-specific allowable emissions for the unit are equivalent to actual emissions of the unit. (4-5-00)

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 shall equal the potential to emit of the unit on that date. (4-5-00)

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 shall 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. (4-5-00)

04. Adverse Impact on Visibility. Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I Area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with: (3-30-07)

a. Times of visitor use of the Federal Class I Area; and (3-30-07)

b. The frequency and timing of natural conditions that reduce visibility. (3-30-07)

c. This term does not include affects on integral vistas when applied to 40 CFR 51.307. (3-30-07)

05. Air Pollutant/Air Contaminant. Any substance, including but not limited to, dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon or particulate matter or any combination thereof. (4-5-00)

06. Air Pollution. The presence in the outdoor atmosphere of any air pollutant or combination thereof 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. (4-5-00)

07. Air Quality. The specific measurement in the ambient air of a particular air pollutant at any given time. (5-1-94)

08. Air Quality Criterion. The information used as guidelines for decisions when establishing air quality goals and air quality standards. (5-1-94)

09. 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 which restrict the operating rate, or hours of operation, or both) and the most stringent of the following: (4-5-00)

a. The applicable standards set forth in 40 CFR part 60 and 61; (4-5-00)

b. Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or (4-5-00)

c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date. (4-5-00)

10. Ambient Air. That portion of the atmosphere, external to buildings, to which the general public has access. (5-1-94)

11. 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. (4-11-06)

12. Atmospheric Stagnation Advisory. An air pollution alert declared by the Department when air pollutant impacts have been observed and/or meteorological conditions are conducive to additional air pollutant buildup. (4-11-06)

13. 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. (4-11-06)

14. BART-Eligible Source. Any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit two hundred fifty (250) tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. (3-30-07)

- a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (3-30-07)
- b. Coal cleaning plants (thermal dryers); (3-30-07)
- c. Kraft pulp mills; (3-30-07)
- d. Portland cement plants; (3-30-07)
- e. Primary zinc smelters; (3-30-07)
- f. Iron and steel mill plants; (3-30-07)
- g. Primary aluminum ore reduction plants; (3-30-07)
- h. Primary copper smelters; (3-30-07)
- i. Municipal incinerators capable of charging more than two hundred fifty (250) tons of refuse per day; (3-30-07)
- j. Hydrofluoric, sulfuric, and nitric acid plants; (3-30-07)
- k. Petroleum refineries; (3-30-07)
- l. Lime plants; (3-30-07)
- m. Phosphate rock processing plants; (3-30-07)
- n. Coke oven batteries; (3-30-07)
- o. Sulfur recovery plants; (3-30-07)
- p. Carbon black plants (furnace process); (3-30-07)
- q. Primary lead smelters; (3-30-07)
- r. Fuel conversion plants; (3-30-07)
- s. Sintering plants; (3-30-07)
- t. Secondary metal production facilities; (3-30-07)
- u. Chemical process plants; (3-30-07)
- v. Fossil-fuel boilers of more than two hundred fifty (250) million BTU's per hour heat input; (3-30-07)
- w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (3-30-07)

- x. Taconite ore processing facilities; (3-30-07)
- y. Glass fiber processing plants; and (3-30-07)
- z. Charcoal production facilities. (3-30-07)
- 15. Baseline (Area, Concentration, Date).** See Section 579. (5-1-94)
- 16. Best Available Retrofit Technology (BART).** Means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. (3-30-07)
- 17. Board.** Idaho Board of Environmental Quality. (5-1-94)
- 18. Breakdown.** An unplanned failure of any equipment or emissions unit which may cause excess emissions. (4-5-00)
- 19. BTU.** British thermal unit. (5-1-94)
- 20. Clean Air Act.** The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)
- 21. Collection Efficiency.** The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. (5-1-94)
- 22. Commence Construction or Modification.** In general, this means initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, 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, which mark the initiation of the change. (4-5-00)
- 23. Complete.** A determination made by the Department that all information needed to process a permit application has been submitted for review. (5-1-94)
- 24. Construction.** Fabrication, erection, installation, or modification of a stationary source or facility. (5-1-94)
- 25. Control Equipment.** Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)
- 26. 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. (5-1-94)
- 27. Criteria Air Pollutant.** Any of the following: PM-10; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. (4-5-00)
- 28. Deciview.** A measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements): Deciview Haze Index = $10 \ln_e (b_{ext} / 10 \text{Mm}^{-1})$ where b_{ext} = the atmospheric light extinction coefficient, expressed in inverse megameters (Mm^{-1}). (3-30-07)

- 29. Department.** The Department of Environmental Quality. (5-1-94)
- 30. Designated Facility.** Any of the following facilities: (5-1-94)
- a.** Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (5-1-94)
 - b.** Coal cleaning plants (thermal dryers); (5-1-94)
 - c.** Kraft pulp mills; (5-1-94)
 - d.** Portland cement plants; (5-1-94)
 - e.** Primary zinc smelters; (5-1-94)
 - f.** Iron and steel mill plants; (5-1-94)
 - g.** Primary aluminum ore reduction plants; (5-1-94)
 - h.** Primary copper smelters; (5-1-94)
 - i.** Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; (5-1-94)
 - j.** Hydrofluoric, sulfuric, and nitric acid plants; (5-1-94)
 - k.** Petroleum refineries; (5-1-94)
 - l.** Lime plants; (5-1-94)
 - m.** Phosphate rock processing plants; (5-1-94)
 - n.** Coke oven batteries; (5-1-94)
 - o.** Sulfur recovery plants; (5-1-94)
 - p.** Carbon black plants (furnace process); (5-1-94)
 - q.** Primary lead smelters; (5-1-94)
 - r.** Fuel conversion plants; (5-1-94)
 - s.** Sintering plants; (5-1-94)
 - t.** Secondary metal production facilities; (5-1-94)
 - u.** Chemical process plants; (5-1-94)
 - v.** Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; (5-1-94)
 - w.** Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (5-1-94)
 - x.** Taconite ore processing facilities; (5-1-94)

- y. Glass fiber processing plants; and (5-1-94)
- z. Charcoal production facilities. (5-1-94)
31. **Director.** The Director of the Department of Environmental Quality or his designee. (5-1-94)
32. **Effective Dose Equivalent.** The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. (5-1-94)
33. **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. (5-1-94)
34. **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. (4-5-00)
35. **Emissions Unit.** An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term "unit" for the purposes of 42 U.S.C. Sections 7651 through 7651o. (5-1-94)
36. **EPA.** The United States Environmental Protection Agency and its Administrator or designee. (5-1-94)
37. **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 shall have 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 shall be construed so as to actually limit remediation projects to five (5) years or less of total operation. (5-1-95)
38. **Excess Emissions.** Emissions that exceed an applicable emissions standard established for any facility, source or emissions unit by statute, regulation, rule, permit, or order. (4-11-06)
39. **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. (5-1-94)
40. **Facility.** All of the pollutant-emitting activities which 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 shall be 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 shall not be considered in determining whether a permit is required unless required by federal law. (4-11-06)
41. **Federal Class I Area.** Any federal land that is classified or reclassified "Class I." (3-30-07)
42. **Federal Land Manager.** The Secretary of the department with authority over the Federal Class I Area (or the Secretary's designee). (3-30-07)
43. **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. (3-30-07)

- 44. Fire Hazard.** The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands. (5-1-94)
- 45. Fuel-Burning Equipment.** Any furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. (5-1-94)
- 46. Fugitive Dust.** Fugitive emissions composed of particulate matter. (5-1-94)
- 47. Fugitive Emissions.** Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (5-1-94)
- 48. Garbage.** Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (5-1-94)
- 49. Gasoline.** Any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. 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. (3-29-10)
- 50. Gasoline Cargo Tank.** Any tank or trailer used for the transport of gasoline from sources of supply to underground gasoline storage tanks. (3-29-10)
- 51. Gasoline Dispensing Facility (GDF).** Any facility with underground gasoline storage tanks used for dispensing gasoline. (3-29-10)
- 52. Grain Elevator.** Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)
- 53. Grain Storage Elevator.** Any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean extraction plant which has a permanent grain storage capacity of thirty five thousand two hundred (35,200) cubic meters (ca. 1 million bushels). (5-1-94)
- 54. Grain Terminal Elevator.** Any grain elevator which has a permanent storage capacity of more than eighty-eight thousand one hundred (88,100) cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. (5-1-94)
- 55. 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. (4-11-06)
- 56. Hazardous Waste.** Any waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may: (5-1-94)
- a.** Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or (5-1-94)
 - b.** Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or by-product material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa). (5-1-94)
- 57. Hot-Mix Asphalt Plant.** Those facilities conveying proportioned quantities or batch loading of

cold aggregate to a drier, and heating, drying, screening, classifying, measuring and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use. (5-1-94)

58. 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. (5-1-94)

59. Indian Governing Body. The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government. (5-1-94)

60. 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. (3-30-07)

61. Kraft Pulping. Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. (5-1-94)

62. Least Impaired Days. The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the lowest amount of visibility impairment. (3-30-07)

63. Lowest Achievable Emission Rate (LAER). For any source, the more stringent rate of emissions based on the following: (4-5-00)

a. The most stringent emissions limitation which is contained in any State Implementation Plan for such class or category of facility, unless the owner or operator of the proposed facility demonstrates that such limitations are not achievable; or (4-5-00)

b. The most stringent emissions limitation which is achieved in practice by such class or category of facilities. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the facility. In no event shall the application of the term permit a proposed new or modified facility to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance. (4-5-00)

64. Mandatory Class I Federal Area. Any area identified in 40 CFR 81.400 through 81.437. (3-30-07)

65. Member of the Public. For purposes of Subsection 006.103.a.xvi., a person located at any off-site point where there is a residence, school, business or office. (3-30-07)

66. Mercury. Total mercury including elemental mercury and mercury compounds. (4-7-11)

67. Mercury Best Available Control Technology (MBACT). An emission standard for mercury based on the maximum degree of reduction practically achievable as specified by the Department on an individual case-by-case basis taking into account energy, economic and environmental impacts, and other relevant impacts specific to the source. A Department approved MBACT shall be 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 shall not be triggered as long as 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 shall be subject to a new MBACT review. (4-7-11)

68. Modification. (4-11-06)

a. Any physical change in, or change in the method of operation of, a stationary source or facility which results in an emission increase as defined in Section 007 or which results in the emission of any regulated air pollutant not previously emitted. (4-11-06)

b. Any physical change in, or change in the method of operation of, a stationary source or facility which results 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. (4-11-06)

c. Fugitive emissions shall not be considered in determining whether a permit is required for a modification unless required by federal law. (4-11-06)

d. For purposes of this definition of modification, routine maintenance, repair and replacement shall not be considered physical changes and the following shall not be considered a change in the method of operation: (3-30-07)

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; (5-1-94)

ii. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

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. (~~4-5-00~~)()

69. Monitoring. Sampling and analysis, in a continuous or noncontinuous sequence, using techniques which will adequately measure emission levels and/or ambient air concentrations of air pollutants. (5-1-94)

70. Most Impaired Days. The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the highest amount of visibility impairment. (3-30-07)

71. Multiple Chamber Incinerator. Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned. (5-1-94)

72. Natural Conditions. Includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration. (3-30-07)

73. New Stationary Source or Facility. (5-1-94)

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 (5-1-94)

b. The restart of a nonoperating facility shall be considered a new stationary source or facility if: (5-1-94)

i. The restart involves a modification to the facility; or (5-1-94)

ii. After the facility has been in a nonoperating 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 nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall 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. (5-1-94)

74. 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. (5-1-94)
- 75. Noncondensibles.** Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)
- 76. Odor.** The sensation resulting from stimulation of the human sense of smell. (5-1-94)
- 77. Opacity.** A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent. (5-1-94)
- 78. Open Burning.** The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney. (5-1-94)
- 79. Operating Permit.** A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461. (4-5-00)
- 80. Particulate Matter.** Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)
- 81. Particulate Matter Emissions.** All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157. (4-5-00)
- 82. Permit to Construct.** A permit issued by the Director pursuant to Sections 200 through 228. (7-1-02)
- 83. Person.** Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)
- 84. PM-10.** All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. (5-1-94)
- 85. PM-10 Emissions.** All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157. (4-5-00)
- 86. 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, shall be 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. (3-30-07)
- 87. Portable Equipment.** Equipment which is designed to be dismantled and transported from one (1) job site to another job site. (5-1-94)
- 88. PPM (parts per million).** Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)
- 89. Prescribed Fire Management Burning.** The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: (5-1-94)
- a.** Fire hazard reduction; (5-1-94)

- b.** The control of pests, insects, or diseases; (5-1-94)
- c.** The promotion of range forage improvements; (5-1-94)
- d.** The perpetuation of natural ecosystems; (5-1-94)
- e.** The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; (5-1-94)
- f.** The preparation of planting and seeding sites for forest regeneration; and (5-1-94)
- g.** Other accepted natural resource management purposes. (5-1-94)
- 90. Primary Ambient Air Quality Standard.** That ambient air quality which, allowing an adequate margin of safety, is requisite to protect the public health. (5-1-94)
- 91. 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. (5-1-94)
- 92. Process Weight.** The total weight of all materials introduced into any source operation which may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. (5-1-94)
- 93. Process Weight Rate.** The rate established as follows: (5-1-94)

 - a.** For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; (4-5-00)
 - b.** For cyclical or batch source operations, the total process weight for a period that covers a complete cycle of operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. (4-5-00)
- 94. Quantifiable.** The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (4-5-00)
- 95. Radionuclide.** A type of atom which spontaneously undergoes radioactive decay. (5-1-94)
- 96. Regional Haze.** Visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources. (3-30-07)
- 97. Regulated Air Pollutant.** (4-11-06)

 - 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" shall have 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; (4-11-06)
 - b.** For purposes of determining applicability of any other operating permit requirements, issuing, and

modifying permits pursuant to Sections 400 through 410, the federal definition of “regulated air pollutant” as defined in Subsection 006.94.a. shall also apply; (3-30-07)

c. For purposes of determining applicability of permit to construct requirements, issuing, and modifying permits pursuant to Sections 200 through 228, 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” shall mean 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 (4-11-06)

d. For purposes of determining applicability of any other major or minor permit to construct requirements, issuing, and modifying permits pursuant to 200 through 228, except Section 214, “regulated air pollutant” shall mean 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. (4-11-06)

98. Replicable. Any SIP procedures for applying emission trading shall be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. (4-5-00)

99. Responsible Official. One (1) of the following: (5-1-94)

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: (5-1-94)

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 (4-5-00)

ii. The delegation of authority to such representative is approved in advance by the Department. (5-1-94)

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (5-1-94)

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). (4-5-00)

d. For Phase II sources: (5-1-94)

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 (5-1-94)

ii. The designated representative for any other purposes under 40 CFR Part 70. (5-1-94)

100. Safety Measure. Any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. (4-5-00)

101. Salvage Operation. Any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards. (5-1-94)

102. Scheduled Maintenance. Planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. (3-20-97)

103. Secondary Ambient Air Quality Standard. That ambient air quality which is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air. (5-1-94)

104. Secondary Emissions. Emissions which would 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 which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which 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 which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (3-30-07)

105. Shutdown. The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. (5-1-94)

106. 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: (4-11-06)

- a. Pollutant and emissions rate: (4-11-06)
 - i. Carbon monoxide, one hundred (100) tons per year; (5-1-94)
 - ii. Nitrogen oxides, forty (40) tons per year; (5-1-94)
 - iii. Sulfur dioxide, forty (40) tons per year; (5-1-94)
 - iv. Particulate matter; ()
 - (1) Twenty-five (25) tons per year of particulate matter emissions; ()
 - (2) Fifteen (15) tons per year of PM₁₀ emissions; or (4-11-06)()
 - (3) Ten (10) tons per year of direct PM_{2.5} emissions; forty (40) tons per year of sulfur dioxide emissions; forty (40) tons per year of nitrogen oxide emissions; ()
 - v. Ozone, forty (40) tons per year of volatile organic compounds; (4-11-06)
 - vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)
 - vii. Fluorides, three (3) tons per year; (5-1-94)
 - viii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)
 - ix. Hydrogen sulfide (H₂S), ten (10) tons per year; (5-1-94)
 - x. Total reduced sulfur (including H₂S), ten (10) tons per year; (5-1-94)
 - xi. Reduced sulfur compounds (including H₂S), ten (10) tons per year; (5-1-94)
 - xii. Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-five ten-millionths (0.0000035) tons per year; (5-1-94)

- xiii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; (5-1-94)
- xiv. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; (5-1-94)
- xv. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year; or (4-11-06)
- xvi. Radionuclides, a quantity of emissions, from source categories regulated by 40 CFR Part 61, Subpart H, that have been determined in accordance with 40 CFR Part 61, Appendix D and by Department approved methods, that would cause any member of the public to receive an annual effective dose equivalent of at least one tenth (0.1) mrem per year, if total facility-wide emissions contribute an effective dose equivalent of less than three (3) mrem per year; or any radionuclide emission rate, if total facility-wide radionuclide emissions contribute an effective dose equivalent of greater than or equal to three (3) mrem per year. (5-1-95)

b. In reference to a net emissions increase or the potential of a source or facility to emit a regulated air pollutant not listed in Subsection 006.103.a. above and not a toxic air pollutant, any emission rate; or (3-30-07)

c. For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted regulated air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (4-5-00)

107. Significant Contribution. Any increase in ambient concentrations which would exceed the following: (5-1-94)

a. Sulfur dioxide: (5-1-94)

i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)

iii. Twenty-five (25) micrograms per cubic meter, three (3) hour average; (5-1-94)

b. Nitrogen dioxide, one (1.0) microgram per cubic meter, annual average; (5-1-94)

c. Carbon monoxide: (5-1-94)

i. One-half (0.5) milligrams per cubic meter, eight (8) hour average; (5-1-94)

ii. Two (2) milligrams per cubic meter, one (1) hour average; (5-1-94)

d. PM-10: (5-1-94)

i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

ii. Five (5.0) micrograms per cubic meter, twenty-four (24) hour average; ~~(5-1-94)~~ ()

e. PM-2.5: ()

i. Three-tenths (0.3) microgram per cubic meter, annual average; ()

ii. One point two (1.2) micrograms per cubic meter, twenty-four (24) hour average. ()

108. Small Fire. A fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. (5-1-94)

- 109. Smoke.** Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)
- 110. Smoke Management Plan.** A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)
- 111. Smoke Management Program.** A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke sensitive areas. (5-1-94)
- 112. Source.** A stationary source. (5-1-94)
- 113. 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 (5-1-94)
 - b.** Is not an air cleaning device. (5-1-94)
- 114. Special Fuels.** All fuel suitable as fuel 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. (3-29-10)
- 115. 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. (5-1-94)
- 116. Stage 1 Vapor Collection.** Used during the refueling of underground gasoline storage tanks to reduce hydrocarbon emissions. Vapors in the tank, which are displaced by the incoming gasoline, are routed through a hose into the gasoline cargo tank and returned to the terminal for processing. Two (2) types of Stage 1 systems exist: coaxial and dual point. (3-29-10)
- a.** Coaxial System. A Stage 1 vapor collection system that requires only one (1) tank opening. The tank opening is usually four (4) inches in diameter with a three (3) inch diameter product fill tube inserted into the opening. Fuel flows through the inner tube while vapors are displaced through the annular space between the inner and outer tubes. (3-29-10)
 - b.** Dual Point System. A Stage 1 vapor collection system that consists of two (2) separate tank openings, one (1) for delivery of the product and the other for the recovery of vapors. (3-29-10)
- 117. Standard Conditions.** Except as specified in Subsection 576.02 for ambient air quality standards, a dry gas temperature of twenty degrees Celsius (20C) sixty-eight degrees Fahrenheit (68F) and a gas pressure of seven hundred sixty (760) millimeters of mercury (14.7 pounds per square inch) absolute. (4-5-00)
- 118. Startup.** The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. (5-1-94)
- 119. 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. (4-11-06)
- 120. Tier I Source.** Any of the following: (5-1-94)
- a.** Any source located at any major facility as defined in Section 008; (4-5-00)

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; (4-11-06)

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); (4-11-06)

d. Any Phase II source; and (5-1-94)

e. Any source in a source category designated by the Department. (5-1-94)

121. Total Suspended Particulates. Particulate matter as measured by the method described in 40 CFR 50 Appendix B. (4-5-00)

122. 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. (5-1-94)

123. Toxic Air Pollutant Carcinogenic Increments. Those ambient air quality increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one (1) microgram per cubic meter (1 ug/m³) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. (5-1-94)

124. Toxic Air Pollutant Non-carcinogenic Increments. Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. (5-1-94)

125. Toxic Substance. Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. (5-1-94)

126. Trade Waste. Any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood. (5-1-94)

127. TRS (Total Reduced Sulfur). Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)

128. 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. (5-1-94)

129. Uncontrolled Emission. An emission which has not been treated by control equipment. (5-1-94)

130. Upset. An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. (4-5-00)

131. Visibility Impairment. Any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions. (3-30-07)

132. Visibility in Any Mandatory Class I Federal Area. Includes any integral vista associated with that area. (3-30-07)

133. Wigwam Burner. Wood waste burning devices commonly called teepee burners, silos, truncated cones, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes. (5-1-94)

134. Wood Stove Curtailment Advisory. An air pollution alert issued through local authorities and/or

the Department to limit wood stove emissions during air pollution episodes.

(5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

220. GENERAL EXEMPTION CRITERIA FOR PERMIT TO CONSTRUCT EXEMPTIONS.

01. General Exemption Criteria. Sections 220 through 223 may be used by owners or operators to exempt certain sources from the requirement to obtain a permit to construct. Nothing in these sections shall preclude an owner or operator from choosing to obtain a permit to construct. For purposes of Sections 220 through 223, the term source means the equipment or activity being exempted. For purposes of Sections 220 through 223, fugitive emissions shall not be considered in determining whether a source meets the applicable exemption criteria unless required by federal law. No permit to construct is required for a source that satisfies all of the following criteria, in addition to the criteria set forth at Sections 221, ~~and 223 or 222, or~~ and 223 (as required): ~~(4-11-06)()~~

a. The maximum capacity of a source to emit an air pollutant under its physical and operational design without consideration of limitations on emission such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed would not: (4-5-00)

i. Equal or exceed one hundred (100) tons per year of any regulated air pollutant. (4-5-00)

ii. Cause an increase in the emissions of a major facility that equals or exceeds the significant emissions rates set out in the definition of significant at Section 006. (4-5-00)

b. Combination. The source is not part of a proposed new major facility or part of a proposed major modification. (4-5-00)

02. Record Retention. Unless the source is subject to and the owner or operator complies with Section 385, the owner or operator of the source, except for those sources listed in Subsections 222.02.a. through 222.02.g., shall maintain documentation on site which shall identify the exemption determined to apply to the source and verify that the source qualifies for the identified exemption. The records and documentation shall be kept for a period of time not less than five (5) years from the date the exemption determination has been made or for the life of the source for which the exemption has been determined to apply, whichever is greater, or until such time as a permit to construct or an operating permit is issued which covers the operation of the source. The owner or operator shall submit the documentation to the Department upon request. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

222. CATEGORY II EXEMPTION.

No permit to construct is required for the following sources.

(4-5-00)

01. Exempt Source. A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

a. Laboratory equipment used exclusively for chemical and physical analyses, research or education, including, but not limited to, ventilating and exhaust systems for laboratory hoods. To qualify for this exemption, the source shall: (5-1-94)

i. Comply with Section 223. (4-5-00)

ii. Have potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

b. Environmental characterization activities including emplacement and operation of field

instruments, drilling of sampling and monitoring wells, sampling activities, and environmental characterization activities. (4-5-00)

c. Stationary internal combustion engines of less than or equal to six hundred (600) horsepower and which are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. To qualify for this exemption, the source must be operated in accordance with the following: (5-1-94)

i. One hundred (100) horsepower or less -- unlimited hours of operation. (5-1-94)

ii. One hundred one (101) to two hundred (200) horsepower -- less than four hundred fifty (450) hours per month. (5-1-94)

iii. Two hundred one (201) to four hundred (400) horsepower -- less than two hundred twenty-five (225) hours per month. (5-1-94)

iv. Four hundred one (401) to six hundred (600) horsepower -- less than one hundred fifty (150) hours per month. (5-1-94)

d. Stationary internal combustion engines used exclusively for emergency purposes which are operated less than five hundred (500) hours per year and are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. (4-11-06)

e. A pilot plant that uses a slip stream from an existing process stream not to exceed ten percent (10%) of that existing process stream ~~or~~ **and** which satisfies the following: (~~4-5-00~~)()

i. The source shall comply with Section 223. For carcinogen emissions, the owner or operator may utilize a short term adjustment factor of ten (10) by multiplying either the acceptable ambient concentration or the screening emissions level, but not both, by ten (10). (4-5-00)

ii. The source shall have uncontrolled potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

iii. The exemption for a pilot plant shall terminate one (1) year after the commencement of operations and shall not be renewed. (4-5-00)

02. Other Exempt Sources. A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

a. Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment. (5-1-94)

b. Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs. (5-1-94)

c. Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquefied petroleum gas, or biogas (gas produced by the anaerobic decomposition of organic material through a controlled process) with hydrogen sulfide concentrations less than two hundred (200) ppmv exclusively with a capacity of less than fifty (50) million btu's per hour input. (4-11-06)

d. Other fuel burning equipment for indirect heating with a capacity of less than one million (1,000,000) btu's per hour input. (5-1-94)

e. Mobile internal combustion engines, marine installations and locomotives. (5-1-94)

f. Agricultural activities and services. (5-1-94)

- g. Retail gasoline, natural gas, propane gas, liquified petroleum gas, distillate fuel oils and diesel fuel sales. (5-1-94)
- h. Used Oil Fired Space Heaters which comply with all the following requirements: (7-1-97)
- i. The used oil fired space heater burns only used oil that the owner or operator generates on site, that is derived from households, such as used oil generated by individuals maintaining their personal vehicles, or on-specification used oil that is derived from commercial generators provided that the generator, transporter and owner or operator burning the oil for energy recovery comply fully with IDAPA 58.01.05.015, "Rules and Standards for Hazardous Waste"; (7-1-97)
- (1) For the purposes of Subsection 222.02.h., "used oil" refers to any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities. (4-5-00)
- (2) For the purposes of Subsection 222.02.h., "used oil fired space heater" refers to any furnace or apparatus and all appurtenances thereto, designed, constructed and used for combusting used oil for energy recovery to directly heat an enclosed space. (4-5-00)
- ii. Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals; (7-1-97)
- iii. The used oil fired space heater is designed to have a maximum capacity of not more than one half (0.5) million BTU per hour; (4-5-00)
- iv. The combustion gases from the used oil fired space heater are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer of the heater and installed to minimize down wash and maximize dispersion; and (7-1-97)
- v. The used oil fired space heater is of modern commercial design and manufacture, except that a homemade used oil fired space heater may be used if, prior to the operation of the homemade unit, the owner or operator submits documentation to the Department demonstrating, to the satisfaction of the Department, that emissions from the homemade unit are no greater than those from modern commercially available units. (7-1-97)
- i. Multiple chamber crematory retorts used to cremate human or animal remains using natural gas exclusively with a maximum average charge capacity of two hundred (200) pounds of remains per hour and a minimum secondary combustion chamber temperature of one thousand five hundred (1500) degrees Fahrenheit while operating. (4-11-06)
- j. Petroleum environmental remediation source by vapor extraction with an operation life not to exceed five (5) years (except for landfills). The short-term adjustment factor in Subsection 210.15 cannot be used if the remediation is within five hundred (500) feet of a sensitive receptor. Forms are available at the DEQ website at <http://www.deq.idaho.gov>, to help assist sources in this exemption determination. (4-11-06)
- k. Dry cleaning facilities that are not major under, but subject to, 40 CFR Part 63, Subpart M. (4-11-06)

223. EXEMPTION CRITERIA AND REPORTING REQUIREMENTS FOR TOXIC AIR POLLUTANT EMISSIONS.

No permit to construct for toxic air pollutants is required for a source that satisfies any of the exemption criteria below, the recordkeeping requirements at Subsection 220.02, and reporting requirements as follows: (4-5-00)

01. Below Regulatory Concern (BRC) Exemption. The source qualifies for a BRC exemption if the uncontrolled emission rate (refer to Section 210) for all toxic air pollutants emitted by the source is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. (4-5-00)

02. Level I Exemption. To obtain a Level I exemption, the source shall satisfy the following criteria:

(4-5-00)

a. The uncontrolled emission rate (refer to Section 210) for all toxic air pollutants shall be less than or equal to all applicable screening emission levels listed in Sections 585 and 586; or (4-5-00)

b. The uncontrolled ambient concentration (refer to Section 210) for all toxic air pollutants at the point of compliance shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586. (4-5-00)

03. Level II Exemption. To obtain a Level II exemption, the source shall satisfy the following criteria: (4-5-00)

a. The uncontrolled ambient concentration at the point of compliance (refer to Section 210) for all toxic air pollutants emitted by the source shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586; and (4-5-00)

b. If the owner or operator installs and operates control equipment that is not otherwise required to qualify for an exemption and the controlled emission rate (refer to Section 210) of the source for all toxic air pollutants is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. (4-5-00)

04. Level III Exemption. To obtain a Level III exemption, the source shall satisfy the following criteria: (4-5-00)

a. The uncontrolled ambient concentration at the point of compliance (refer to Section 210) for all toxic air pollutants emitted by the source shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586; and (4-5-00)

b. The controlled emission rate (refer to Section 210) for all toxic air pollutants emitted by the source shall be less than or equal to all applicable screening emission levels listed in Sections 585 and 586. (4-5-00)

05. Annual Report for Toxic Air Pollutant Exemption. Commencing on May 1, 1996, and annually thereafter, the owner or operator of a source claiming a Level I, II, or III exemption shall submit a certified report for the previous calendar year to the Department for each Level I, II, or III exemption determination. The owner or operator is not required to annually submit a certified report for a Level I, II, or III exemption determination previously claimed and reported. The report shall be labeled "Toxic Air Pollutant Exemption Report" and shall state the date construction has or will commence and shall include copies of all exemption determinations completed by the owner or operator for each Level I, II, and III exemption. (4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

585. TOXIC AIR POLLUTANTS NON-CARCINOGENIC INCREMENTS.

The screening emissions levels (EL) and acceptable ambient concentrations (AAC) for non-carcinogens are as provided in the following table. The AAC in this section are twenty-four (24) hour averages. (6-30-95)

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
60-35-5	Acetamide (NY)	--	0.002	0.0003
64-19-7	Acetic acid	25	1.67	1.25
108-24-7	Acetic anhydride	20	1.33	1

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
67-64-1	Acetone	1780	119	89
75-05-8	Acetonitrile	67	4.47	3.35
540-59-0	Acetylene dichloride, See 1,2-Dichloroethylene			
79-27-6	Acetylene tetrabromide	15	1	.75
107-02-8	Acrolein	0.25	0.017	0.0125
79-10-7	Acrylic acid	30	2	1.5
107-18-6	Allyl alcohol	5	0.333	.25
106-92-3	Allyl glycidyl ether	22	1.47	1.1
2179-59-1	Allyl propyl disulfide	12	0.8	0.6
7429-90-5	Aluminum Including:			
NA	Metal & Oxide	10	0.667	0.5
NA	Pyro powders	5	0.333	0.25
NA	Soluble salts	2	0.133	0.10
NA	Alkyls not otherwise classified	2	0.133	0.10
141-43-5	2-Aminoethanol, See Ethanolamine			
504-29-0	2-Aminopyridine	2	0.133	0.10
7664-41-7	Ammonia	18	1.2	0.9
12125-02-9	Ammonium chloride fume	10	0.667	0.5
3825-26-1	Ammonium perfluoro-octanoate	0.1	0.007	0.05
7773-06-0	Ammonium sulfamate	10	0.667	0.5
628-63-7	n-Amyl acetate	530	35.3	26.5
626-38-0	Sec-Amyl acetate	665	44.3	33.25
7440-36-0	Antimony & compounds, as Sb (handling & use)	0.5	0.033	0.025
86-88-4	ANTU	0.3	0.02	0.015
7784-42-1	Arsine	0.2	0.013	0.01
86-50-0	Azinphos-methyl	0.2	0.013	0.01
7440-39-3	Barium, soluble compounds, as Ba	0.5	0.033	0.025
17804-35-2	Benomyl	10	0.67	0.5
7106-51-4	p-Benzoquinone, See Quinone			
94-36-0	Benzoyl peroxide	5	0.333	0.25
92-52-4	Biphenyl	1.5	0.1	0.075
1304-82-1	Bismuth telluride undoped	10	0.667	0.05
NA	Bismuth telluride if selenium doped	5	0.333	0.25
1303-96-4	Borates, tetra odium salts - Including:			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
NA	Anhydrous	1	0.067	0.05
NA	Decahydrate	5	0.333	0.25
NA	Pentahydrate	1	0.067	0.05
1303-86-2	Boron oxide	10	0.667	0.5
10294-33-4	Boron tribromide	10	0.667	0.5
7637-07-2	Boron trifluoride	3	0.2	0.25
314-40-9	Bromacil	10	0.667	0.5
7726-95-6	Bromine	0.7	0.047	0.035
7789-30-2	Bromine penta-fluoride	0.7	0.047	0.035
75-25-2	Bromoform	5	0.333	0.25
109-79-5	Butanethiol, see Butyl mercaptan			
78-93-3	2-Butanone, see Methyl ethyl ketone			
112-807-2	2-butoxyethyl acetate	---	8.33	1.25
111-76-2	2-Butoxyethanol (EGBG)	120	8	6
123-86-4	n-Butyl acetate	710	47.3	35.5
105-46-4	sec-Butyl acetate	950	63.3	47.5
540-88-5	tert-Butyl acetate	950	63.3	47.5
141-32-2	Butyl acrylate	55	3.67	2.75
71-36-3	n-Butyl alcohol	150	10	7.5
78-92-2	Sec-Butyl alcohol	305	20.3	15.25
75-65-0	tert-Butyl alcohol	300	20	15
109-73-9	Butylamine	15	1	.75
124-17-4	Butyl carbitol acetate (ID)	---	0.846	.625
1189-85-1	tert-Butyl chromate, as CrO3	0.1	0.007	.005
2426-08-6	n-Butyl glycidyl ether	135	9	6.75
138-22-7	n-Butyl lactate	25	1.67	1.25
109-79-5	Butyl mercaptan	1.8	0.12	0.09
89-72-5	o-sec-Butylphenol	30	2	1.5
98-51-1	p-tert-Butyltoluene	60	4	3
13765-19-0 <u>1317-65-3</u>	Calcium carbonate	10	0.667	0.5
156-62-7	Calcium cyanamide	0.5	0.033	0.025
1305-62-0	Calcium hydroxide	5	0.333	0.25
1305-78-8	Calcium oxide	2	0.133	0.1

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
1344-95-2	Calcium silicate (synthetic)	10	0.667	0.5
13397-24-5	Calcium sulfate	10	0.667	0.5
76-22-2	Camphor, synthetic	12	0.8	0.6
105-60-2	Caprolactam - Including:			
	Dust	1	0.067	0.05
	Vapor	20	1.33	1.0
1333-86-4	Carbon black	3.5	0.23	0.175
2425-06-1	Captafol	0.1	0.007	0.005
133-06-2	Captan	5	0.333	0.25
463-58-1	Carbonyl sulfide	0.4	0.027	0.02
63-25-2	Carbaryl	5	0.333	0.25
1563-66-2	Carbofuran	0.1	0.007	0.005
75-15-0	Carbon disulfide	30	2	1.5
558-13-4	Carbon tetrabromide	1.4	0.093	0.07
75-44-5	Carbonyl chloride, See Phosgene			
353-50-4	Carbonyl fluoride	5	0.333	0.25
120-80-9	Catechol	20	1.33	1.0
21351-79-1	Cesium hydroxide	2	0.133	0.10
133-90-4	Chloramben (PL)	---	887	133
8001-35-2	Chlorinated camphene	0.5	0.0333	0.025
31242-93-0	Chlorinated diphenyl oxide	0.5	0.033	0.025
7782-50-5	Chlorine	3	0.2	0.15
10049-04-4	Chlorine dioxide	0.3	0.02	0.015
7790-91-2	Chlorine trifluoride (CL)	0.38	0.025	0.002
107-20-0	Chloroacetaldehyde	0.32	0.021	0.015
78-95-5	Chloroacetone	0.38	0.0253	0.019
532-27-4	a-Chloroacetophenone	0.32	0.021	0.016
79-04-9	Chloroacetyl chloride	0.2	0.013	0.01
108-90-7	Chlorobenzene	350	23.3	17.5
510-15-6	Chlorobenzilate (PL1)	---	0.047	0.035
2698-41-1	O-Chlorobenzylidene malononitrile (CL)	0.4	0.0027	0.03
126-99-8	2-Chloro-1,3-butadiene, see B-Chloroprene			
107-07-3	2-Chloroethanol, see Ethylene chlorohydrin			
600-25-9	1-Chloro-1-nitro propane	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
95-57-8	2-Chlorophenol (and all isomers) (ID)	---	0.033	0.025
76-06-2	Chloropicrin	0.7	0.047	0.037
126-99-8	B-chloroprene	36	2.4	1.8
2039-87-4	o-Chlorostyrene	285	19	14.25
95-49-8	o-Chlorotoluene	250	16.7	12.5
1929-82-4	2-Chloro-6-(tri-chloromethyl) pyridine, see Nitrapyrin			
2921-88-2	Chlorpyrifos	0.2	0.013	0.01
7440-47-3	Chromium metal - Including:	0.5	0.033	0.025
7440-47-3	Chromium (II) compounds, as Cr	0.5	0.033	0.025
7440-47-3 16065-83-1	Chromium (III) compounds, as Cr	0.5	0.033	0.025
2971-90-6	Clopidol	10	0.667	0.5
NA	Coal dust (<5% silica)	2	0.133	0.1
10210-68-1	Cobalt carbonyl as Co	0.1	0.007	0.005
16842-03-8	Cobalt hydrocarbonyl as Co	0.1	0.007	0.005
7440-48-4	Cobalt metal, dust, and fume	0.05	0.0033	0.0025
7440-50-8	Copper:			
7440-50-8	Fume	0.2	0.013	0.01
7440-50-8	Dusts & mists, as Cu	1	0.067	0.05
95-48-7	o-Cresol	22	1.47	1.1
108-39-4	m-Cresol	22	1.47	1.1
106-44-5	p-Cresol	22	1.47	1.1
1319-77-3	Cresols/Cresylic Acid (isomers and mixtures)	22	1.47	1.1
123-73-9	Crotonaldehyde	5.7	0.38	0.285
299-86-5	Cruformate	5	0.333	0.25
98-82-8	Cumene	245	16.3	12.25
420-04-2	Cyanamide	2	0.133	0.1
592-01-8	Cyanide and compounds as CN	5	0.333	0.25
110-82-7	Cyclohexane	1050	70	52.5
108-93-0	Cyclohexanol	200	13.3	10
108-94-1	Cyclohexanone	100	6.67	5
110-83-8	Cyclohexene	1015	67.7	50.75
108-91-8	Cyclohexylamine	41	2.73	2.05
121-82-4	Cyclonite	1.5	0.1	0.075

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
542-92-7	Cyclopentadiene	200	13.3	10
287-92-3	Cyclopentane	1720	114.667	86
94-75-7	2,4-D	10	0.667	0.5
17702-41-9	Decaborane	0.3	0.02	0.015
8065-48-3	Demeton	0.1	0.007	0.005
123-42-2	Diacetone alcohol	240	16	12
39393-37-8	Dialkyl phthalate (ID)	---	16.4	2.46
107-15-3	1,2-Diaminoethane, See Ethylenediamine			
333-41-5	Diazinon	0.1	0.007	0.005
334-88-3	Diazomethane	0.34	0.023	0.017
19287-45-7	Diborane	0.1	0.007	0.005
102-81-8	2-N-Dibutylamino ethanol	14	0.933	0.7
2528-36-1	Dibutyl phenyl phosphate	3.5	0.233	0.175
107-66-4	Dibutyl phosphate	8.6	0.573	0.43
84-74-2	Dibutyl phthalate	5	0.333	0.25
7572-29-4	Dichloroacetylene	0.39	0.0026	0.0195
95-50-1	o-Dichlorobenzene	300	20	15
106-46-7	1,4-Dichlorobenzene	450	30	22.5
118-52-5	1,3-Dichloro-5, 5-dimethyl hydantoin	0.2	0.013	0.025
75-34-3	Dichloroethane	405	27	20.25
540-59-0	1,2-Dichloroethylene	790	52.7	39.5
111-44-4	Dichloroethyl ether	30	2	1.5
75-43-4	Dichlorofluoromethane	40	2.67	2
594-72-9	1, 1-Dichloro-1-nitroethane	10	0.667	0.5
78-87-5	1,2-Dichloropropane, see Propylene dichloride			
75-99-0	2,2-Dichloropropionic acid	6	0.4	0.3
62-73-7	Dichlorvos	1	0.067	0.05
141-66-2	Dicrotophos	0.25	0.017	0.125
77-73-6	Dicyclopentadiene	30	2	1.5
102-54-5	Dicyclopentadienyl iron	10	0.667	0.5
111-42-2	Diethanolamine	15	1	0.75
109-89-7	Diethylamine	30	2	1.5
100-37-8	2-Diethylamino-ethanol	50	3.33	2.5
111-40-0	Diethylene triamine	4	0.267	0.2

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
60-29-7	Diethyl ether, see Ethyl ether	1200	80	60
96-22-0	Diethyl Ketone	705	47	35.25
84-66-2	Diethyl phthalate	5	0.333	0.25
2238-07-5	Diglycidyl ether (DGE)	0.53	0.035	0.0265
123-31-9	Dihydroxybenzene, see Hydroquinone			
108-83-8	Diisobutyl ketone	145	9.67	7.25
108-18-9	Diisopropylamine	20	1.33	1
127-19-5	Dimethyl acetamide	35	2.33	1.75
124-40-3	Dimethylamine	9.2	0.613	0.46
60-11-7	Dimethyl aminoazo-benzene (NY)	---	0.002	0.0003
1300-73-8	Dimethylamino-benzene, see Xylidine			
121-69-7	Dimethylaniline (N,N-Dimethylaniline)	25	1.67	1.25
1330-20-7	Dimethylbenzene, see Xylene			
300-76-5	Dimethyl-1,2-dibromo-2-dichloroethyl phosphate, see Naled			
68-12-2	Dimethylformamide	30	2	1.5
108-83-8	2,6-Dimethyl-4-heptanone, see Diisobutyl ketone			
131-11-3	Dimethylphthalate	5	0.333	0.25
148-01-6	Dinitolmide	5	0.333	0.25
528-29-0	Dinitrobenzene	1	0.067	0.05
99-65-0	m (or) 1,3-Dinitrobenzene	1	0.067	0.05
100-25-4	p (or) 1,4-Dinitrobenzene	1	0.067	0.05
534-52-1	Dinitro-o-cresol	0.2	0.013	0.01
148-01-6	3,5-Dinitro-o-toluamide, see Dinitolmide			
117-84-0	N-Dioctyl Phthalate	5	0.333	0.25
78-34-2	Dioxathion	0.2	0.013	0.01
92-52-4	Diphenyl, see Biphenyl			
122-39-4	Diphenylamine	10	0.667	0.5
	Diphenyl methane diisocyanate, see Methylenediphenyl diisocyanate			
34590-94-8	Dipropylene glycol methyl ether	600	40	30
123-19-3	Dipropyl ketone	235	15.7	11.75
85-00-7	Diquat	0.5	0.033	0.01
97-77-8	Disulfiram	2	0.133	0.1

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
298-04-4	Disulfoton	0.1	0.007	0.005
128-37-0	2,6-Ditert. butyl-p-cresol	10	0.667	0.5
330-54-1	Diuron	10	0.667	0.5
108-57-6	Divinyl benzene	50	3.33	2.5
1302-74-5	Emery (corundum) total dust (> 1% silica)	10	0.667	0.5
115-29-7	Endosulfan	0.1	0.007	0.005
72-20-8	Endrin	0.1	0.007	0.005
13838-16-9	Enflurane	566	37.7	28.3
1395-21-7	Enzymes, see Subtilisins			
2104-64-5	EPN (Ethoxy-4-Nitro-phenoxy phenylphosphine)	0.5	0.033	0.025
106-88-7	1,2-Epoxybutane (MI)	---	0.8	0.6
75-56-9	1,2-Epoxypropane, see Propylene oxide			
556-52-5	2,3-Epoxy-1-propanol, see Glycidol			
75-08-1	Ethanethiol, see Ethyl mercaptan			
141-43-5	Ethanolamine	8	0.533	0.4
563-12-2	Ethion	0.4	0.027	0.02
110-80-5	2-Ethoxyethanol	19	1.27	0.95
111-15-9	2-Ethoxyethyl acetate (EGEEA)	27	1.8	1.35
141-78-6	Ethyl acetate	1400	93.3	70
64-17-5	Ethyl alcohol	1880	125	94
75-04-7	Ethylamine	18	1.2	0.9
541-85-5	Ethyl amyl ketone	130	8.67	6.5
100-41-4	Ethyl benzene	435	29	21.75
74-96-4	Ethyl bromide	22	1.47	1.1
106-35-4	Ethyl butyl ketone	230	15.3	11.5
51-79-6	Ethyl carbamate (Urethane) (WA)	---	0.002	0.0015
75-00-3	Ethyl chloride	2640	176	132
107-07-3	Ethylene chlorohydrin	3	0.2	0.15
107-15-3	Ethylenediamine	25	1.67	1.25
107-06-2	Ethylene dichloride	40	2.667	2
107-21-1	Ethylene glycol vapor (CL)	127	0.846	6.35
628-96-6	Ethylene glycol denigrate	0.31	0.021	0.016
110-49-6	Ethylene glycol methyl ether acetate, see 2-Methoxyethyl acetate			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
96-45-7	Ethylene thiourea (PL2)	---	0.047	0.035
109-94-4	Ethyl formate	300	20	15
16219-75-3	Ethylidene norbornene (CL)	25	0.167	1.25
75-08-1	Ethyl mercaptan	1	0.067	0.05
100-74-3	N-Ethylmorpholine	23	1.53	1.15
78-10-4	Ethyl silicate	85	5.67	4.25
22224-92-6	Fenamiphos	0.1	0.007	0.005
115-90-2	Fensulfothion	0.1	0.007	0.005
55-38-9	Fenthion	0.2	0.013	0.01
14484-64-1	Ferbam	10	0.667	0.5
12604-58-9	Ferovanadium dust	1	0.067	0.05
NA	Fibrous glass dust	10	0.667	0.5
NA	Fine Mineral Fibers - Including: mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less. (ID)	--	0.661	0.5
NA	Fluorides, as F	2.5	0.167	0.125
7782-41-4	Fluorine	2	0.133	0.1
944-22-9	Fonofos	0.1	0.007	0.005
75-12-7	Formamide	30	2	1.5
64-18-6	Formic acid	9.4	0.627	0.47
98-01-1	Furfural	8	0.533	0.4
98-00-0	Furfuryl alcohol	40	2.67	2
7782-65-2	Germanium tetrahydride	0.6	0.04	0.03
NA	Glass, Fibrous or dust, see Fibrous glass dust			
111-30-8	Glutaraldehyde (CL)	0.82	0.0047	0.041
556-52-5	Glycidol	75	5	3.75
110-80-5	Glycol monoethyl ether, see 2-Ethoxyethanol			
7440-58-6	Hafnium	0.5	0.033	0.025
110-43-0	2-Heptanone, see Methyl n-amyl ketone			
106-35-4	3-Heptanone, see Ethyl butyl ketone			
151-67-7	Halothane	404	26.9	20.2
142-82-5	Heptane (n-Heptane)	1640	109	82
77-47-4	Hexachlorocyclopentadiene	0.1	0.007	0.005
1335-87-1	Hexachloronaphthalene	0.2	0.013	0.010

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
684-16-2	Hexafluoroacetone	0.7	0.047	0.035
822-06-0	Hexamethylene diisocyanate	0.03	0.002	0.0015
680-31-9	Hexamethylphosphoramide (WA)	---	0.002	0.0015
110-54-3	Hexane (n-Hexane)	180	12	9
591-78-6	2-Hexanone, see Methyl n-butyl ketone			
108-10-1	Hexone, see Methyl isobutyl ketone			
108-84-9	sec-Hexyl acetate	300	20	15
107-41-5	Hexylene glycol (CL)	121	0.806	6.05
37275-59-5	Hydrogenated terphenyls	5	0.333	0.25
10035-10-6	Hydrogen bromide (CL)	10	0.0667	0.5
7647-01-0	Hydrogen chloride (CL)	7.5	0.05	0.375
7722-84-1	Hydrogen peroxide	1.5	0.1	0.075
7783-06-4	Hydrogen sulfide	14	0.933	0.7
123-31-9	Hydroquinone	2	0.133	0.1
123-42-2	4-Hydroxy-4-Methyl-2-pentanone, see Diacetone alcohol			
9969-61-1	2-Hydroxypropyl acrylate	3	0.2	0.15
95-13-6	Indene	45	3	2.25
7440-74-6	Indium & compounds as In	0.1	0.007	0.005
7553-56-2	Iodine (CL)	0.1	0.0067	0.005
75-47-8	Iodoform	10	0.667	0.5
1309-37-1	Iron oxide fume (Fe ₂ O ₃) as Fe	5	0.333	0.25
13463-40-6	Iron pentacarbonyl as Fe	0.8	0.053	0.04
7439-89-6	Iron salts, soluble, as Fe	1	0.067	0.05
123-92-2	Isoamyl acetate	525	35	26.25
123-51-3	Isoamyl alcohol	360	24	18
110-19-0	Isobutyl acetate	700	46.7	35
78-83-1	Isobutyl alcohol	150	10	6
26952-21-6	Isooctyl alcohol	270	18	13.5
78-59-1	Isophorone	28	1.867	1.4
4098-71-9	Isophorone diisocyanate	0.09	0.006	0.0045
109-59-1	Isopropoxyethanol	105	7	5.25
108-21-4	Isopropyl Acetate	1040	69.3	52
67-63-0	Isopropyl alcohol	980	65.3	49
75-31-0	Isopropylamine	12	0.8	0.6

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
643-28-7	N-Isopropylaniline	10	0.667	0.5
108-20-3	Isopropyl ether	1040	69.3	52
4016-14-2	Isopropyl glycidyl ether (IGE)	240	16	12
1332-58-7	Kaolin (respirable dust)	2	0.133	0.1
463-51-4	Ketene	0.9	0.06	0.045
7580-67-8	Lithium hydride	0.025	0.002	0.00125
546-93-0	Magnesite	10	0.667	0.5
1309-48-4	Magnesium oxide fume	10	0.667	0.5
121-75-5	Malathion	10	0.667	0.5
108-31-6	Maleic anhydride	1	0.067	0.05
7439-96-5	Manganese as Mn Including:			
7439-96-5	Dust & compounds	5	0.333	0.25
7439-96-5	Fume	1	0.067	0.05
101-68-8	MDI, see Methylene diphenyl isocyanate			
NA	Mercaptans not otherwise listed (ID)	---	0.033	0.025
141-79-7	Mesityl oxide	60	4	3
79-41-4	Methacrylic acid	70	4.67	3.5
74-93-1	Methanethiol, see Methyl mercaptan			
67-56-1	Methanol	260	17.3	13
16752-77-5	Methomyl	2.5	0.17	0.125
72-43-5	Methoxychlor	10	0.667	0.5
109-86-4	2-Methoxyethanol	16	1.07	0.8
110-49-6	2-Methoxyethyl acetate	24	1.6	1.2
150-76-5	4-Methoxyphenol	5	0.333	0.25
108-65-6	1-methoxy-2-proanol acetate (ID)	n/a	24	3.6
79-20-9	Methyl acetate	610	40.7	30.5
74-99-7	Methyl acetylene	1640	109	82
NA	Methyl acetylene-propadiene mix (MAPP)	1640	109	82
96-33-3	Methyl acrylate	35	2.33	1.75
126-98-7	Methylacrylonitrile	3	0.2	0.15
74-89-5	Methylamine	12	0.8	0.6
108-11-2	Methyl emyl alcohol, see Methyl isobutyl carbinol			
110-43-0	Methyl n-amyl ketone	235	15.7	11.75
100-61-8	N-Methyl aniline	2	0.133	0.1

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
74-83-9	Methyl bromide	19	1.27	0.95
591-78-6	Methyl n-butyl ketone	20	1.33	1
109-86-4	Methyl cellosolve (2-Methoxyethanol)	15.6	1.04	0.78
74-87-3	Methyl chloride	103	6.867	5.15
71-55-6	Methyl chloroform	1910	127	95.5
137-05-3	Methyl 2-cyano-acrylate	8	0.533	0.4
25639-42-3	Methylcyclohexanol	235	15.7	11.75
583-60-8	o-Methylcyclohexanone	230	15.3	11.5
8022-00-2	Methyl demeton	0.5	0.033	0.01
101-68-8	Methylenediphenyl diisocyanate (MDI)	0.05	0.003	0.0025
5124-30-1	Methylene bis (4-cyclohexyl isocyanate)	0.11	0.007	0.0055
78-93-3	Methyl ethyl ketone (MEK)	590	39.3	29.5
1338-23-4	Methyl ethyl ketone peroxide (CL)	1.5	0.01	0.0075
107-31-3	Methyl formate	246	16.4	12.3
541-85-5	5-Methyl-3-heptanone, see Ethyl amyl ketone			
110-12-3	Methyl isoamyl ketone	240	16	12
108-11-2	Methyl isobutyl carbinol	104	6.93	5.2
108-10-1	Methyl isobutyl ketone	205	13.7	10.25
624-83-9	Methyl isocyanate	0.05	0.003	0.0025
563-80-4	Methyl isopropyl ketone	705	47	35.25
74-93-1	Methyl mercaptan	0.5	0.033	0.025
80-62-6	Methyl methacrylate	410	27.3	20.5
298-00-0	Methyl parathion	0.2	0.013	0.01
107-87-9	Methyl propyl ketone	700	46.7	35
681-84-5	Methyl silicate	6	0.4	0.3
98-83-9	a-Methyl styrene	240	16	10.20
109-87-5	Methylal (dimethoxymethane)	3110	207	155.5
108-87-2	Methylcyclohexane	1610	107	80.5
21087-64-9	Metribuzin	5	0.333	0.25
7786-34-7	Mevinphos	0.1	0.007	0.005
12001-26-2	Mica (Respirable dust)	3	0.2	0.15
NA	Mineral Wool Fiber (no asbestos)	10	0.667	0.5
7439-98-7	Molybdenum as Mo - Including:			
NA	Soluble compounds	5	0.333	0.25

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
NA	Insoluble compounds	10	0.667	0.5
108-90-7	Monochlorobenzene, see Chlorobenzene			
6923-22-4	Monocrotophos	0.25	0.017	0.0125
110-91-8	Morpholine	70	4.67	0.35
300-76-5	Naled	3	0.2	0.15
91-20-3	Naphthalene	50	3.33	2.5
54-11-5	Nicotine	0.5	0.033	0.025
1929-82-4	Nitrapyrin	10	0.667	0.5
7697-37-2	Nitric acid	5	0.333	0.25
100-01-6	p-Nitroaniline	3	0.2	0.15
98-95-3	Nitrobenzene	5	0.333	0.25
100-00-5	p-Nitrochlorobenzene	3	0.2	0.15
79-24-3	Nitroethane	310	20.7	15.5
7783-54-2	Nitrogen trifluoride	29	1.93	1.45
55-63-0	Nitroglycerin	0.46	0.031	0.023
75-52-5	Nitromethane	50	3.333	2.5
108-03-2	1-Nitropropane	90	6	4.5
99-08-1	m (or) 3-Nitrotoluene	11	0.733	0.55
88-72-2	o (or) 2-Nitrotoluene	11	0.733	0.55
99-99-0	p (or) 4-Nitrotoluene	11	0.733	0.55
76-06-2	Nitrotrichloromethane, see Chloropicrin			
10024-97-2	Nitrous oxide	90	6	4.5
111-84-2	Nonane	1050	70	52.5
2234-13-1	Octachloronaphthalene	0.1	0.007	0.005
111-65-9	Octane	1400	93.3	70
NA	Oil mist, mineral	5	0.333	0.25
20816-12-0	Osmium tetroxide as Os	0.002	0.0001	0.0001
144-62-7	Oxalic acid	1	0.067	0.05
7783-41-7	Oxygen difluoride (CL)	0.11	0.0007	0.0005
8002-74-2	Paraffin wax fume	2	0.133	0.1
4685-14-7	Paraquat	0.1	0.007	0.007
NA	Paraquat, all Compounds	0.1	0.007	0.005
56-38-2	Parathion	0.1	0.007	0.005
19624-22-7	Pentaborane	0.01	0.001	0.0005

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
1321-64-8	Pentachloronaphthalene	0.5	0.033	0.025
82-68-8	Pentachloronitrobenzene	0.5	0.0333	0.025
87-86-5	Pentachlorophenol	0.5	0.033	0.025
109-66-0	Pentane	1770	118	88.5
107-87-9	2-Pentanone, see Methyl propyl ketone			
594-42-3	Perchloromethyl mercaptan	0.8	0.053	0.04
7616-94-6	Perchloryl Fluoride	13	0.867	0.65
93763-70-3	Perlite	10	0.667	0.5
532-27-4	Phenacyl chloride, see a-Chloroacetophenone			
108-95-2	Phenol	19	1.27	0.95
92-84-2	Phenothiazine	5	0.333	0.25
108-45-2	m-Phenylenediamine	0.1	0.0067	0.005
106-50-3	p-Phenylenediamine	0.1	0.007	0.005
101-84-8	Phenyl ether, vapor	7	0.467	0.035
122-60-1	Phenyl glycidyl ether (PGE)	6	0.4	0.3
108-98-5	Phenyl mercaptan	2	0.133	0.1
638-21-1	Phenylphosphine (CL)	0.25	0.0017	0.00125
298-02-2	Phorate	0.05	0.003	0.001
7786-34-7	Phosdrin, see Mevinphos			
75-44-5	Phosgene	0.4	0.027	0.02
7803-51-2	Phosphine	0.4	0.027	0.02
7664-38-2	Phosphoric acid	1	0.067	0.05
7723-14-0	Phosphorus	0.1	0.007	0.005
10025-87-3	Phosphorus oxychloride	0.6	0.04	0.030
10026-13-8	Phosphorus penta-chloride	1	0.067	0.05
1313-80-3	Phosphorus penta-sulfide	1	0.067	0.05
1314-56-3	Phosphorus pentoxide (ID)	--	0.067	0.05
7719-12-2	Phosphorus trichloride	1.5	0.1	0.075
85-44-9	Phthalic anhydride	6	0.4	0.3
626-17-5	m-Phthalodinitrile	5	0.333	0.25
1918-02-1	Picloram	10	0.667	0.5
88-89-1	Picric acid	0.1	0.006	0.005
83-26-1	Pindone	0.1	0.007	0.005
142-64-3	Piperazine dihydro-chloride	5	0.333	0.25

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
83-26-1	2-Pivaloyl-1,3-indandione, see Pindone			
7440-06-4	Platinum - Including:			
7440-06-4	Metal	1	0.067	0.05
NA	Soluble salts, as Pt	0.002	0.0001	0.0001
65997-15-1	Portland cement	10	0.667	0.5
1310-58-3	Potassium hydroxide	2	0.133	0.1
107-19-7	Propargyl alcohol	2.3	0.153	0.115
123-38-6	Propionaldehyde (LA)	0.43	0.0287	0.0215
79-09-4	Propionic acid	30	2	1.5
114-26-1	Propoxur (Baygon)	0.5	0.033	0.025
109-60-4	n-Propyl acetate	840	56	42
71-23-8	Propyl alcohol	500	33.3	25
78-87-5	Propylene dichloride	347	23.133	17.35
6423-43-4	Propylene glycol dinitrate	0.34	0.023	0.017
107-98-2	Propylene glycol monomethyl ether	360	24	18
75-56-9	Propylene oxide	48	3.2	2.4
627-13-4	n-Propyl nitrate	105	7	5.25
8003-34-7	Pyrethrum	5	0.333	0.25
110-86-1	Pyridine	15	1	0.75
120-80-9	Pyrocatechol, see Catechol			
106-51-4	Quinone	0.4	0.027	0.02
121-84-4	RDX, see Cyclonite			
NA	Refractory Ceramic Fibers (see entry for specific content of emissions, ex: silica)			
108-46-3	Resorcinol	45	3	2.25
7440-16-6	Rhodium - Including:			
7440-16-6	Metal	1	0.067	0.05
NA	Insoluble compounds, as Rh	1	0.067	0.05
NA	Soluble compounds, as Rh	0.01	0.001	0.0005
299-84-3	Ronnel	10	0.667	0.5
83-79-4	Rotenone (commercial)	5	0.333	0.25
8030-30-6	Rubber solvent (Naphtha)	1590	106	79.5
14167-9618-1	Salcoine as CO	0.1	0.007	0.005

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7782-49-2	Selenium	0.2	0.013	0.010
NA	Selenium and compounds as Se	0.2	0.013	0.01
136-78-7	Sesone	10	0.667	0.5
7803-62-5	Silane, see silicon tectrahydride			
NA	Silica - amorphous - Including:			
61790-53-2	Diatomaceous earth (uncalcined)	10	0.667	0.5
112926-00-8	Precipitated silica	10	0.667	0.5
112926-00-8	Silica gel	10	0.667	0.5
NA	Silica, crystalline - Including:			
14464-46-1	Cristobalite	0.05	0.0033	0.0025
14808-60-7	quartz	0.1	0.0067	0.005
60676-86-0	silica, fused	0.1	0.0067	0.005
15468-32-3	tridymite	0.05	0.0033	0.0025
1317-95-9	Tripoli	0.1	0.0067	0.005
7440-21-3	Silicon	10	0.667	0.5
409-21-2	Silicon carbide	10	0.667	0.5
7803-62-5	Silicon tetrahydride	7	0.467	0.35
7440-22-4	Silver - Including			
7440-22-4	Metal	0.1	0.007	0.005
7440-22-4	Soluble compounds, as Ag	0.01	0.001	0.005
26628-22-8	Sodium azide (CL)	0.3	0.002	0.0015
7631-90-5	Sodium bisulfite	5	0.333	0.25
136-78-7	Sodium 2,4-dichloro-phenoxyethyl sulfate, see Sesone			
62-74-8	Sodium fluoroacetate	0.05	0.003	0.0025
1310-73-2	Sodium hydroxide	2	0.133	0.1
7681-57-4	Sodium metabisulfite	5	0.333	0.25
NA	Stearates (not including toxic metals)	10	0.667	0.5
7803-52-3	Stibine	0.5	0.033	0.025
8052-41-3	Stoddard solvent	525	35	26.25
57-24-9	Strychnine	0.15	0.01	0.0075
60-41-3	Strychnine sulfate as strichnine	0.15	0.01	0.01
100-42-5	Styrene monomer (ID)	--	6.67	1
1395-21-7	Subtilisins (Proteolytic enzymes as 100% pure crystalline enzyme)	0.00006	4.OE-07	3.0E-7

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
3689-24-5	Sulfotep	0.2	0.013	0.01
7664-93-9	Sulfuric acid	1	0.067	0.05
10025-67-9	Sulfur monochloride (CL)	6	0.04	0.03
5714-22-7	Sulfur pentafluoride (CL)	0.1	0.0007	0.0005
7783-60-0	Sulfur tetrafluoride (CL)	0.4	0.0027	0.002
2699-79-8	Sulfuryl fluoride	20	1.33	1
35400-43-2	Sulprofos	1	0.067	0.05
8065-48-3	Systox, see Demeton			
93-76-5	2,4,5-Trichlorophen-oxyacetic acid (2,4,5,-T)	10	0.667	0.05
7440-25-7	Tantalum	5	0.333	0.25
3689-24-5	TEDP, see Sulfotep			
13494-80-9	Tellurium & Compounds as Te	0.1	0.007	0.005
7783-80-4	Tellurium hexafluoride as Te	0.2	0.013	0.01
3383-96-8	Temephos	10	0.667	0.5
107-49-3	TEPP (Tetraethyl-pyrophosphate)	0.05	0.003	0.0025
26140-60-3	Terphenyls	4.7	0.313	0.235
1335-88-2	Tetrachloronaphthalene	2	0.133	0.10
78-00-2	Tetraethyl Lead	0.1	0.007	0.005
597-64-8	Tetraethyltin as organic tin	0.1	0.007	0.005
109-99-9	Tetrahydrofuran	590	39.3	29.5
75-74-1	Tetramethyl lead, as Pb	0.15	0.01	0.0075
3333-52-6	Tetramethyl succinonitrile	3	0.2	0.15
509-14-8	Tetranitromethane	8	0.533	0.4
7722-88-5	Tetrasodium pyrophosphate	5	0.333	0.25
479-45-8	Tetryl	1.5	0.1	0.075
7440-28-0	Thallium, soluble Compounds, as Tl	0.1	0.007	0.005
96-69-5	4,4-Thiobis (6 tert, butyl-m-cresol)	10	0.667	0.5
68-11-1	Thioglycolic acid	4	0.267	0.2
7719-09-7	Thionyl chloride (CL)	4.9	0.0327	0.245
137-26-8	Thiram	5	0.333	0.25
7440-31-5	Tin - Including:			
7440-31-5	Metal	2	0.133	0.1
NA	Oxide & inorganic compounds, except SnH ₄ , as Sn	2	0.133	0.1
NA	Organic compounds as Sn	0.1	0.007	0.005

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
108-88-3	Toluene (toluol)	375	25	18.75
584-84-9	Toluene-2,4-di-isocyanate (TDI)	0.04	0.003	0.002
10-41-54	p-Toluenesulfonic acid (ID)	n/a	0.067	0.05
126-73-8	Tributyl phosphate	2.2	0.147	0.11
76-03-9	Trichloroacetic acid	7	0.467	0.35
120-82-1	1,2,4-Trichlorobenzene (CL)	37	2.47	1.85
79-01-6	Trichloroethylene	269	17.93	13.45
1321-65-9	Trichloronaphthalene	5	0.333	0.25
76-06-2	Trichloronitromethane, See Chloropicrin			
95-95-4	2,4,5-Trichlorophenol (MA)	---	---	0.0016
96-18-4	1,2,3-Trichloropropane	60	4	3
121-44-8	Triethylamine	4.1	0.27	0.2
1582-09-8	Trifluralin (PL3)	---	7.7	1.15
552-30-7	Trimellitic anhydride	0.04	0.003	0.002
75-50-3	Trimethylamine	12	0.8	0.6
25551-13-7	Trimethyl benzene (mixed and individual isomers)	123	8.2	6.15
540-84-1	2,2,4-Trimethyl-pentane	350	23.3	17.5
121-45-9	Trimethyl phosphite	10	0.667	0.5
479-45-8	2,4,6-Trinitrophenyl-methylnitramine, see Tetryl			
78-30-8	Triorthocresyl phosphate	0.1	0.007	0.005
603-34-9	Triphenyl amine	5	0.333	0.25
115-86-6	Triphenyl phosphate	3	0.2	0.15
7440-33-7	Tungsten - Including:			
NA	Insoluble compounds	5	0.333	0.25
NA	Soluble compounds	1	0.067	0.05
8006-64-2	Turpentine	560	37.3	28
7440-61-1	Uranium (natural) Soluble & insoluble compounds as U	0.2	0.013	0.01
110-62-3	n-Valeraldehyde	175	11.7	8.75
1314-62-1	Vanadium, as V2O5 Respirable Dust & fume	0.05	0.003	0.0025
108-05-4	Vinyl acetate (ID)	0.2 35	2.3	1.75
25013-15-4	Vinyl toluene	240	16	12
8032-32-4	VM & P Naphtha	1370	91.3	68.5
81-81-2	Warfarin	0.1	0.007	0.005

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
1330-20-7	Xylene (o-, m-, p-isomers)	435	29	21.75
1477-55-0	m-Xylene a, a-diamine (CL)	0.1	0.0007	0.0005
1300-73-8	Xylidine	2.5	1.67	0.125
7440-65-5	Yttrium (Metal and compounds as Y)	1	0.067	0.05
7440-66-6	Zinc metal (ID)	--	0.667	0.5
7646-85-7	Zinc chloride fume	1	0.067	0.05
1314-13-2	Zinc oxide fume	5	0.333	0.05
1314-13-2	Zinc oxide dust	10	0.667	0.5
7440-67-7	Zirconium compounds as Zr	5	0.333	0.25

(4-7-11)()

586. TOXIC AIR POLLUTANTS CARCINOGENIC INCREMENTS.

The screening emissions levels (EL) and acceptable ambient concentrations (AACC) for carcinogens are as provided in the following table. The AACC in this section are annual averages.

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m ³
75-07-0	Acetaldehyde	2.2E-06	3.0E-03	4.5E-01
79-06-1	Acrylamide	1.3E-03	5.1E-06	7.7E-04
107-13-1	Acrylonitrile	6.8E-05	9.8E-05	1.5E-02
309-00-2	Aldrin	4.9E-03	1.3E-06	2.0E-04
62-53-3	Aniline	7.4E-06	9.0E-04	1.4E-01
140-57-8	Aramite	7.1E-06	9.3E-04	1.4E-01
NA	Aroclor, all (PCB) (ID)	---	6.6E-05	1.0E-02
7440-38-2	Arsenic compounds	4.3E-03	1.5E-06	2.3E-04
1332-21-4	Asbestos (Fibers /M.L.)	2.3E-01	N/A	4.0E-06
71-43-2	Benzene	8.3E-06	8.0E-04	1.2E-01
92-87-5	Benzidine	6.7E-02	9.9E-08	1.5E-05
50-32-8	Benzo(a)pyrene	3.3E-03	2.0E-06	3.0E-04
7440-41-7	Beryllium & compounds	2.4E-04	2.8E-05	4.2E-03
106-99-0	1,3-Butadiene	2.8E-04	2.4E-05	3.6E-03
111-44-4	Bis (2-chloroethyl) ether	3.3E-04	2.0E-05	3.0E-03
542-88-1	Bis (chloromethyl) ether	6.2E-02	1.0E-07	1.6E-05
108-60-1	Bis (2-chloro-1-methyl- ethyl) ether	2.0E-05	3.3E-04	5.0E-02
117-81-7	Bis (2-ethylhexyl) phthalate	2.4E-07	2.8E-02	4.2E+00

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
7440-43-9	Cadmium and compounds	1.8E-03	3.7E-06	5.6E-04
56-23-5	Carbon tetrachloride	1.5E-05	4.4E-04	6.7E-02
57-74-9	Chlordane	3.7E-04	1.8E-04	2.7E-03
67-66-3	Chloroform	2.3E-05	2.8E-04	4.3E-02
7440-47-3 18540-29-9	Chromium (VI) & compounds as Cr+6	1.2E-02	5.6E-07	8.3E-05
NA	Coal Tar Volatiles as benzene			
NA	Coke oven emissions	6.2E-04	1.1E-05	1.6E-03
8001-58-9	Creosote (ID) See coal tar volatiles as benzene extractables			
50-29-3	DDT (Dichlorodi phenyltrichloroethane)	9.7E-05	6.8E-05	1.0E-02
96-12-8	1,2-Dibromo-3-chloropropane	6.3E-03	1.0E-06	1.6E-04
75-34-3	1,1 dichloroethane	2.6E-05	2.5E-04	3.8E-02
107-06-2	1,2 dichloroethane	2.6E-05	2.5E-04	3.8E-02
75-35-4	1,1 dichloroethylene	5.0E-05	1.3E-04	2.0E-02
75-09-2	Dichloromethane (Methylenechloride)	4.1E-06	1.6E-03	2.4E-01
542-75-6	1,3 dichloropropene	3.5E-01	1.9E-07	2.9E-06
764-41-0	1,4-Dichloro-2-butene	2.6E-03	2.5E-06	3.8E-04
60-57-1	Dieldrin	4.6E-03	1.4E-06	2.1E-04
56-53-1	Diethylstilbestrol	1.4E-01	4.7E-08	7.1E-06
123-91-1	1,4 dioxane	1.4E-06	4.8E-03	7.1E-01
	Dioxin and Furans (2,3,7,8,TCDD & mixtures) Dioxin and Furan emissions shall be considered as one TAP and expressed as an equivalent emission of 2,3,7,8, TCDD based on the relative potency of the isomers in accordance with US EPA guidelines. Copies of EPA Interim procedures for estimating risks associated with exposures to mixtures of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs and CDFs). 1989 Updates are available by requesting EPA/625/3-89/016, March 1989 from ORD Publications (513) 684-7562. U.S. EPA (Environmental Protection Agency), (2010). Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds. Risk Assessment Forum, Washington, DC. EPA/600/R-10/005.			
122-66-7	1,2-Diphenylhydrazine	2.2E-04	3.0E-05	4.5E-03
106-89-8	Epichlorohydrin	1.2E-06	5.6E-03	8.3E-01
106-93-4	Ethylene dibromide	2.2E-04	3.0E-05	4.5E-03
75-21-8	Ethylene oxide	1.0E-04	6.7E-05	1.0E-02
50-00-0	Formaldehyde	1.3E-05	5.1E-04	7.7E-02
76-44-8	Heptachlor	1.3E-03	5.1E-06	7.7E-04
1024-57-3	Heptachlor Epoxide	2.6E-03	2.5E-06	3.5E-04

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
118-74-1	Hexachlorobenzene	4.9E-04	1.3E-05	2.0E-03
87-68-3	Hexachlorobutadiene	2.0E-05	3.3E-04	5.0E-02
	Hexachlorocyclo-hexane, Technical	5.1E-04	1.3E-05	1.9E-03
319-84-6	Hexachlorocyclohexane (Lindane) Alpha (BHC)	1.8E-03	3.7E-06	5.6E-04
319-86-8	alpha Hexachlorocyclohexane	1.8E-03	3.6E-05	5.6E-03
319-85-7	Hexachlorocyclohexane (Lindane) Beta (BHC)	5.3E-04	1.3E-05	1.8E-03
319-86-8	b-Hexachlorocyclohexane	5.3E-04	1.3E-06	1.9E-04
58-89-9	Hexachlorocyclohexane (Lindane) Gamma (BHC)	3.8E-04	1.7E-05	2.6E-03
67-72-1	Hexachloroethane	4.0E-06	1.7E-03	2.5E-01
301-01-2	Hydrazine	2.9E-03	2.3E-06	3.4E-04
302-01-2 10034-93-2	Hydrazine Sulfate	2.9E-03	2.2E-06	3.5E-04
56-49-5	3-methylcholanthrene	2.7E-03	2.5E-06	3.7E-04
75-09-2	Methylene Chloride	4.1E-06	1.6E-03	2.4E-01
74-87-3	Methyl chloride	3.6E-06	1.9E-03	2.8E-01
101-14-4	4,4-Methylene bis(2-Chloroaniline)	4.7E-05	1.4E-04	2.1E-02
60-34-4	Methyl hydrazine	3.1E-04	2.2E-05	3.2E-03
7440-02-0	Nickel	2.4E-04	2.7E-05	4.2E-03
12035-72-2	Nickel Subsulfide	4.8E-04	1.4E-05	2.1E-02
7440-02-0	Nickel Refinery Dust	2.4E-04	2.8E-05	4.2E-02
79-46-9	2-Nitropropane	2.7E-02	2.5E-07	3.7E-05
55-18-5	N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)	4.3E-02	1.5E-07	2.3E-05
62-75-9	N-Nitrosodimethylamine	1.4E-02	4.8E-07	7.1E-05
924-16-3	N-Nitrosodi-n-butylamine	1.6E-03	4.1E-06	6.3E-04
930-55-2	N-Nitrosopyrrolidine	6.1E-04	1.1E-05	1.6E-03
684-93-5	N-Nitroso-N-methylurea (NMU)	3.5E-01	1.9E-08	2.9E-06
794-93-4	Panfuran S (see dihydroxymethyl-furatrizine)			
82-68-8	Pentachloronitrobenzene	7.3E-05	9.1E-05	1.4E-02
127-18-4	Perchloroethylene (see tetrachloroethylene)			
NA	Polyaromatic Hydrocarbons (except 7-PAH group)	7.3E-05	9.1E-05	1.4E-02
	(Polycyclic Organic Matter or 7-PAH group) For emissions of the 7-PAH mixtures group , the following PAHs and shall be considered together as one TAP, equivalent in potency to benzo(a)pyrene: benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenzo(a,h)anthracene, chrysene, indeno(1,2,3,-cd)pyrene, benzo(a)pyrene. (WA)			
23950-58-5	Promanide	4.6E-06	1.5E-03	2.2E-01

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
50-55-5	Reserpine	3.0E-03	2.2E-06	3.3E-04
1746-01-6	2,3,7,8,-Tetrachlorodibenzo-p-dioxin (2,3,7,8, -TCDD)	4.5.E+01	1.5E-10	2.2E-08
NA	Soots and Tars (ID) See coal tar volatiles as benzene extractables.			
79-34-5	1,1,2,2,Tetrachloro-ethane	5.8E-05	1.1E-05	1.7E-02
127-18-4	Tetrachloroethylene	4.8E-07	1.3E-02	2.1E+00
79-00-5	1,1,2 - trichloroethane	1.6E-05	4.2E-04	6.2E-02
62-56-6	Thiourea	5.5E-04	1.2E-05	1.8E-03
8001-35-2	Toxaphene	3.2E-04	2.0E-05	3.0E-03
79-01-6	Trichloroethylene	1.3E-06	5.1E-04	7.7E-01
88-06-2	2,4,6 - Trichlorophenol	5.7E-06	1.2E-03	1.8E-01
75-01-4	Vinyl chloride	7.1E-06	9.4E-04	1.4E-01

(3-30-01)()

(BREAK IN CONTINUITY OF SECTIONS)

792. EMISSIONS STANDARDS FOR NONMETALLIC MINERAL PROCESSING PLANTS SUBJECT TO 40 CFR 60, SUBPART 000.

~~Owners and operators of nonmetallic mineral processing plants subject to a requirement of the New Source Performance Standards (NSPS) in 40 CFR 60, Subpart 000 shall comply with the emissions standards set forth in this section.~~ (3-15-02)

~~**01. NSPS Regulated Processing Plants.** Affected facilities in fixed or portable plants that commence construction, reconstruction, or modification after August 31, 1983, except that the standards do not apply to the following operations:~~ (3-15-02)

~~**a.** All facilities located in underground mines; and stand-alone screening operations at plants without crushers or grinding mills.~~ (3-15-02)

01. Applicability and Designation of Affected Facilities. The provisions of 40 CFR 60.670(a)(1) are applicable to the following affected facilities in fixed or portable nonmetallic mineral processing plants that commence construction, modification, or reconstruction after August 31, 1983: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, and enclosed truck or railcar loading station. Also, crushers and grinding mills at hot mix asphalt facilities that reduce the size of nonmetallic minerals embedded in recycled asphalt pavement and subsequent affected facilities up to, but not including the first storage silo or bin, are subject to the provisions of 40 CFR 60.670(a)(1). ()

02. Facilities Not Applicable to 40 CFR 60.670(a)(2), (b), and (c). The provisions of 40 CFR 60.670(a)(2), (b), and (c) do not apply to the following operations: all facilities located in underground mines, plants without crushers or grinding mills above ground, and wet processing operations (as defined in 40 CFR 60.671). ()

ba. An affected facility that is subject to the provisions of 40 CFR 60, Subpart F (Standards of

Performance for Portland Cement Plants) or Subpart I (Standards of Performance for Hot Mix Asphalt Plants) or that follows the in plant process any facility subject to the provisions of 40 CFR 60, Subparts F or I, is not subject to the provisions of 40 CFR 60, Subpart OOO. (3-15-02)()

~~e. Facilities with capacities as defined in 40 CFR 60.671 of: (3-15-02)~~

~~b. Facilities at the following plants are not subject to the provisions of 40 CFR 60, Subpart OOO: ()~~

~~i. Fixed sand and gravel plants and crushed stone plants with capacities, as defined in 40 CFR 60.671, of twenty-three (23) megagrams per hour (twenty-five (25) tons per hour) or less; (3-15-02)()~~

~~ii. Portable sand and gravel plants and crushed stone plants with capacities, as defined in 40 CFR 60.671, of one hundred thirty-six (136) megagrams per hour (one hundred fifty (150) tons per hour) or less; and (3-15-02)()~~

~~iii. Common clay plants and pumice plants with capacities, as defined in 40 CFR 60.671, of nine (9) megagrams per hour (ten (10) tons per hour) or less. (3-15-02)()~~

03. Standards of Performance for Nonmetallic Mineral Processing Plants. Affected facilities subject to 40 CFR 60, Subpart OOO, shall comply with all applicable emissions standards, monitoring requirements, test methods and procedures, and reporting and recordkeeping requirements. ()

~~02. Affected Facilities. The following components in fixed or portable nonmetallic mineral processing plants, except as provided in Subsections 792.01.a., 792.01.b., and 792.01.c. are defined as affected facilities under the 40 CFR 60, Subpart OOO requirements: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, and enclosed truck or railcar loading station. (3-15-02)~~

~~03. NSPS Particulate Matter Emissions Standards. The standard for particulate matter is set forth in 40 CFR 60.672, which states: (3-15-02)~~

~~a. On and after the date on which the performance test required to be conducted by 40 CFR 60.8 is completed, no owner or operator subject to the provisions of 40 CFR 60, Subpart OOO shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any stack emissions which: (3-15-02)~~

~~i. Contain particulate matter in excess of five one-hundredths (0.05) grams per dry standard cubic meter (G/dscm); and (3-15-02)~~

~~ii. Exhibit greater than seven percent (7%) opacity, unless the stack emissions are discharged from an affected facility using a wet scrubbing control device. Facilities using a wet scrubber must comply with the reporting provisions of 40 CFR 60.676 (e), (d), and (e). (3-15-02)~~

~~b. On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than one hundred eighty (180) days after initial startup as required under 40 CFR 60.11, no owner or operator subject to the provisions of 40 CFR Part 60, Subpart OOO shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any fugitive emissions which exhibit greater than ten percent (10%) opacity, except as provided in Subsections 792.03.e., 792.03.d. and 792.03.e. (3-15-02)~~

~~c. On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than one hundred eighty (180) days after initial startup as required under 40 CFR 60.11, no owner or operator shall cause to be discharged into the atmosphere from any crusher, at which a capture system is not used, fugitive emissions which exhibit greater than fifteen percent (15%) opacity. (3-15-02)~~

~~d. Truck dumping of nonmetallic minerals into any screening operation, feed hopper, or crusher is exempt from the requirements of this section. (3-15-02)~~

~~e. If any transfer point on a conveyor belt or any other affected facility is enclosed in a building, then each enclosed affected facility must comply with the emissions limits in Subsections 792.03.a., 792.03.b. and 792.03.c., or the building enclosing the affected facility or facilities must comply with the following emission limits: (3-15-02)~~

~~i. No owner or operator shall cause to be discharged into the atmosphere from any building enclosing any transfer point on a conveyor belt or any other affected facility any visible fugitive emissions except emissions from a vent as defined in 40 CFR 60.671. (3-15-02)~~

~~ii. No owner or operator shall cause to be discharged into the atmosphere from any vent of any building enclosing any transfer point on a conveyor belt or any other affected facility emissions which exceed the stack emissions limits in Subsection 792.03.a. (3-15-02)~~

~~f. On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than one hundred eighty (180) days after initial startup as required under 40 CFR 60.11, no owner or operator shall cause to be discharged into the atmosphere from any baghouse that controls emissions from only an individual, enclosed storage bin, stack emissions which exhibit greater than seven percent (7%) opacity. (3-15-02)~~

~~g. Owners or operators of multiple storage bins with combined stack emissions shall comply with the emission limits in Subsections 792.03.a.i. and 792.03.a.ii. of Section 792. (3-15-02)~~

~~h. On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than one hundred eighty (180) days after initial startup, no owner or operator shall cause to be discharged into the atmosphere any visible emissions from: (3-15-02)~~

~~i. Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to the next crusher, grinding mill or storage bin. (3-15-02)~~

~~ii. Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, where such screening operations, bucket elevators, and belt conveyors process saturated materials up to the first crusher, grinding mill, or storage bin in the production line. (3-15-02)~~

~~i. Opacity determinations for NSPS required emissions standards shall be in accordance with 40 CFR 60 as required in Subsection 625.04.c. (3-15-02)~~

~~04. **Visible Emissions Standards for Roads and Stockpiles.** Visible fugitive emissions from vehicle traffic on an affected paved public roadway; vehicle traffic on, or wind erosion of, an unpaved haul road; and wind erosion of any stockpile shall not exceed twenty percent (20%) opacity for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period. Opacity shall be determined using the test methods and procedures contained in Section 625. The plant is not required to have a certified opacity reader. (3-15-02)~~

~~05. **Performance Testing.** Performance testing shall be conducted in accordance with all applicable requirements set forth in 40 CFR 60, Subpart OOO. A written report of the results of the performance test shall be submitted to the Environmental Protection Agency (EPA) in accordance with 40 CFR 60 and a copy submitted to the Department. If performance testing has already been conducted, test documentation shall be kept at the site of operations or at another accessible location and shall be made available to Department representatives upon request. (3-15-02)~~

(BREAK IN CONTINUITY OF SECTIONS)

794. PERMIT REQUIREMENTS.

No owner or operator may commence construction, reconstruction, modification or operation of any source at a

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 shall comply with the permitting requirements of Subsection 794.01 or Subsection 794.02 and the applicable portions of Subsection 794.03 and/or Subsection 794.04. (3-15-02)()

01. Permit by Rule. Owners and operators of nonmetallic mineral processing plants that meet all of the applicable requirements set forth in Sections 795 through 799 shall be deemed to have a permit by rule (PBR) and shall not be required to obtain a permit to construct under Sections 200 through 228. (3-15-02)

02. 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 shall obtain a permit to construct pursuant to Sections 200 through 228. An existing permit to construct shall be considered valid until the permit is modified, incorporated into a Tier II operating permit, or terminated by the Department. Existing permits to construct may be terminated by the Department by registering the source under the permit by rule provisions in accordance with Section 797 after June 15, 2001. (3-15-02)

03. Tier I Operating Permits. Owners and operators of nonmetallic mineral processing plants that are affected facilities subject to a requirement of the New Source Performance Standards (NSPS) in 40 CFR 60 are Tier I sources as defined in Section 006. Tier I sources must comply with the applicable permitting requirements of Sections 300 through 399. (4-11-06)

04. 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 410 shall 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: (3-15-02)

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (3-15-02)

b. Specific emissions standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (3-15-02)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1202

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective June 6, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-116B, Idaho Code.

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

Tuesday, July 10, 2012 -- 3:30 p.m.

**Department of Environmental Quality
Conference Room B
1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to revise the minimum standards for the motor vehicle inspection and maintenance program. The temporary/proposed rule includes a provision allowing the governing authority to grant extensions for meeting emission testing requirements and eliminating the test and repair restrictions on licensed inspection stations.

Citizens of cities and counties subject to the vehicle emission testing requirements may be interested in commenting on this proposed rule. 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.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2012 for adoption of a pending rule. The pending rule is expected to become final and effective upon adjournment of the 2013 legislative session if adopted by the Board and approved by the Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit to the citizens of the state of Idaho. The temporary rule includes a provision allowing the governing authority to grant extensions for meeting emission testing requirements and eliminating the test and repair restrictions on licensed inspection stations.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking was not feasible due to the simple nature of this rulemaking.

IDAHO CODE § 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government nor is it more stringent than federal regulations. The Clean Air Act requires, in marginal ozone nonattainment areas, a vehicle inspection and maintenance program. This proposed rule is broader in scope than the federal law as it applies to sources in an area not yet designated nonattainment.

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 when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Martin Bauer at (208)373-0440, martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before July 10, 2012.

DATED this 4th day of May, 2012.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR DOCKET NO. 58-0101-1202**

517. MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM.

01. Purpose. The purpose of Sections 517 through 526~~7~~ is to set forth the minimum standards for a motor vehicle inspection and maintenance program, established pursuant to Section 39-116B, Idaho Code, for registered motor vehicles as defined in Section 49-123, Idaho Code. This program is designed to follow the basic inspection and maintenance program defined in 40 CFR 51.352. ~~(3-29-10)~~(6-6-12)T

02. Applicability. Sections 517 through 526~~7~~ apply only to the counties of Ada and Canyon and the cities of Boise, Eagle, Garden City, Meridian, Kuna, Star, Caldwell, Greenleaf, Melba, Middleton, Nampa, Notus, Parma, and Wilder. ~~(3-29-10)~~(6-6-12)T

03. Options. (3-29-10)

a. Section 39-116B, Idaho Code, provides the counties and cities listed in Subsection 517.02 with the following implementation options. The counties and cities may: (3-29-10)

i. Enter into a joint exercise of powers agreement with the Director to implement a motor vehicle inspection and maintenance program; or (3-29-10)

ii. Obtain Department approval to implement an alternative motor vehicle emissions control strategy that will result in emissions reductions equivalent to that of a motor vehicle inspection and maintenance program. (3-29-10)

b. If neither of the options listed in Subsection 517.03.a. are selected, the Department shall implement the motor vehicle inspection and maintenance program. (3-29-10)

04. Governing Authority. For the purpose of Sections 517 through 526~~7~~, governing authority means the governing entity responsible for the development and implementation of the motor vehicle inspection and maintenance program. The governing entity may be the counties and cities listed in Subsection 517.02 or the Department. The governing authority shall adopt Sections 517 through 526~~7~~ of these rules. ~~(3-29-10)~~(6-6-12)T

05. Exemptions. Sections 517 through 526~~7~~ do not apply to the following: ~~(3-29-10)~~(6-6-12)T

- a. Electric or hybrid motor vehicles; (3-29-10)
- b. Motor vehicles with a model year less than five (5) years old; (3-29-10)
- c. Motor vehicles with a model year older than 1981; (3-29-10)
- d. Classic automobiles as defined by Section 49-406A, Idaho Code; (3-29-10)
- e. Motor vehicles with a maximum vehicle gross weight of less than fifteen hundred (1500) pounds; (3-29-10)
- f. Motor vehicles registered as motor homes as defined by Section 49-114, Idaho Code; (3-29-10)
- g. Motorized farm equipment; and (3-29-10)
- h. Registered motor vehicles engaged solely in the business of agriculture. (3-29-10)

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

01. General. (3-29-10)

a. No person or enterprise shall in any manner represent any place as an inspection station or retest station unless such station is operated under a valid license issued by the governing authority. (3-29-10)

b. No license for any inspection station or retest station may be assigned, transferred or used by other than the original applicant for that specific station. (3-29-10)

02. Applications for License. Applications for license as an inspection station or retest station shall be made on the forms provided by the governing authority. No license shall be issued unless the governing authority finds that the facilities, tools and equipment of the applicant comply with the requirements set forth in Subsections 518.03 or 518.04. (3-29-10)

03. Requirements for Licensed Inspection Stations. In order to qualify for issuance and continuance of an inspection station license, an establishment must meet the following requirements: (3-29-10)

a. Must have a permanent location; (3-29-10)

~~b. Must sign a contract pledging the station will not make any emissions related adjustments or repairs on the vehicles it emissions tests; (3-29-10)~~

~~eb.~~ Must ensure that at least one employee, who has been issued an emissions technician license by the governing authority, is on duty at all times of station operation; (3-29-10)

~~dc.~~ Must demonstrate the ability to perform the emissions test and comply with reporting and recordkeeping requirements established by the governing authority; (3-29-10)

~~ed.~~ Must obtain and maintain in force appropriate business liability insurance; and (3-29-10)

~~fe.~~ Must have the tools, equipment and supplies, as required by the governing authority, available for

performance of the emissions test. (3-29-10)

04. Requirements for Licensed Retest Stations. In order to qualify for issuance and continuance of a retest station license, an establishment must meet the requirements listed in Subsection 518.03 ~~with the exception of Subsection 518.03.b.~~ ~~(3-29-10)~~ (6-6-12)T

05. Approval Procedure. (3-29-10)

a. Applications received by the governing authority will be reviewed for completeness and an inspection of the facility will be performed. An inspection report will be prepared for the governing authority's review. (3-29-10)

b. Stations which meet the requirements of Subsections 518.01 through 518.04 will be granted an inspection station license or retest station license and issued a station sign. The station sign and license shall be posted in a conspicuous place, readily visible to the public. The station sign and license shall remain the property of the governing authority. (3-29-10)

06. Revocation of Inspection Station or Retest Station License. The governing authority has the authority to issue warnings and suspend or revoke a station license upon a showing that emission tests are not being performed in accordance with these rules and any other specifications or procedures enacted by the governing authority. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

524. INSPECTION FEE.

The fee for a motor vehicle inspection, as established in Section 39-116B(2)(g), Idaho Code, shall not exceed twenty dollars (\$20) per vehicle. This fee is necessary to carry out the provisions of Sections 517 through 526~~7~~ and to fund an air quality public awareness and outreach program. ~~(3-29-10)~~ (6-6-12)T

(BREAK IN CONTINUITY OF SECTIONS)

527. EXTENSIONS.

The governing authority shall have the authority to grant extensions for vehicles or vehicle owners temporarily located outside of a testing area that cannot easily be returned to an area for testing. The extension shall not exceed one (1) year. For active duty military personnel and their families stationed outside the applicable testing area specified in Subsection 517.02, a time extension not to exceed the testing period is available. Military extensions shall be renewed with current military orders. (6-6-12)T

527~~8~~. -- 549. (RESERVED)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.23 - RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0123-1201

NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107 and 67-5206, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before June 21, 2012. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to make revisions to the Rules of Administrative Procedure Before the Board of Environmental Quality, 58.01.23, for consistency with the 2012 amendment to the Idaho Administrative Procedure Act (APA) enacted under Senate Bill 1366.

The proposed rule includes revisions to the following sections:

1. Sections 811 and 830. The current rule provides that if an agency determines that negotiated rulemaking is not feasible, the agency shall explain in a Notice of Intent to Promulgate Rules why negotiated rulemaking is not feasible. Senate Bill 1366 directs agencies to include the feasibility explanation in the Notice of Proposed Rulemaking. Sections 811 and 830 have been revised so that agencies would be required to include the feasibility explanation in the Notice of Proposed Rulemaking, rather than the Notice of Intent to Promulgate Rules.
2. Section 814. The current rule provides that parties of the negotiated rulemaking shall transmit a report to the agency stating whether or not consensus was reached. Senate Bill 1366 requires agencies to prepare a written summary of unresolved issues, key information considered, and conclusions reached during and as a result of the negotiated rulemaking. For consistency with the APA, Section 814 has been revised by replacing the "report" requirement with the "written summary" requirement set forth in Senate Bill 1366.

Citizens of the state of Idaho, environmental groups, and representatives of regulated industry having an interest in DEQ's rulemaking process may be interested in commenting on this proposed rule. 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.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2012 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2013 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking was not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to implementing Idaho Code provisions.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does regulate an activity not regulated by the federal government. The federal government does not regulate administrative procedures for the state of Idaho; therefore, the proposed rule revisions are not broader in scope or more stringent than federal law or regulations.

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.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before July 5, 2012.

DATED this 18th day of May, 2012.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NUMBER 58-0123-1201

811. PUBLICATION IN IDAHO ADMINISTRATIVE BULLETIN.

If the Department determines that informal, negotiated rulemaking is feasible, it shall publish in the Idaho Administrative Bulletin a notice of intent to promulgate a rule. If the Department determines that informal, negotiated rulemaking is not feasible, it shall proceed to formal rulemaking as provided in this chapter and explain in its notice of ~~intent to promulgate rules~~ proposed rulemaking why informal rulemaking is not feasible ~~and shall proceed to formal rulemaking as provided in this chapter~~. Reasons why the Department may find that informal, negotiated rulemaking is not feasible include, but are not limited to, the need for temporary rulemaking, the simple nature of the proposed rule change, the lack of identifiable representatives of affected interests, or determination that affected interests are not likely to reach a consensus on a proposed rule. The determination of the Department whether to use informal, negotiated rulemaking is not reviewable. (3-15-02)()

(BREAK IN CONTINUITY OF SECTIONS)

814. REPORTS TO THE DEPARTMENT NEGOTIATED RULEMAKING SUMMARY.

~~If the parties reach a consensus on a proposed rule, they shall transmit to the Department a report stating their consensus and, if appropriate, a draft of a proposed rule incorporating that consensus. If the parties are unable to reach a consensus on particular issues, they may transmit to the Department a report specifying those areas on which they reached consensus and those on which they did not, together with arguments for and against positions advocated by various participants. The participants or any individual participant may also include in a report any information, recommendations, or materials considered appropriate. The Department shall prepare a written summary of unresolved issues, key information considered and conclusions reached during and as a result of the negotiated rulemaking and make that summary available to persons who attended the negotiated rulemaking meetings.~~ The Department shall prepare a written summary of unresolved issues, key information considered and conclusions reached during and as a result of the negotiated rulemaking and make that summary available to persons who attended the negotiated rulemaking meetings. (3-15-02)()

815. DEPARTMENT CONSIDERATION OF REPORT CONSENSUS REACHED BY PARTIES.

The Department may accept in whole or in part or reject the consensus reached by the parties in publishing a proposed rule for notice and comment. (3-15-02)

816. -- 829. (RESERVED)

830. REQUIREMENTS FOR NOTICE OF PROPOSED RULEMAKING.

- 01. Content.** Every notice of proposed rulemaking shall include: (3-15-02)
- a.** A statement of the subject matter of the proposed rules; (3-15-02)
 - b.** A statement of the specific statutory authority for the proposed rules, including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking; (3-15-02)
 - c.** A statement in nontechnical terms of the substance of the proposed rules, and, if the Department intends to take oral testimony on the proposed rule, the location, date and time of the oral presentations; (3-15-02)
 - d.** A statement whether the Department intends to conduct oral presentations concerning the proposed rules, and, if not, what persons must do in order to request an oral presentation; (3-15-02)
 - e.** The address to which written submissions concerning the proposed rules must be mailed; (3-15-02)
 - f.** The name and telephone number of an Department contact to whom questions about the proposed rules may be referred; (3-15-02)
 - g.** The deadline for written comment on the proposed rules and for asking for an opportunity for an oral presentation concerning the proposed rules; (3-15-02)
 - h.** ~~A statement whether negotiated rulemaking has been conducted, and if not, why not~~ If negotiated rulemaking was not conducted, an explanation of the agency's determination that negotiated rulemaking was not feasible; (3-15-02)()
 - i.** A summary of the proposed rules; and (3-15-02)
 - j.** The name, mailing address and telephone number of an Department contact person for the rulemaking. (3-15-02)
- 02. Availability of Information.** This information will be published in the Idaho Administrative Bulletin and be available directly from the Department. The notice of proposed rulemaking must be accompanied by a document showing the text of the proposed rule in legislative format. (3-15-02)

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the latest publication of the state Administrative Bulletin.

*The written comment submission deadline is June 27, 2012 unless otherwise listed.
(Temp & Prop) indicates the rule is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 08 - STATE BOARD OF EDUCATION

P.O. Box 83720, Boise, ID 83720-0037

08-0203-1201, Rules Governing Thoroughness. (Temp & Prop) Amends rule to specify that the State Board of Education recognizes students who are home schooled in Idaho as having received a secondary education.

IDAPA 28 - DEPARTMENT OF COMMERCE

P.O. Box 83720, Boise, ID 83720-0093

28-0206-1201, Idaho Small Business Federal Funding Assistance Act Rules. (Temp & Prop) New chapter provides for the administration of state grants to be used as incentive funding for Idaho companies that commit private resources toward the development of federal funding proposals for attracting federal grants.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

1410 N. Hilton, Boise, ID 83706-1255

58.01.01 - Rules for the Control of Air Pollution in Idaho

***58-0101-1201, (*PH)** Updates the rule for consistency with federal regulations, clarification, and typographical corrections to certain air quality permitting rule sections, related definitions, and the toxic air pollutant sections. Comment by: 7/10/12

***58-0101-1202, (Temp & Prop) (*PH)** Revises the minimum standards for the motor vehicle inspection and maintenance programs; allows the governing authority to grant extensions to meet emission testing requirements; and eliminates test and repair restrictions on licensed inspection stations. Comment by: 7/10/12

58-0123-1201, Rules of Administrative Procedure Before the Board of Environmental Quality. Conforms rule to statutory changes to the Administrative Procedure Act regarding negotiated rulemaking. Comment by: 7/5/12

THE FOLLOWING TEMPORARY RULES HAVE BEEN AMENDED

Department of Administration

38-0406-1201, Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities (eff. 5/14/12)

38-0408-1201, Rules Governing Use of Idaho State Capitol Exterior (eff. 5/14/12)

NOTICE OF SCHEDULED NEGOTIATED RULEMAKING MEETINGS

Department of Agriculture

02-0602-1201, Rules Pertaining to the Idaho Commercial Feed Law

Division of Building Safety

07-0301-1201, Rules of Building Safety

Department of Health and Welfare

16-0309-1204, Medicaid Basic Plan Benefits

16-0310-1203, Medicaid Enhanced Plan Benefits

Department of Lands

20-0201-1201, Rules Pertaining to the Idaho Forest Practices Act

20-0314-1201, Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases

State Tax Commission

35-0101-1201, Income Tax Administrative Rules

35-0102-1201, Idaho Sales and Use Tax Administrative Rules

35-0103-1203, Property Tax Administrative Rules

Please refer to the Idaho Administrative Bulletin, [June 6, 2012, Volume 12-6](#), for the notices and text of all rulemakings, public hearings schedules, information on negotiated rulemakings, executive orders of the Governor, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at adminrules.idaho.gov.

Office of the Administrative Rules Coordinator, Dept. of Administration, PO Box 83720, Boise, ID 83720-0306
Phone: 208-332-1820; Fax: 332-1896; Email: rulescoordinator@adm.idaho.gov

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Idaho Department of Administration
Office of the Administrative Rules Coordinator*

July 1, 1993 -- Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*This online index provides a history of all agency rulemakings from 1993 to the present.
It tracks all rulemaking activities on each chapter of rules and includes negotiated,
temporary, proposed, pending and final rules, public hearing notices,
vacated rulemaking notices, and executive orders of the Governor.*

ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Idaho Department of Administration
Office of the Administrative Rules Coordinator*

March 29, 2012 -- June 6, 2012

*(eff. *PLR) - Final Rule Adoption Date Pending Legislative Review And Approval*

(eff. date)L - Denotes Adoption by Legislative Action

(eff. date)T - Temporary Rule Effective Date

SCR # - denotes the number of a Senate Concurrent Resolution (Legislative Action)

HCR # - denotes the number of a House Concurrent Resolution (Legislative Action)

*(This Abridged Index includes rules promulgated before March 29, 2012 that have not been
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11-0201-1201 Temporary Rulemaking (Fee Rule), Bulletin Vol. 12-3 (eff. 2-1-12)T

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11-0501-1101 Temporary Rulemaking, Bulletin Vol. 11-7 (eff. 7-6-11)T

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- 38-0408-1201** Temporary Rulemaking, Bulletin Vol. 12-5 (eff. 4-17-12)T
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- 59-0103-1201** Temporary Rule, Bulletin Vol. 12-3 (eff. 12-6-11)T

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