

## **IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **Air Quality Division**

#### **58.01.01 – Rules for the Control of Air Pollution in Idaho**

##### **To whom does this rule apply?**

*This rule applies to the general public and businesses that emit air pollution.*

##### **What is the purpose of this rule?**

*This rule provides for the control of air pollution in Idaho.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

Health and Safety -

Environmental Quality:

- [Section 39-105, Idaho Code](#) – Powers and Duties of the Director
- [Section 39-107, Idaho Code](#) – Board-Composition – Officers – Compensation – Powers – Subpoena – Depositions – Review - Rules
- [Section 39-114\(4\), Idaho Code](#) – Open Burning of Crop Residue
- [Section 39-115\(3\), Idaho Code](#) – Pollution Source Permits
- [Section 39-116B, Idaho Code](#) – Vehicle Inspection and Maintenance Program

##### **Who do I contact for more information on this rule?**

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## 58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

### 000. LEGAL AUTHORITY.

The Board of Environmental Quality is authorized to promulgate rules for the Department of Environmental Quality governing air pollution pursuant to Sections 39-105, 39-107, 39-114, and 39-115, Idaho Code. (3-28-23)

### 001. TITLE AND SCOPE.

These rules are titled IDAPA 58.01.01, Rules of the Department of Environmental Quality, IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho” and provide for the control of air pollution in Idaho. (3-28-23)

### 002. WRITTEN INTERPRETATIONS.

The Department of Environmental Quality has written statements that pertain to the interpretation of or compliance with these rules at 1410 N. Hilton, Boise, Idaho, the Department regional offices, and <https://www.deq.idaho.gov>. (3-28-23)

### 003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.” (3-28-23)

### 004. (RESERVED)

### 005. DEFINITIONS.

Definitions in federal statute, federal regulation, and Idaho Code are incorporated by reference unless otherwise listed below. The terms “air contaminant or contamination,” “air pollution,” “board,” “department,” “director,” “emission,” and “person” have the meaning provided for those terms in [Section 39-103, Idaho Code](#). (3-28-23)

### 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. (3-28-23)

**02. Actual Emissions.** The actual rate of emissions of a pollutant from an emissions unit as determined below: (3-28-23)

**a.** Actual emissions as of a particular date equal the average rate, in tons per year, at which the unit emitted the pollutant during a consecutive 24-month period that precedes the particular date and is representative of normal source operation. The Department will allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions must be calculated using the unit’s actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. (3-28-23)

**b.** The Department may presume that the source-specific allowable emissions for the unit are equivalent to actual emissions of the unit. (3-28-23)

**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 equal the potential to emit of the unit on that date. (3-28-23)

**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 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. (3-28-23)

**03. Air Quality.** The specific measurement in the ambient air of a particular air pollutant at any given time. (3-28-23)

**04. 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 that restrict the operating rate, or hours of operation, or both) and the most stringent of the following: (3-28-23)



- a. The applicable standards set forth in 40 CFR Parts 60, 61, and 63. (3-28-23)
- b. Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or (3-28-23)
- c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date. (3-28-23)
- 05. Ambient Air.** That portion of the atmosphere, external to buildings, to which the general public has access. (3-28-23)
- 06. 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. (3-28-23)
- 07. 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. (3-28-23)
- 08. Commence Construction or Modification.** Initiation of physical on-site construction activities on an emissions unit that are permanent. Such activities include, but are not limited to, fabrication, erection, installation, or modification of a stationary source or facility, 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, that mark the initiation of the change. (3-28-23)
- 09. Control Equipment.** Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (3-28-23)
- 10. 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. (3-28-23)
- 11. Criteria Air Pollutant.** Any of the following: PM10; PM2.5; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. (3-28-23)
- 12. 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. (3-28-23)
- 13. 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. (3-28-23)
- 14. Emissions Unit.** An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. (3-28-23)
- 15. 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 has 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 limits remediation projects to five (5) years or less of total operation. (3-28-23)
- 16. 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. (3-28-23)
- 17. Facility.** All of the pollutant-emitting activities that 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 are 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 are not considered in determining whether a permit is required unless required by federal law. (3-28-23)

**18. Federal Land Manager.** The Secretary of the department with authority over the Federal Class I Area (or the Secretary's designee). (3-28-23)

**19. 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. (3-28-23)

**20. Fuel-Burning Equipment.** Any furnace, boiler, or other apparatus, including all stacks and appurtenances thereto, that burns fuel for the primary purpose of producing heat or power by indirect heat transfer. (3-28-23)

**21. Fugitive Dust.** Fugitive emissions composed of particulate matter. (3-28-23)

**22. Fugitive Emissions.** Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (3-28-23)

**23. Gasoline.** Any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motorboats. 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, which is defined as fuel suitable 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. (3-28-23)

**24. Gasoline Cargo Tank.** Any tank or trailer used for the transport of gasoline from sources of supply to underground gasoline storage tanks. (3-28-23)

**25. Gasoline Dispensing Facility (GDF).** Any facility with underground gasoline storage tanks used for dispensing gasoline. (3-28-23)

**26. 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. (3-28-23)

**27. 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. (3-28-23)

**28. 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. (3-28-23)

**29. Mandatory Class I Federal Area.** Any area identified in 40 CFR 81.400 through 81.437. (3-28-23)

**30. Mercury Best Available Control Technology (MBACT).** An emission standard for mercury (including elemental mercury and mercury compounds) based on the maximum degree of reduction practically achievable as specified by the Department on an individual case-by-case basis considering energy, economic and environmental impacts, and other relevant impacts specific to the source. A Department approved MBACT is 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 is not triggered if 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 will be subject to a new MBACT review. (3-28-23)

**31. Modification.** (3-28-23)

**a.** Any physical change in, or change in the method of operation of, a stationary source or facility that results in an emission increase as defined in Section 007 or that would result in the emission of any regulated air pollutant not previously emitted. (3-28-23)

**b.** Any physical change in, or change in the method of operation of, a stationary source or facility that would result 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. (3-28-23)

**c.** Fugitive emissions are not considered in determining whether a permit is required for a modification unless required by federal law. (3-28-23)

**d.** Routine maintenance, repair and replacement are not considered physical changes and the following are not considered a change in the method of operation: (3-28-23)

**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; (3-28-23)

**ii.** An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (3-28-23)

**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. (3-28-23)

**32. National Ambient Air Quality Standard (NAAQS).** National primary and secondary ambient air quality standards under Section 109 of the Clean Air Act (CAA) are set forth in 40 CFR Part 50 and incorporated by reference in Section 107. Primary standards define levels of air quality that EPA has determined, with an adequate margin of safety, to protect public health. Secondary standards define levels of air quality necessary to protect public welfare from any known or anticipated adverse effects of a pollutant. Pollutants subject to a NAAQS are termed criteria pollutants. Geographic areas are designated as unclassifiable, attainment, or nonattainment of the NAAQS. Section 110 of the CAA and 40 CFR Parts 51 and 52, incorporated by reference in Section 107, requires states to submit state implementation plans to meet, attain, and maintain the NAAQS. (3-28-23)

**33. New Stationary Source or Facility.** (3-28-23)

**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 (3-28-23)

**b.** The restart of a non-operating facility is considered a new stationary source or facility if: (3-28-23)

**i.** The restart involves a modification to the facility; or (3-28-23)

**ii.** If after the facility has been in a non-operating 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 non-operating facility, then the Department will, within five (5) working days of receipt of the application notify the facility of receipt of the application for a Permit to Construct. To not be considered a new stationary source or facility within thirty (30) working days upon receipt of this notification, the facility must 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. (3-28-23)

**34. 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. (3-28-23)

**35. Particulate Matter.** Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. Emissions are measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157. PM10 is all particulate matter in the ambient air with an aerodynamic diameter less than or equal to ten (10) micrometers. PM2.5 is all particulate matter in the ambient air with an aerodynamic diameter less than or equal to two point five (2.5) micrometers. (3-28-23)

**36. 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, is 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. (3-28-23)

**37. Portable Equipment.** Equipment designed to be dismantled and transported from one (1) job site to another. (3-28-23)

**38. 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. (3-28-23)

**39. Regulated Air Pollutant.** (3-28-23)

**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” has 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; (3-28-23)

**b.** For purposes of determining applicability of any other operating permit requirements, issuing, and modifying permits pursuant to Sections 400 through 409, the federal definition of “regulated air pollutant” as defined in Subsection 006.39.a. also applies; (3-28-23)

**c.** For purposes of determining applicability of permit to construct requirements, issuing, and modifying permits pursuant to Sections 200 through 227, 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” means 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 (3-28-23)

**d.** For purposes of determining applicability of any other major or minor permit to construct requirements, issuing, and modifying permits pursuant to 200 through 227, except Section 214, “regulated air pollutant” means 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. (3-28-23)

**40. Replicable.** Any SIP procedures for applying emission trading must be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. (3-28-23)

**41. Responsible Official.** One (1) of the following: (3-28-23)

**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: (3-28-23)

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 (3-28-23)

ii. The delegation of authority to such representative is approved in advance by the Department. (3-28-23)

**b.** For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (3-28-23)

**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). (3-28-23)

**d.** For Phase II sources: (3-28-23)

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 (3-28-23)

ii. The designated representative for any other purposes under 40 CFR Part 70. (3-28-23)

**42. Secondary Emissions.** Emissions that 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 that causes the secondary emissions. Secondary emissions include emissions from any offsite support facility that 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 that come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (3-28-23)

**43. 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: (3-28-23)

**a.** Criteria Pollutant Significant emission rate.

Criteria Pollutant	Emission Rate (tons/year)
CO	100
NO <sub>x</sub>	40
SO <sub>2</sub>	40
Ozone as NO <sub>x</sub>	40
Ozone as VOC	40
PM	25
PM <sub>10</sub>	15
PM <sub>2.5</sub>	10
PM <sub>2.5</sub> as SO <sub>2</sub>	40
PM <sub>2.5</sub> as NO <sub>x</sub>	40
Pb	0.6

Criteria Pollutant	Emission Rate (tons/year)
Any regulated air pollutant not listed in this definition.	Greater than 0

(3-28-23)

b. Non criteria pollutant significant emission rate.

Non-Criteria Pollutant	Emission Rate (tons/year)
H2S	10
TRS (including H2S)	10
Reduced sulfur compounds (including H2S)	10
H2SO4 mist	7
Fluorides	3
Any regulated pollutant not listed in this definition and not a TAP	Greater than zero

(3-28-23)

c. Other pollutants with a significant emission rate.

Other	Measured as	Emission rate (tons/year)
Municipal waste combustor organics	total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans	$3.5 \times 10^{-6}$
Municipal waste combustor metals	Particulate matter	15
Municipal waste combustor acid gases	SO <sub>2</sub> and hydrogen chloride	40
Municipal solid waste landfills	Nonmethane organic compounds	50
Any new or modified major source within 10 kilometers of a Class I area	Any regulated air pollutant	Any rate or net increase with a 24-hour impact of $\geq 1 \mu\text{g}/\text{m}^3$

(3-28-23)

44. **Significant Contribution.** Any increase in ambient concentrations which would exceed the following:

Pollutant	Annual	Averaging time (hours)			
		24	8	3	1
SO <sub>2</sub>	1.0 $\mu\text{g}/\text{m}^3$	5 $\mu\text{g}/\text{m}^3$		25 $\mu\text{g}/\text{m}^3$	
PM <sub>10</sub>	1.0 $\mu\text{g}/\text{m}^3$	5 $\mu\text{g}/\text{m}^3$			
PM <sub>2.5</sub>	0.3 $\mu\text{g}/\text{m}^3$	1.2 $\mu\text{g}/\text{m}^3$			
NO <sub>2</sub>	1.0 $\mu\text{g}/\text{m}^3$				
CO			0.5 $\text{mg}/\text{m}^3$		2 $\text{mg}/\text{m}^3$

- (3-28-23)
45. **Source.** A stationary source. (3-28-23)
46. **Source Operation.** The last operation preceding the emission of air pollutants when this operation: (3-28-23)
- 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 (3-28-23)
- b. Is not an air cleaning device. (3-28-23)
47. **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. (3-28-23)
48. **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. (3-28-23)
49. **Tier I Source.** Any of the following: (3-28-23)
- a. Any source located at any major facility as defined in Section 008; (3-28-23)
- 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; (3-28-23)
- 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); (3-28-23)
- d. Any Phase II source; and (3-28-23)
- e. Any source in a source category designated by the Department. (3-28-23)
50. **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. (3-28-23)
51. **TRS (Total Reduced Sulfur).** Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (3-28-23)
52. **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. (3-28-23)
53. **Uncontrolled Emission.** An emission which has not been treated by control equipment. (3-28-23)
- 007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 228 AND 400 THROUGH 461.**
01. **Agricultural Activities and Services.** For the purposes of Subsection 222.02.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. (3-28-23)
02. **Baseline Actual Emissions.** The rate of emissions, in tons per year, of a regulated air pollutant as determined by the following provisions: (3-28-23)

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

**05. Projected Actual Emissions.** (3-28-23)

**a.** The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated air pollutant in any one (1) of the five (5) years (twelve (12) month period) following the date the unit resumes regular operation after the project, or in any one (1) of the ten (10) years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated air pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at an existing major stationary source. (3-28-23)

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

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

**ii.** Shall include fugitive emissions to the extent quantifiable and emissions associated with startups,

shutdowns, and malfunctions; and (3-28-23)

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

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

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

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

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

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

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

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

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

**02. Allowance.** An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (3-28-23)

**03. Applicable Requirement.** All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (3-28-23)

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (3-28-23)

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (3-28-23)

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

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

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

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128; (3-28-23)

- g.** Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (3-28-23)
- h.** Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (3-28-23)
- i.** Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (3-28-23)
- j.** Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 336. (3-28-23)

**04. Designated Representative.** A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (3-28-23)

**05. Draft Permit.** The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (3-28-23)

**06. Final Permit.** The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (3-28-23)

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

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

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

**i.** Ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station must not be aggregated with emissions from other similar emission units within the facility; or (3-28-23)

**ii.** Twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station must not be aggregated with emissions from other similar emission units within the facility. (3-28-23)

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

**i.** A “serious” particulate matter (PM10 or PM2.5) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM10 or PM2.5; (3-28-23)

**ii.** A “serious” carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide; (3-28-23)

**iii.** An ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds; or (3-28-23)

**iv.** An ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided

that oxides of nitrogen are not included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is “marginal” or “moderate,” one hundred (100) tpy or more, if the area is “serious,” fifty (50) tpy or more, if the area is “severe,” twenty-five (25) tpy or more, and if the area is “extreme,” ten (10) tpy or more. (3-28-23)

**c.** The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant. The fugitive emissions are not considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (3-28-23)

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

**ii.** All other source categories regulated by 40 CFR Part 60, 61 or 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (3-28-23)

**009. DEFINITIONS FOR THE PURPOSES OF 40 CFR PARTS 60, 61, AND 63.**

Notwithstanding the definitions listed in Sections 006 through 008, the definitions in 40 CFR Parts 60, 61, and 63 will have the meaning given in those Parts, except that the term “Administrator” means “Department.” (3-28-23)

**010. -- 106. (RESERVED)**

**107. INCORPORATIONS BY REFERENCE.**

**01. General.** Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 constitutes the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (3-28-23)

**02. Availability of Referenced Material.** Copies of the documents incorporated by reference into these rules are available at the following locations: (3-28-23)

**a.** All federal publications: U.S. Government Printing Office at <http://www.ecfr.gov/cgi-bin/ECFR>; and; (3-28-23)

**b.** Statutes of the state of Idaho: <http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm>; and (3-28-23)

**c.** All documents herein incorporated by reference: (3-28-23)

**i.** Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at [www.deq.idaho.gov](http://www.deq.idaho.gov). (3-28-23)

**ii.** State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051 at [www.isll.idaho.gov](http://www.isll.idaho.gov). (3-28-23)

**03. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: (3-28-23)

**a.** Requirements for Preparation, Adoption, and Submittal of Implementation Plans, [40 CFR Part 51](#) revised as of July 1, 2022. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, are excluded from incorporation except 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules. (3-28-23)

**b.** National Primary and Secondary Ambient Air Quality Standards, [40 CFR Part 50](#), revised as of July 1, 2022. (3-28-23)

- c.** Approval and Promulgation of Implementation Plans, [40 CFR Part 52](#), Subparts A and N and Appendices D and E, revised as of July 1, 2022. (3-28-23)
- 2022. **d.** Ambient Air Monitoring Reference and Equivalent Methods, [40 CFR Part 53](#), revised as of July 1, (3-28-23)
- e.** Ambient Air Quality Surveillance, [40 CFR Part 58](#), revised as of July 1, 2022. (3-28-23)
- f.** Standards of Performance for New Stationary Sources, [40 CFR Part 60](#), revised as of July 1, 2022. (3-28-23)
- 2022. **g.** National Emission Standards for Hazardous Air Pollutants, [40 CFR Part 61](#), revised as of July 1, (3-28-23)
- h.** Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008, [40 CFR Part 62, Subpart HHH](#), revised as of July 1, 2022. (3-28-23)
- i.** Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014, [40 CFR Part 62, Subpart OOO](#), revised as of July 1, 2022. (3-28-23)
- j.** National Emission Standards for Hazardous Air Pollutants for Source Categories, [40 CFR Part 63](#), revised as of July 1, 2022. (3-28-23)
- k.** Compliance Assurance Monitoring, [40 CFR Part 64](#), revised as of July 1, 2022. (3-28-23)
- l.** State Operating Permit Programs, [40 CFR Part 70](#), revised as of July 1, 2022. (3-28-23)
- m.** Permits, [40 CFR Part 72](#), revised as of July 1, 2022. (3-28-23)
- n.** Sulfur Dioxide Allowance System, [40 CFR Part 73](#), revised as of July 1, 2022. (3-28-23)
- o.** Protection of Stratospheric Ozone, [40 CFR Part 82](#), revised as of July 1, 2022. (3-28-23)
- p.** Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-28-23)

**108. OBLIGATION TO COMPLY.**

Receiving a permit to construct, a Tier I operating permit, a Tier II operating permit, a Permit by Rule, or a Certificate of Registration for portable equipment does not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal statutes, rules and regulations. (3-28-23)

**109. -- 120. (RESERVED)**

**121. COMPLIANCE REQUIREMENTS BY DEPARTMENT.**

Any person engaged in an activity that may violate the air quality provisions of the Act, violate an air quality order issued or entered in accordance with the Act or these rules, or violate any of these rules, may be required by the Department to do any of the following: (3-28-23)

- 01. Schedule.** Prepare a proposed schedule whereby the unlawful activity will be brought into compliance over a specified period of time. (3-28-23)
- 02. Report.** Submit periodic reports to the Department indicating progress in achieving compliance. (3-28-23)
- 03. Records.** Submit, keep and maintain appropriate records. (3-28-23)
- 04. Monitoring.** Monitor air pollutants at the source, in the ambient air, or in vegetation to demonstrate

compliance. (3-28-23)

**05. Episode Plans.** Develop emergency episode plans to help prevent ambient air pollution concentrations from reaching levels which would cause substantial endangerment to health or the environment. (3-28-23)

**122. INFORMATION ORDERS BY THE DEPARTMENT.**

The Department may issue information orders as follows: (3-28-23)

- 01. Purpose.** For the purpose of: (3-28-23)
- a.** Developing or assisting in the development of any implementation plan, any standard of performance, any emission standard or any rule; (3-28-23)
  - b.** Determining whether any person is in violation of any standard of performance, any emission standard, any implementation plan or any rule; or (3-28-23)
  - c.** Carrying out any air quality provisions of the Act, any air quality order issued or entered in accordance with the Act or rules, or any of these rules. (3-28-23)

- 02. Persons.** The Department may issue an information order to any person who: (3-28-23)
- a.** Owns or operates any emission source; (3-28-23)
  - b.** Manufactures emission control equipment; (3-28-23)
  - c.** The Department believes may have information necessary to meet the intent of these rules; or (3-28-23)
  - d.** Is subject to any requirement of these rules. (3-28-23)

- 03. Procedures.** The information order may require the following on a one-time, periodic or continuous basis: (3-28-23)
- a.** Establish, maintain and submit records; (3-28-23)
  - b.** Make reports; (3-28-23)
  - c.** Install, use, and maintain monitoring equipment, and use audit procedures or methods; (3-28-23)
  - d.** Sample emissions in accordance with procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Department prescribes; (3-28-23)
  - e.** Keep records on control equipment parameters, production variables or other indirect data when the Department determines that direct monitoring of emissions is impractical; (3-28-23)
  - f.** Submit compliance certifications including: (3-28-23)
    - i.** Identification of the applicable requirement that is the basis of the certification; (3-28-23)
    - ii.** The method(s) or other means used by the owner or operator for determining the compliance status for each applicable requirement, and whether such methods or other means provide continuous or intermittent data; and (3-28-23)
    - iii.** The status of compliance with each applicable requirement, based on the method or means designated in Subsection 122.03.f.ii. The certification must identify each deviation and take it into account in the compliance certification. The certification must also identify, as possible exceptions to compliance, any periods

during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and (3-28-23)

g. Provide such other information as the Department may require. (3-28-23)

**123. CERTIFICATION OF DOCUMENTS.**

All documents, including but not limited to, application forms for permits to construct, application forms for operating permits, progress reports, records, monitoring data, supporting information, requests for confidential treatment, testing reports or compliance certifications submitted to the Department must contain a certification by a responsible official. The certification must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. (3-28-23)

**124. (RESERVED)**

**125. FALSE STATEMENTS.**

Persons are prohibited from knowingly making any false statement, representation, or certification in any form, notice, or report required under any permit, or any applicable rule or order in force pursuant thereto. (3-28-23)

**126. TAMPERING.**

Persons are prohibited from knowingly interfering with any monitoring device or method required under any permit, or any applicable rule or order in force pursuant thereto. (3-28-23)

**127. (RESERVED)**

**128. CONFIDENTIAL INFORMATION.**

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code and Section 39-111, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records." If the information for which the person is requesting confidential treatment is submitted to the Department under Sections 300 through 386 or the terms or conditions of a Tier I operating permit, the person must also submit the same information directly to the EPA. (3-28-23)

**129. (RESERVED)**

**130. STARTUP, SHUTDOWN, SCHEDULED MAINTENANCE, SAFETY MEASURES, UPSET AND BREAKDOWN.**

Sections 130 through 136 establish procedures to be implemented in all excess emissions events and establish criteria to be applied by the Department in determining whether to take enforcement action to impose penalties for an excess emissions event where the excess emissions are caused by startup, shutdown, scheduled maintenance, upset, or breakdown of any emissions unit or that occur as a direct result of the implementation of any safety measure. Startup is defined as 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. Shutdown is defined as 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. Upset is defined as an unplanned disruption in the normal operations of any equipment or emissions unit that may cause excess emissions. Breakdown is defined as an unplanned failure of any equipment or emissions unit that may cause excess emissions. Scheduled maintenance is defined as 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. Safety measure is defined as 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. (3-28-23)

**131. EXCESS EMISSIONS.**

**01. Applicability.** The owner or operator of a facility or emissions unit generating excess emissions must comply with Sections 131, 132, 133.01, 134.01, 134.02, 134.03, 135, and 136, as applicable. If the owner or

operator anticipates requesting consideration under Subsection 131.02, then the owner or operator must also comply with the applicable provisions of Subsections 133.02, 133.03, 134.04, and 134.05. (3-28-23)

**02. Enforcement Action Criteria.** Where an excess emissions event occurs as a direct result of startup, shutdown, or scheduled maintenance, or an unavoidable upset or unavoidable breakdown, or the implementation of a safety measure, the Department will consider the sufficiency of the information submitted and the following criteria to determine if an enforcement action to impose penalties is warranted: (3-28-23)

**a.** Whether prior to the excess emissions event, the owner or operator submitted and implemented procedures pursuant to Subsections 133.02 and 133.03 or Subsections 134.04 and 134.05, as applicable; (3-28-23)

**b.** Whether the owner or operator complied with all relevant portions of Subsections 131, 132, 133.01, 134.01, 134.02, 134.03, 135, and 136; (3-28-23)

**c.** Whether the excess emissions event was part of a recurring pattern of excess emissions events indicative of inadequate design, operation or maintenance of the facility or emissions unit; and (3-28-23)

**d.** Where appropriate, whether the excess emissions event was caused by an activity necessary to prevent loss of life, personal injury or severe property damage. (3-28-23)

**03. Effect of Determination.** Any decision by the Department under Subsection 131.02 will not excuse the owner or operator from compliance with the relevant emission standard and will not preclude the Department from taking an enforcement action to enjoin the activity causing the excess emissions. Any decision made by the Department under Subsection 131.02 does not preclude the Department from taking an enforcement action for future or other excess emission events. The affirmative defense for emergencies under Section 332 may be applied in addition to the provisions of Sections 130 through 136. (3-28-23)

### **132. CORRECTION OF CONDITION.**

The person responsible for, or in charge of a facility during, an excess emissions event must, with all practicable speed, initiate and complete appropriate and reasonable action to correct the conditions causing such excess emissions event; to reduce the frequency of occurrence of such events; to minimize the amount by which the emission standard is exceeded; and must, as provided below or upon request of the Department, submit a full report of such occurrence, including a statement of all known causes, and of the scheduling and nature of the actions to be taken. (3-28-23)

### **133. STARTUP, SHUTDOWN AND SCHEDULED MAINTENANCE REQUIREMENTS.**

The requirements in Subsection 133.01 apply in all cases where startup, shutdown, or scheduled maintenance of any equipment or emissions unit is expected to result or results in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions must demonstrate compliance with all of the requirements of Subsection 133.01, as well as the development and implementation of procedures pursuant to Subsections 133.02 and 133.03 as a prerequisite to any consideration under Subsection 131.02. (3-28-23)

**01. General Provisions.** The following pertains to all startup, shutdown, and scheduled maintenance activities expected to result or resulting in excess emissions. The owner or operator of a source of excess emissions must: (3-28-23)

**a.** Ensure that no scheduled startup, shutdown, or maintenance resulting in excess emissions occurs during any period in which an Air Quality Advisory has been declared by the Department within an area designated by the Department as a PM10 nonattainment area, unless the permittee demonstrates that such is reasonably necessary to facility operations and cannot be reasonably avoided and the Department approves such activity in advance, to the extent advance approval by the Department is feasible. This prohibition on scheduled startup, shutdown or maintenance activities during Advisories does not apply to situations where shutdown is necessitated by urgent situations, such as imminent equipment failure, power curtailment, worker safety concerns or similar situations. (3-28-23)

**b.** Notify the Department of any startup, shutdown, or scheduled maintenance event that is expected to cause an excess emissions event. Such notification must identify the time of the excess emissions, specific



location, equipment involved, and type of excess emissions event (i.e. startup, shutdown, or scheduled maintenance). The notification must be given as soon as reasonably possible, but no later than two (2) hours prior to the start of the excess emissions event unless the owner or operator demonstrates to the Department's satisfaction that a shorter advanced notice was necessary. The Department may prohibit or postpone any scheduled startup, shutdown, or maintenance activity upon consideration of the factors listed in Subsection 134.03; (3-28-23)

**c.** Report and record the information required pursuant to Sections 135 and 136 for each excess emissions event due to startup, shutdown, or scheduled maintenance and (3-28-23)

**d.** Make the maximum reasonable effort, including off-shift labor where practicable to accomplish maintenance during periods of nonoperation of any related source operations or equipment. (3-28-23)

**02. Excess Emissions Procedures.** For all equipment or emissions unit from which excess emissions may occur during startup, shutdown, or scheduled maintenance, the facility owner or operator must prepare, implement and file with the Department specific procedures that will be used to minimize excess emissions during such events. Specific information for each of the types of excess emissions events (i.e. startup, shutdown and scheduled maintenance) must be established or documented for each piece of equipment or emissions unit and must include all of the following (which may be based upon the facility owner or operator's knowledge of the process or emissions where measured data is unavailable). (3-28-23)

**a.** Identification of the specific equipment or emissions unit and the type of event anticipated. (3-28-23)

**b.** Identification of the specific emissions in excess of applicable emission standards during the startup, shutdown, or scheduled maintenance period. (3-28-23)

**c.** The estimated amount of excess emissions expected to be released during each event. (3-28-23)

**d.** The expected duration of each excess emissions event. (3-28-23)

**e.** An explanation of why the excess emissions are reasonably unavoidable for each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance). (3-28-23)

**f.** Specification of the frequency at which each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance) are expected to occur. (3-28-23)

**g.** For scheduled maintenance, the owner or operator must also document detailed explanations of: (3-28-23)

**i.** Why the maintenance is needed; (3-28-23)

**ii.** Why it is impractical to reduce or cease operation of the equipment or emissions unit during the scheduled maintenance period; (3-28-23)

**iii.** Why the excess emissions are not reasonably avoidable through better scheduling of the maintenance or through better operation and maintenance practices; and (3-28-23)

**iv.** Why, where applicable, it is necessary to by-pass, take offline, or operate equipment or emissions unit at reduced efficiency while the maintenance is being performed. (3-28-23)

**h.** Justification to explain why the piece of equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the excess emissions that occur during startup, shutdown, and scheduled maintenance. (3-28-23)

**i.** Detailed specification of the procedures to be followed by the owner or operator that will minimize excess emissions at all times during startup, shutdown, and scheduled maintenance. These procedures may include such measures as preheating or otherwise conditioning the emissions unit prior to its use or the application of

auxiliary equipment or emissions unit to reduce the excess emissions. (3-28-23)

**03. Amendments.** The owner or operator must amend, and the Department may require amendments to, the procedures established pursuant to Section 133 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (3-28-23)

**04. Filing Procedures.** (3-28-23)

**a.** Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 133.02 is not a violation of these rules. (3-28-23)

**b.** To the extent procedures or plans for excess emissions resulting from startup, shutdown, or scheduled maintenance are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, fulfills the requirement under this Section to file plans and procedures with the Department. (3-28-23)

**134. UPSET, BREAKDOWN AND SAFETY REQUIREMENTS.**

The requirements in Subsections 134.01, 134.02, and 134.03 apply in all cases where upset or breakdown of equipment or an emissions unit, or the initiation of safety measures, result or may result in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions must demonstrate compliance with all of the requirements of Subsections 134.01, 134.02 and 134.03 as well as the development and implementation of procedures pursuant to Subsections 134.04 and 134.05 as a prerequisite to any consideration under Subsection 131.02. Where the owner or operator demonstrates that because of the unforeseeable nature of the excess emissions event it is impractical to develop procedures pursuant to Subsection 134.04, the Department will exercise its enforcement discretion on a case-by-case basis. (3-28-23)

**01. Routine Maintenance and Repairs.** For all equipment or emissions units from which excess emissions may occur during upset conditions or breakdowns or implementation of safety measures, the facility owner or operator must: (3-28-23)

**a.** Implement routine preventative maintenance and operating procedures consistent with good pollution control practices for minimizing upsets and breakdowns or events requiring implementation of safety measures, and (3-28-23)

**b.** Make routine repairs in an expeditious fashion when the owner or operator knew or should have known that an excess emissions event was likely to occur. Off-shift labor and overtime must be utilized, to the extent practicable, to ensure that such repairs are made expeditiously. (3-28-23)

**02. Excess Emissions Minimization and Notification.** For all equipment or emissions units from which excess emissions result during upset or breakdown conditions, or for other situations that may necessitate the implementation of safety measures which cause excess emissions, the facility owner or operator must: (3-28-23)

**a.** Immediately undertake all appropriate measures to reduce and, to the extent possible, eliminate excess emissions resulting from the event and to minimize the impact of such excess emissions on the ambient air quality and public health; (3-28-23)

**b.** Notify the Department of any upset/breakdown/safety event that results in excess emissions. Such notification must identify the time, specific location, equipment or emissions unit involved, and (to the extent known) the cause(s) of the occurrence. The notification must be given as soon as reasonably possible, but no later than twenty-four (24) hours after the event, unless the owner or operator demonstrates to the Department's satisfaction that the longer reporting period was necessary; and (3-28-23)

**c.** Report and record the information required pursuant to Sections 135 and 136 for each excess emissions event caused by an upset, breakdown, or safety measure. (3-28-23)

**03. Discretionary Reduction or Cessation Provisions.** During any period of excess emissions caused by upset, breakdown, or operation under facility safety measures, the Department may require the owner or operator

to immediately reduce or cease operation of the equipment or emissions unit causing the excess emissions until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department will be taken upon consideration of the following factors and after consultation with the facility owner or operator: (3-28-23)

- a. Potential risk to the public or the environment. (3-28-23)
- b. Whether ceasing operations could result in physical damage to the equipment, emissions unit or facility, or cause injury to employees. (3-28-23)
- c. Whether continued excess emissions were reasonably unavoidable as determined by the Department. (3-28-23)
- d. The effect of the increase in pollution resulting from the shutdown and subsequent restart of the equipment or emissions unit or facility. (3-28-23)
- e. The owner or operator is not required to reduce or cease operations at the entire facility if reducing or ceasing operations at a portion of the facility eliminates or adequately reduces the excess emissions. (3-28-23)

**04. Procedures.** For equipment or emissions units and process upsets and breakdowns and situations that require implementation of safety measures, events that can reasonably be anticipated to occur periodically but that cannot be reasonably avoided or predicted with certainty, the owner or operator must prepare, implement, and file with the Department specific procedures that will be used to minimize such events and excess emissions during such events. To the extent possible and reasonably practicable (and based upon knowledge of the process or emissions where measured data is not available), specify the following information for each type of anticipated upset/breakdown/safety event: (3-28-23)

- a. The specific air pollution control equipment or emissions unit and the type of event anticipated. (3-28-23)
- b. The specific emissions in excess of applicable emission standards during the event. (3-28-23)
- c. The estimated amount of excess emissions expected to be released during each event. (3-28-23)
- d. The expected duration of each excess emissions event. (3-28-23)
- e. An explanation of why the excess emissions are reasonably unavoidable. (3-28-23)
- f. The frequency of the type of event, based on historic occurrences. (3-28-23)
- g. Justification to explain why the piece of control equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the particular type of event. (3-28-23)
- h. Detailed specification of the procedures to be followed by the owner or operator that will minimize excess emissions at all times during such events, including without limitation those procedures listed under Subsection 134.05. (3-28-23)

**05. Amendments to Procedures.** The owner or operator must amend, and the Department may require amendments to, the procedures established pursuant to Section 134 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (3-28-23)

**06. Filing Procedures.** (3-28-23)

- a. Failure to follow procedures filed with the Department does not preclude the Department from making a determination under Subsection 131.02 if the owner or operator demonstrates to the Department's satisfaction that alternate and equivalent procedures were used and were necessitated by the exigency of the circumstances. (3-28-23)

b. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 134.04 is not a violation of these rules in and of itself. (3-28-23)

c. To the extent procedures or plans for excess emissions resulting from upsets, breakdowns or safety measures are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, fulfills the requirement under this Section to file plans and procedures with the Department. (3-28-23)

**135. EXCESS EMISSIONS REPORTS.**

**01. Submission Deadline.** A written report for each excess emissions event must be submitted to the Department by the owner or operator no later than fifteen (15) days after the beginning of each such event. (3-28-23)

**02. Report Contents.** Each report must contain the following information: (3-28-23)

a. The time period during which the excess emissions occurred; (3-28-23)

b. Identification of the specific equipment or emissions unit that caused the excess emissions; (3-28-23)

c. An explanation of the cause, or causes, of the excess emissions and whether the excess emissions occurred as a result of startup, shutdown, scheduled maintenance, upset, breakdown or a safety measure; (3-28-23)

d. An estimate of the emissions in excess of any applicable emission standard (based on knowledge of the process and facility where emissions data is unavailable); (3-28-23)

e. A description of the activities carried out to eliminate the excess emissions; and (3-28-23)

f. Certify compliance status with the requirements of Sections 131, 132, 133.01, 134.01 through 134.03, 135, and 136. (3-28-23)

g. If requesting consideration under Subsection 131.02, certify compliance status with Sections 131, 132, 133.01 through 133.03, 134.01 through 134.05, 135, and 136. (3-28-23)

**136. EXCESS EMISSIONS RECORDS.**

**01. Record Retention.** The owner or operator must maintain excess emissions records at the facility for the most recent five (5) calendar year period. (3-28-23)

**02. Record Availability.** The excess emissions records must be made available to the Department upon request. (3-28-23)

**03. Record Contents.** The excess emissions records must include the following: (3-28-23)

a. An excess emissions logbook for each emissions unit or piece of equipment containing copies of all reports that have been submitted to the Department pursuant to Section 135 for the particular emissions unit or equipment; and (3-28-23)

b. Copies of all startup, shutdown, and scheduled maintenance procedures and upset/breakdown/safety preventative maintenance plans which have been developed by the owner or operator in accordance with Sections 133 and 134, and facility records as necessary to demonstrate compliance with such procedures and plans. (3-28-23)

**137. -- 154. (RESERVED)**

**155. CIRCUMVENTION.**

No person may willfully cause or permit the installation or use of any device or use of any means that conceals emissions of pollutants that would otherwise violate the provisions of this chapter without resulting in a reduction in the total amount of emissions. (3-28-23)

**156. TOTAL COMPLIANCE.**

Where more than one (1) section of these rules applies to a particular situation, all such rules must be met for total compliance, unless otherwise provided for in these rules. (3-28-23)

**157. TEST METHODS AND PROCEDURES.**

This section establishes procedures and requirements for test methods and results unless otherwise specified in these rules, permit, order, consent decree, or prior written approval by the Department: (3-28-23)

**01. General Requirements.** If a source test is performed to satisfy a performance test requirement or a compliance test requirement imposed by state or federal regulation, rule, permit, order or consent decree, then the test methods and procedures must be conducted in accordance with the requirements of this section. (3-28-23)

**a.** Prior to conducting any emission test, owners or operators are encouraged to submit to the Department in writing, at least thirty (30) days in advance, the following for approval: (3-28-23)

- i. The type of method to be used; (3-28-23)
- ii. Any extenuating or unusual circumstances regarding the proposed test; and (3-28-23)
- iii. The proposed schedule for conducting and reporting the test. (3-28-23)

**b.** Without prior Department approval, any alternative testing is conducted solely at the owner's or operator's risk. If the owner or operator fails to obtain prior written approval by the Department for any testing deviations, the Department may determine the test does not satisfy the testing requirements. (3-28-23)

**02. Test Requirements.** Tests must be conducted in accordance with the following requirements. (3-28-23)

**a.** The test must be conducted under operational conditions specified in the applicable state or federal regulation, rule, permit, order, consent decree or by Department approval. If the operational requirements are not specified, the source must test at worst-case normal operating conditions. Worst-case normal conditions are those conditions of fuel type, and moisture, process material makeup and moisture and process procedures that are changeable or that could reasonably be expected to be encountered during the operation of the facility and that would result in the highest pollutant emissions from the facility. (3-28-23)

**b.** The Department may impose operational limitations or require additional testing in a permit, order or consent decree if the test is conducted under conditions other than worst-case normal. (3-28-23)

**c.** The Department will accept the methods approved for the applicable pollutants, source type and operating conditions found in 40 CFR Parts 51, 60, 61, and 63 in determining the appropriate test method for an emission limit where one is not otherwise specified. (3-28-23)

**d.** The following requirements apply to owners or operators requesting minor changes in the test method. (3-28-23)

i. For federal emission standards codified at 40 CFR Parts 60, 61, and 63, the Department will accept those minor changes that have received written approval of the U.S. EPA Administrator if the Department determines they are appropriate for the specific application. (3-28-23)

ii. For all other emission standards in these rules or for permit requirements, the Department will accept those minor changes that the Department determines are appropriate for the specific application. (3-28-23)

**e.** An owner or operator proposing to use an alternative test method not considered a minor change in

Subsection 157.02.d. above, must: (3-28-23)

i. Demonstrate to the Department by comparative testing or sufficient analysis, that the alternative method is comparable and equivalent to the designated test method. (3-28-23)

ii. Submit the request for approval to use an alternative test method to the Department at least thirty (30) days in advance of a scheduled test. (3-28-23)

iii. Obtain, and submit to the Department, EPA approval for use of the alternative test method for emission standards in these rules (except for state only toxic air pollutant standards) or for federal emission standards codified at 40 CFR Parts 60, 61, and 63. (3-28-23)

iv. Obtain verification that any prior approval of an alternative test method by the Department continues to be acceptable. Alternative methods may cease to be acceptable if new or different information indicates that the alternative test method is less accurate, less reliable, or not comparable with any current state or federal regulation, rule order, permit, or consent decree. (3-28-23)

f. Prior approval by the Department may not constitute Department approval for subsequent tests if new or different information indicates that a previously Department approved test method is less accurate, less reliable or not comparable with any current state or federal regulation, rule, order, permit or consent decree. (3-28-23)

**03. Observation of Tests by Department Staff.** The owner or operator must provide notice of intent to test to the Department at least fifteen (15) days prior to the scheduled test, or shorter time period as provided in a permit, order, consent decree or by Department approval. The Department may, at its option, have an observer present at any emissions tests conducted on a source. (3-28-23)

**04. Reporting Requirements.** If the source test is performed to satisfy a performance test requirement imposed by state or federal regulation, rule, permit, order, or consent decree, a written report must: (3-28-23)

a. Be submitted to the Department within sixty (60) days of the completion of field sample collection; (3-28-23)

b. Meet the format and content requirements specified by the Department in any applicable rule, regulation, guidance, permit, order, or consent decree. Any deviations from the format and contents specified require prior written approval from the Department. Failure to obtain such approval may result in the rejection of the test results; and (3-28-23)

c. Include all data required to be noted or recorded in any referenced test method. (3-28-23)

**05. Test Results Review Criteria.** The Department will make every effort to review test results within a reasonable time. The Department may reject tests as invalid for: (3-28-23)

a. Failure to adhere to the approved/required method; (3-28-23)

b. Using a method inappropriate for the source type or operating conditions; (3-28-23)

c. An incomplete written report; (3-28-23)

d. Computational or data entry errors; (3-28-23)

e. Clearly unreasonable results; (3-28-23)

f. Failure to comply with the certification requirements of Section 123; or (3-28-23)

g. Failure of the source to conform to operational requirements in orders, permits, or consent decrees at the time of the test. (3-28-23)

**158. -- 160. (RESERVED)**

**161. TOXIC AIR POLLUTANTS.**

Any contaminant that is by its nature toxic to human or animal life or vegetation must not be emitted in such quantities or concentrations as to alone, or in combination with other contaminants, injure or unreasonably affect human or animal life or vegetation. (3-28-23)

**162. --163. (RESERVED)**

**164. POLYCHLORINATED BIPHENYLS (PCBS).**

**01. Prohibition on Burning.** Burning any material containing greater than five (5) parts per million of polychlorinated biphenyls (PCBs) is prohibited, except for incineration for the purpose of disposal. Incineration for disposal must comply with the following provisions: (3-28-23)

**a.** No person may commence construction or modification of a PCB incinerator without a permit issued according to Sections 200 through 225. (3-28-23)

**b.** The Department will provide opportunity for public comments prior to a final decision for a permit to construct or modify a new PCB incinerator. (3-28-23)

**c.** A permit issued according to Sections 200 through 225 for construction or modification of a PCB incinerator will require, as a minimum, best available control technology and monitoring instrumentation. (3-28-23)

**02. Prohibition on Sales.** No person may sell, distribute or provide any materials containing greater than five (5) parts per million PCBs for home or commercial heating equipment. (3-28-23)

**165. -- 174. (RESERVED)**

**175. PROCEDURES AND REQUIREMENTS FOR PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.**

Sections 176 through 181 establish uniform procedures to obtain a Facility Emissions Cap (FEC) for stationary sources or facilities (hereinafter referred to as facility or facilities). A permit establishing a FEC will be issued pursuant to Sections 200 through 227 or Sections 400 through 409. (3-28-23)

**176. FACILITY EMISSIONS CAP.**

**01. Optional Facility Emissions Cap.** An owner or operator of a facility may request a FEC to establish an enforceable facility-wide emission limitation. (3-28-23)

**02. Applicability.** (3-28-23)

**a.** The owner or operator of any facility, which is not a major facility as defined in Sections 204 or 205, may apply to the Department for a permit to establish a FEC. (3-28-23)

**b.** FECs are available for new and existing facilities that are not major as defined in Section 204 or 205 or existing facilities undergoing a modification that does not make the facility a major facility as defined in Section 204 or 205. (3-28-23)

**c.** Facilities that become major facilities as defined in Section 204 or 205 are no longer eligible for a FEC under Section 176. (3-28-23)

**03. Definitions.** For the purposes of Sections 175 through 181, the following terms are defined as below. (3-28-23)

**a.** Baseline actual emissions. As defined in Section 007. (3-28-23)

- b.** Design concentration. The ambient concentration used in establishing the FEC. (3-28-23)
- c.** Facility emissions cap (FEC). A facility-wide emission limitation expressed in tons per year, for any criteria pollutant or hazardous air pollutant established in accordance with Sections 176 through 181. A FEC is calculated using baseline actual emissions plus an operational variability component and a growth component. A FEC, which is defined in tons per year on a twelve (12) month rolling basis, must be set below major facility thresholds as defined in Sections 204 and 205. (3-28-23)
- d.** FEC pollutant. The pollutant for which a FEC is established. (3-28-23)
- e.** Growth component. The level of emissions requested by the applicant and approved by the Department to allow for potential future business growth or facility changes that may increase emissions above baseline actual emissions plus the operational variability component. (3-28-23)
- f.** Operational variability component. The level of emissions up to the significant emission rate (SER) minus one (1) ton per year but no more than the facility's potential to emit (PTE). If the proposed FEC pollutant does not have a SER listed in Section 006 or has a SER less than or equal to ten (10) tons per year, the operational variability component is the level of emissions requested by the applicant and approved by the Department. The operational variability component cannot be more than the facility's PTE. (3-28-23)

**177. APPLICATION PROCEDURES.**

In addition to the information required pursuant to Sections 202 or 402, whichever is applicable, applications requesting a FEC must include the information required under Sections 176 through 181 and Subsections 177.01 through 177.03. (3-28-23)

**01. Estimates of Emissions.** A proposed FEC for each pollutant requested by the facility, including the basis for calculating the FEC. (3-28-23)

**02. Estimates of Ambient Concentrations.** (3-28-23)

**a.** Estimates of ambient concentrations will be determined as described in Subsection 202.02. (3-28-23)

**b.** Estimates of ambient concentrations may include projections of alternative future changes within the proposed FEC. (3-28-23)

**c.** For a new, existing, or modified facility, a demonstration that for each FEC pollutant, the FEC will not cause or significantly contribute to a violation of any ambient air quality standard. (3-28-23)

**d.** For renewal of terms and conditions establishing a FEC, it is presumed that the previous permitting analysis is satisfactory, unless the Department determines otherwise. (3-28-23)

**03. Monitoring and Recordkeeping.** The application must include proposed means for the facility to determine facility emissions on a rolling twelve (12) month consecutive basis. (3-28-23)

**178. STANDARD CONTENTS OF PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.**

In addition to the elements required by Sections 203 and 211 or Sections 403 and 405, whichever is applicable, the Department has the authority to impose, implement and enforce the terms in Subsections 178.01 through 178.05 and conditions establishing a FEC. (3-28-23)

**01. Emission Limitations and Standards.** All permits establishing use of a FEC will contain annual facility wide emissions limitations for each FEC pollutant. (3-28-23)

**02. Monitoring.** All permits establishing a FEC will contain sufficient monitoring to ensure compliance with the FEC on a rolling twelve (12) month consecutive basis. (3-28-23)



- 03. Recordkeeping.** All permits establishing a FEC will include the following: (3-28-23)
- a.** Sufficient recordkeeping to assure compliance with the FEC. (3-28-23)
  - b.** Retention of required monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes, but is not limited to, calibration and maintenance records and original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit. (3-28-23)
- 04. Reporting.** All permits establishing a FEC will include the following: (3-28-23)
- a.** Sufficient reporting to assure compliance with the permit establishing the FEC. (3-28-23)
  - b.** Submittal of an annual report each year on or before the anniversary date of permit issuance. All required reports must be certified in accordance with Section 123. (3-28-23)
- 05. Duration.** Each permit establishing a FEC will state that the terms and conditions establishing the FEC are effective for a fixed term of five (5) years. (3-28-23)

**179. PROCEDURES FOR ISSUING PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.**

- 01. General Procedures.** Procedures for issuing permits establishing a FEC will follow Sections 209 or 404, whichever is applicable. (3-28-23)
- 02. Renewal.** The renewal of the terms and conditions establishing a FEC are subject to the same procedural requirements for issuing permits (Subsection 179.01) and Subsections 179.02.a. through 179.02.d.: (3-28-23)
- a.** The permittee must submit a complete application to the Department for a renewal of the terms and conditions establishing the FEC at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing permit. To ensure that the term of the permit does not expire before the terms and conditions are renewed, the permittee is encouraged to submit the application nine (9) months prior to expiration. (3-28-23)
  - b.** If a timely and complete application for a renewal of the terms and conditions establishing the FEC is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit remain in effect until the renewal permit has been issued or denied. (3-28-23)
  - c.** Expiration of the terms and conditions establishing a FEC may be grounds to terminate the facility's right to operate pursuant to Sections 176 through 181, unless a timely and complete renewal application has been submitted. (3-28-23)
  - d.** On renewal, the Department may adjust a FEC with an unused growth component in accordance with the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. (3-28-23)
- 03. Reopening the FEC.** The Department may reopen a FEC to: (3-28-23)
- a.** Reduce the FEC to reflect newly applicable federal requirements' compliance dates after the issuance of the permit establishing the FEC. (3-28-23)
  - b.** Reduce the FEC consistent with any other requirement that is enforceable as a practical matter, and that the state may impose on the facility under the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. (3-28-23)
- 04. FEC Termination.** The Department may approve a revision of a permit establishing a FEC to terminate the FEC, provided the permittee complies with Subsections 209.04 or 404.04, as applicable, and

Subsections 179.04.a. through 179.04.c.: (3-28-23)

**a.** The permittee may request a revision of the permit establishing the FEC to terminate the FEC at any time prior to the expiration of the permit. The permittee is encouraged to submit an application for a permit to construct or Tier I operating permit, as applicable, six (6) months prior to the time the permittee wishes to terminate the FEC. (3-28-23)

**b.** The FEC established in the permit remains in effect until the Department issues a new permit to construct or Tier I operating permit, as applicable. (3-28-23)

**c.** Nothing in Section 179 prohibits a permittee from requesting a permit revision to terminate the FEC during the permit renewal process. (3-28-23)

**180. REVISIONS TO PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.**

Section 180 requires revisions to terms and conditions establishing a FEC. The permittee is exempt from Sections 200 through 227 unless the permittee chooses to use those rules to process any change to the permit, except as provided in Subsection 180.02. (3-28-23)

**01. Criteria.** A permit revision is required for the following: (3-28-23)

**a.** A change to existing monitoring, reporting or recordkeeping requirements in the permit establishing the FEC; (3-28-23)

**b.** A change to the FEC; or (3-28-23)

**c.** A change to the facility that would impose new requirements not included in the permit establishing the FEC. (3-28-23)

**02. Permit Revision Application Procedures.** A permittee may initiate a permit revision by submitting a permit revision application to the Department or by complying with other applicable sections (Sections 200 or 400). For revision of terms and conditions establishing the FEC, it is presumed that the previous permitting analysis is satisfactory unless the Department determines otherwise. A permit revision application must: (3-28-23)

**a.** Meet the standard application requirements of Section 177; (3-28-23)

**b.** Describe the proposed permit revision; (3-28-23)

**c.** Describe and quantify the change in emissions above the FEC permit limit; and (3-28-23)

**d.** Identify new requirements resulting from the change. (3-28-23)

**03. Permit Revisions.** The Department will process permit revisions pursuant to Section 209 or Section 404. (3-28-23)

**181. NOTICE AND RECORD-KEEPING OF ESTIMATES OF AMBIENT CONCENTRATIONS.**

Section 181 authorizes facility changes that comply with the terms and conditions establishing the FEC, but that are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC. No permit revision is required for facility changes implemented in accordance with Section 181. (3-28-23)

**01. Notice.** For facility changes that comply with the terms and conditions establishing the FEC but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee must review the estimate of ambient concentration analysis. (3-28-23)

**a.** In the event that the facility change would result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC but does not cause or significantly contribute to a violation to any ambient air quality standard, the permittee must provide notice to the Department in accordance with Subsection 181.01.b. (3-28-23)

**b.** Notice procedures. The permittee may make a facility change under Section 181 if the permittee provides written notification to the Department so that the notification is received at least seven (7) days in advance of the proposed change or, in the event of an emergency, the permittee provides the notification so that it is received at least twenty-four (24) hours in advance of the proposed change. For each such change, the written notification must: (3-28-23)

- i. Describe the proposed change; (3-28-23)
- ii. Describe and quantify expected emissions; and (3-28-23)
- iii. Provide the estimated ambient concentration analysis. (3-28-23)

**02. Recordkeeping.** For facility changes that comply with the terms and conditions establishing the FEC but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee must review the estimate of ambient concentration analysis. In the event the facility change would not result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee must record and maintain documentation on-site of the review. (3-28-23)

**03. Estimates of Ambient Concentrations.** Estimates of ambient concentrations must be determined during the term of this permit using the same model and model parameters as used with the estimate of ambient concentration analysis approved for the permit establishing the FEC. The permittee must include any changes to the facility that are not included in the originally approved estimate of ambient concentration analysis. (3-28-23)

**182. -- 199. (RESERVED)**

**200. PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT.**

Sections 200 through 227 establish uniform procedures and requirements for the issuance of "Permits to Construct." As used throughout Sections 200 through 227 and 578 through 581, major facility is defined as major stationary source in 40 CFR 52.21(b) and 40 CFR 51.165, incorporated by reference in Section 107, and major modification is defined as in 40 CFR 52.21(b) and 40 CFR 51.165, incorporated by reference in Section 107. These CFR sections have been codified in the electronic CFR which is available at <https://www.ecfr.gov/current/title-40>. (3-28-23)

**201. PERMIT TO CONSTRUCT REQUIRED.**

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

**202. APPLICATION PROCEDURES.**

Application for a permit to construct must be made using forms furnished by the Department, or by other means approved by the Department. The application must be certified by the responsible official in accordance with Section 123 and be accompanied by all information necessary to perform any analysis or make any determination required under Sections 200 through 227. (3-28-23)

**01. Required Information.** Depending upon the proposed size and location of the new or modified stationary source or facility, the application for a permit to construct must include all the information required by one or more of the following provisions: (3-28-23)

- a.** For any new or modified stationary source or facility: (3-28-23)
  - i. Site information, plans, descriptions, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. (3-28-23)

- ii. A schedule for construction of the stationary source, facility, or modification. (3-28-23)
- b.** For any new major facility or major modification in a nonattainment area that would be major for the nonattainment regulated air pollutant(s): (3-28-23)
  - i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the lowest achievable emission rate would be applied. (3-28-23)
  - ii. A description of the emission offsets proposed for the new major facility or major modification, including information on the stationary sources, mobile sources, or facilities providing the offsets, emission estimates, and other information necessary to determine that a net air quality benefit would result. (3-28-23)
  - iii. Certification that all other facilities in Idaho, owned or operated by (or under common ownership of) the proposed new major facility or major modification, are in compliance with all local, state or federal requirements or are on a schedule for compliance. (3-28-23)
  - iv. An analysis of alternative sites, sizes, production processes, and environmental control techniques that demonstrates that the benefits of the proposed major facility or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. (3-28-23)
  - v. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would impact (including the monitoring of visibility in any Class I area near the new major facility or major modification, if requested by the Department). (3-28-23)
- c.** For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. (3-28-23)
  - i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the best available control technology would be applied. (3-28-23)
  - ii. An analysis of the effect on air quality by the new major facility or major modification, including meteorological and topographical data necessary to estimate such effects. (3-28-23)
  - iii. An analysis of the effect on air quality projected for the area as a result of general commercial, residential, industrial, and other growth associated with the new major facility or major modification. (3-28-23)
  - iv. A description of the nature, extent, and air quality effects of any or all general commercial, residential, industrial, and other growth that has occurred since August 7, 1977, in the area the new major facility or major modification would affect. (3-28-23)
  - v. An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new major facility or major modification and general commercial, residential, industrial, and other growth associated with establishment of the new major facility or major modification. The owner or operator need not provide an analysis of the impact on vegetation or soils having no significant commercial or recreational value. (3-28-23)
  - vi. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would affect. (3-28-23)
  - vii. An analysis of the existing ambient air quality in the area that the new major facility or major modification would affect for each regulated air pollutant that a new major facility would emit in significant amounts or for which a major modification would result in a significant net emissions increase. (3-28-23)

viii. Ambient analyses as specified in Subsections 202.01c.vii., 202.01c.ix., 202.01c.x., and 202.01c.xii., may not be required if the projected increases in ambient concentrations or existing ambient concentrations of a particular regulated air pollutant in any area that the new major facility or major modification would affect are less than the amounts listed under 40 CFR 52.21(i)(5)(i), or the regulated air pollutant is not listed therein. (3-28-23)

ix. For any regulated air pollutant that has an ambient air quality standard, the analysis must include continuous air monitoring data, gathered over the year preceding the submittal of the application, unless the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year, but not less than four (4) months, which is adequate for determining whether the emissions of that regulated air pollutant would cause or contribute to a violation of the ambient air quality standard or any prevention of significant deterioration (PSD) increment. (3-28-23)

x. For any regulated air pollutant that does not have an ambient air quality standard, the analysis must contain such air quality monitoring data that the Department determines is necessary to assess ambient air quality for that air pollutant in any area that the emissions of that air pollutant would affect. (3-28-23)

xi. If requested by the Department, monitoring of visibility in any Class I area the proposed new major facility or major modification would affect. (3-28-23)

xii. Operation of monitoring stations must meet the requirements of Appendix B to 40 CFR Part 58 or such other requirements as extensive as those set forth in Appendix B as may be approved by the Department. (3-28-23)

**02. Estimates of Ambient Concentrations.** All estimates of ambient concentrations must be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51, Appendix W (Guideline on Air Quality Models). Where an air quality model specified in the "Guideline on Air Quality Models," is inappropriate, the model may be modified or another model substituted, subject to written approval of the EPA Administrator and public comment pursuant to Subsection 209.01.c.; provided that modifications and substitutions of models used for toxic air pollutants will be reviewed by the Department. (3-28-23)

**03. Additional Information.** Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 200 through 225 shall be furnished upon request (3-28-23)

### **203. PERMIT REQUIREMENTS FOR NEW AND MODIFIED STATIONARY SOURCES.**

No permit to construct will be granted for a new or modified stationary source unless the applicant shows to the satisfaction of the Department all of the following: (3-28-23)

**01. Emission Standards.** The stationary source or modification would comply with all applicable local, state or federal emission standards. (3-28-23)

**02. NAAQS.** The stationary source or modification would not cause or significantly contribute to a violation of any ambient air quality standard. (3-28-23)

**03. Toxic Air Pollutants.** Using the methods provided in Section 210, the emissions of toxic air pollutants from the stationary source or modification would not injure or unreasonably affect human or animal life or vegetation as required by Section 161. Compliance with all applicable toxic air pollutant carcinogenic increments and toxic air pollutant non-carcinogenic increments demonstrates preconstruction compliance with Section 161 with regards to the pollutants listed in Sections 585 and 586. (3-28-23)

### **204. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN NONATTAINMENT AREAS.**

New major facilities or major modifications proposed for location in a nonattainment area and which would be major for the nonattainment regulated air pollutant are considered nonattainment new source review (NSR) actions and are subject to the requirements in Section 204. Section 202 contains application requirements and Section 209 contains processing requirements for nonattainment NSR permitting actions. The intent of Section 204 is to incorporate the

federal nonattainment NSR rule requirements. (3-28-23)

**01. Incorporated Federal Program Requirements.** Requirements contained in the following subparts of 40 CFR 51.165 are incorporated by reference in Section 107. Requirements contained in the following subparts of 40 CFR 52.21, are incorporated by reference in Section 107. These CFR sections have been codified in the electronic CFR at <https://www.ecfr.gov/current/title-40>.

<b>40 CFR Reference</b>	<b>40 CFR Reference Title</b>
40 CFR 51.165(a)(1)	Definitions
40 CFR 51.165(a)(2)(ii) - 51.165(a)(3)	Applicability Provisions
40 CFR 51.165(a)(6)(i) - (v)	Applicability Provisions
40 CFR 52.21(aa)	Actual PALs

(3-28-23)

**02. Additional Requirements.** The applicant must demonstrate to the satisfaction of the Department the following: (3-28-23)

**a. LAER.** Except as otherwise provided in Section 204, the new major facility or major modification would be operated at the lowest achievable emission rate (LAER) for the nonattainment regulated air pollutant, specifically: (3-28-23)

i. A new major facility would meet the lowest achievable emission rate at each new emissions unit that emits the nonattainment regulated air pollutant; and (3-28-23)

ii. A major modification would meet the lowest achievable emission rate at each new or modified emissions unit that has a net emissions increase of the nonattainment regulated air pollutant. (3-28-23)

**b. Required offsets.** Allowable emissions from the new major facility or major modification are offset by reductions in actual emissions from stationary sources, facilities, and/or mobile sources in the nonattainment area so as to represent reasonable further progress. All offsetting emission reductions must satisfy the requirements for emission reduction credits (Section 460) and provide for a net air quality benefit that satisfies the requirements of Section 208. If the offsets are provided by other stationary sources or facilities, a permit to construct will not be issued for the new major facility or major modification until the offsetting reductions are made enforceable through the issuance of operating permits. The new major facility or major modification may not commence operation, and an operating permit for the new major facility or major modification will not be effective before the date the offsetting reductions are achieved. (3-28-23)

**c. Compliance status.** All other sources in the State owned or operated by the applicant, or by any entity controlling, controlled by or under common control with such person, are in compliance with all applicable emission limitations and standards or subject to an enforceable compliance schedule. (3-28-23)

**d. Effect on visibility.** The effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory Class I Federal Area, by the new major facility or major modification, is consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR 51.304(a), may be exempted from Section 204 by the Department. (3-28-23)

**03. Nonmajor Requirements.** If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 51.165 or 40 CFR 52.21 incorporated in Section 204, the nonmajor facility or stationary source permitting requirements of Sections 200 through 227 apply, including the exemptions in Sections

220 through 223.

(3-28-23)

**205. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS.**

The prevention of significant deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas in attainment or in areas that are unclassifiable for any criteria air pollutant. Section 202 contains application requirements and Section 209 contains processing requirements for PSD permit actions. The intent of Section 205 is to incorporate the federal PSD rule requirements. (3-28-23)

**01. Incorporated Federal Program Requirements.** Requirements contained in the following subparts of 40 CFR 52.21 are incorporated by reference in Section 107. These CFR sections have been codified in the electronic CFR which is available at <https://www.ecfr.gov/current/title-40>.

<b>40 CFR Reference</b>	<b>40 CFR Reference Title</b>
40 CFR 52.21(a)(2)	Applicability Procedures
40 CFR 52.21(b)	Definitions
40 CFR 52.21(i)	Review of Major Stationary Sources and Major Modifications - Source Applicability and Exempting
40 CFR 52.21(j)	Control Technology Review
40 CFR 52.21(k)	Source Impact Analysis
40 CFR 52.21(r)	Source Obligation
40 CFR 52.21(v)	Innovative Control Technology
40 CFR 52.21(w)	Permit Rescission
40 CFR 52.21(aa)	Actual PALS

(3-28-23)

**02. Effect on Visibility.** The applicant must demonstrate that the effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory Class I Federal Area, by the new major facility or major modification, is consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR 51.304(a), may be exempted from this requirement by the Department. (3-28-23)

**03. Exception to Incorporation by Reference of 40 CFR 52.21.** Every use of the word Administrator in 40 CFR 52.21 means the Department except for the following provisions, where the reference remains to the EPA Administrator: 40 CFR 52.21(b)(17), 52.21(b)(43), 52.21(b)(48)(ii)(c), 52.21(b)(50)(i) and 52.21(l)(2). (3-28-23)

**04. Nonmajor Requirements.** If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 52.21 incorporated in Section 205, the nonmajor facility or stationary source permitting requirements of Sections 200 through 227 apply, including the exemptions in Sections 220 through 223. (3-28-23)

**206. OPTIONAL OFFSETS FOR PERMITS TO CONSTRUCT.**

The owner or operator of any proposed new or modified stationary source, new major facility, or major modification, that cannot meet the requirements of Subsections 202.01.c.vi., 203.02, 203.03, 204.02.d., 205.01 (40 CFR 52.21(k)), and 209.02.b.vi., may propose the use of an emission offset to meet those requirements and thereby obtain a permit to construct. Any proposed emission offset must satisfy the requirements for emission reduction credits, Section 460,

and demonstrate, through appropriate dispersion modeling, that the offset will reduce ambient concentrations sufficiently to meet the requirements at all modeled receptors that could not otherwise have met the requirements. (3-28-23)

**207. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.**

In order to be credited in a permit to construct, any emission reduction credit must satisfy the requirements of Section 460. (3-28-23)

**208. DEMONSTRATION OF NET AIR QUALITY BENEFIT.**

The demonstration of net air quality benefit must: (3-28-23)

**01. VOCs.** For trades involving volatile organic compounds, show that total emissions are reduced for the air basin in which the stationary source or facility is located; (3-28-23)

**02. Other Regulated Air Pollutants.** For trades involving any other regulated air pollutant, show through appropriate dispersion modeling that the trade will not cause an increase in ambient concentrations at any modeled receptor; (3-28-23)

**03. Mobile Sources.** For trades involving mobile sources, show a reduction in the ambient impact of emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for adverse ambient impact where the major facility or major modification would otherwise cause or significantly contribute to a violation of any national ambient air quality standard. (3-28-23)

**209. PROCEDURE FOR ISSUING PERMITS.**

**01. General Procedures.** General procedures for permits to construct. (3-28-23)

**a.** Within thirty (30) days after receipt of the application for a permit to construct, the Department will determine whether the application is complete or whether more information is needed and will notify the applicant of its findings in writing. (3-28-23)

**b.** Within sixty (60) days after the application is determined to be complete the Department will: (3-28-23)

**i.** Upon written request of the applicant, provide a draft permit for applicant review. Agency action on the permit under this Section may be delayed if deemed necessary to respond to applicant comments. (3-28-23)

**ii.** Notify the applicant in writing of the approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 209.01.c. The Department will describe reasons for any denial; or (3-28-23)

**c.** An opportunity for public comment will be provided on all applications requiring a permit to construct. Public comment will be provided on an application for any new major facility or major modification, any new facility or modification that would affect any Class I area, any application that uses an interpollutant trade pursuant to Subsection 210.17, any application that the Department determines an opportunity for public comment is needed, and any application upon which the applicant or public so requests. (3-28-23)

**i.** The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, will be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (3-28-23)

**ii.** The availability of such materials will be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (3-28-23)

**iii.** A copy of such notice will be sent to the applicant and to appropriate federal, state and local agencies. (3-28-23)



iv. There will be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (3-28-23)

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice or notice of public hearing if one is requested under Subsections 209.02.b.iv. or 209.02.a.ii., unless the Department deems that additional time is required to evaluate comments and information received, the Department will notify the applicant in writing of approval, or denial of the permit. The Department will describe the reasons for any denial. (3-28-23)

vi. All comments and additional information received during the comment period, together with the Department's final determination, will be made available to the public at the same location as the preliminary determination. (3-28-23)

**d.** A copy of each permit will be sent to EPA. (3-28-23)

**02. Additional Procedures for Specified Sources.** (3-28-23)

**a.** For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. (3-28-23)

i. The public notice issued pursuant to Subsection 209.01.c.ii. will indicate the degree of increment consumption that is expected from the new major facility or major modification; and (3-28-23)

ii. The public notice issued pursuant to Subsection 209.01.c.ii. will indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effects of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-28-23)

**b.** For any new major facility or major modification that would affect a federal Class I area or an integral vista of a mandatory federal Class I area. (3-28-23)

i. If the Department is notified of the intent to apply for a permit to construct, it will notify the appropriate Federal Land Manager within thirty (30) days; (3-28-23)

ii. A copy of the permit application and all relevant information, including an analysis of the anticipated effects on visibility in any federal Class I area, will be sent to the Administrator of the U.S. Environmental Protection Agency and the Federal Land Manager within thirty (30) days of receipt of a complete application and at least sixty (60) days prior to any public hearing on the application; (3-28-23)

iii. Notice of every action related to the consideration of the permit will be sent to the EPA Administrator (3-28-23)

iv. The public notice issued pursuant to Subsection 209.01.c.ii. will indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effect of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-28-23)

v. The notice of public hearing, if required, will explain any differences between the Department's preliminary determination and any visibility analysis performed by the Federal Land Manager and provided to the Department within thirty (30) days of the notification pursuant to Subsection 209.02.b.ii. (3-28-23)

vi. Upon a sufficient showing by the Federal Land Manager that a proposed new major facility or major modification will have an adverse impact upon the air quality related values (including visibility) of any federal mandatory Class I area, the Department may deny the application notwithstanding the fact that the concentrations of regulated air pollutants would not exceed the maximum allowable increases for a Class I area. (3-28-23)

**03. Revisions of Permits to Construct.** The Director may approve a revision of any permit to construct provided the stationary source or facility continues to meet all applicable requirements of Sections 200 through 227. Revised permits will be issued pursuant to procedures for issuing permits (Section 209), except that the requirements of Subsections 209.01.c., 209.02.a., and 209.02.b., only apply if the permit revision results in an increase in emissions authorized by the permit or if deemed appropriate by the Department. (3-28-23)

**04. Permit to Construct Procedures for Tier I Sources.** For Tier I sources that require a permit to construct, the owner or operator must either: (3-28-23)

**a.** Submit only the information required by Sections 200 through 214 for a permit to construct, in which case: (3-28-23)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (3-28-23)

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-28-23)

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. (3-28-23)

iv. Unless a different time is specified by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section 369). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. Tier I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, must file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. (3-28-23)

v. The application or minor or significant permit modification request will be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. (3-28-23)

vi. The final Tier I operating permit action will incorporate the relevant terms and conditions from the permit to construct; or (3-28-23)

**b.** Submit all information required by Sections 200 through 214 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit modification, in which case: (3-28-23)

i. Completeness of the application will be determined within thirty (30) days. (3-28-23)

ii. The Department will prepare a proposed permit to construct or denial in accordance with Sections 200 through 214 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. (3-28-23)

iii. The Department will provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. (3-28-23)

iv. Except as otherwise provided by these rules, the Department will prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The

owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-28-23)

v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification will be sent for review in accordance with Section 366. (3-28-23)

vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or (3-28-23)

c. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: (3-28-23)

i. Completeness of the application will be determined within thirty (30) days. (3-28-23)

ii. The Department will prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. (3-28-23)

iii. The Department will provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. (3-28-23)

iv. The Department will prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. (3-28-23)

v. Except as otherwise provided by these rules, the Department will prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-28-23)

vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381. The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. (3-28-23)

**05. Transfer of Permits to Construct.** (3-28-23)

a. Transfers by Revision. A permit to construct may be transferred to a new owner or operator in accordance with Subsection 209.04. (3-28-23)

b. Automatic Transfers. Any permit to construct, with or without transfer prohibition language, may be automatically transferred if: (3-28-23)

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; (3-28-23)

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and (3-28-23)

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection

209.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 209.06.b.ii. (3-28-23)

**210. DEMONSTRATION OF PRECONSTRUCTION COMPLIANCE WITH TOXIC STANDARDS.**

In accordance with Subsection 203.03, the applicant must demonstrate preconstruction compliance with Section 161 to the satisfaction of the Department. The accuracy, completeness, execution and results of the demonstration are all subject to review and approval by the Department. For purposes of this section, Toxic Air Pollutant Reasonably Available Control Technology (T-RACT) is an emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. (3-28-23)

**01. Identification of Toxic Air Pollutants.** The applicant may use process knowledge, raw materials inputs, EPA and Department references and commonly available references approved by EPA or the Department to identify the toxic air pollutants emitted by the stationary source or modification. (3-28-23)

**02. Quantification of Emission Rates.** (3-28-23)

**a.** The applicant may use standard scientific and engineering principles and practices to estimate the emission rate of any toxic air pollutant at the point(s) of emission. (3-28-23)

**i.** Screening engineering analyses use unrefined conservative data. (3-28-23)

**ii.** Refined engineering analyses utilize refined and less conservative data including, but not limited to, emission factors requiring detailed input and actual emissions testing at a comparable emissions unit using EPA or Department approved methods. (3-28-23)

**b.** The uncontrolled emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design without the effect of any physical or operational limitations. (3-28-23)

**i.** Examples of physical and operational design include but are not limited to the amount of time equipment operates during batch operations and the quantity of raw materials utilized in a batch process. (3-28-23)

**ii.** Examples of physical or operational limitations include but are not limited to shortened hours of operation, use of control equipment, and restrictions on production that are less than design capacity. (3-28-23)

**c.** The controlled emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design with the effect of any physical or operational limitation that has been specifically described in a written and certified submission to the Department. (3-28-23)

**d.** The T-RACT emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design with the effect of: (3-28-23)

**i.** Any physical or operational limitation other than control equipment that has been specifically described in a written and certified submission to the Department; and (3-28-23)

**ii.** An emission standard that is T-RACT. (3-28-23)

**03. Quantification of Ambient Concentrations.** (3-28-23)

**a.** The applicant may use the modeling methods provided in Subsection 202.02 to estimate the ambient concentrations at specified receptor sites for any toxic air pollutant emitted from the point(s) of emission. (3-28-23)

**b.** The point of compliance is the receptor site that is estimated to have the highest ambient concentration of the toxic air pollutant of all the receptor sites that are located either at or beyond the facility property boundary or at a point of public access; provided that, if the toxic air pollutant is listed in Section 586, the receptor site is not considered to be at a point of public access if the receptor site is located on or within a road, highway or other transportation corridor transecting the facility. (3-28-23)

**c.** The uncontrolled ambient concentration of the source or modification is estimated by modeling the uncontrolled emission rate. (3-28-23)

**d.** The controlled ambient concentration of the source or modification is estimated by modeling the controlled emission rate. (3-28-23)

**e.** The approved net ambient concentration from a modification for a toxic air pollutant at each receptor is calculated by subtracting the estimated decreases in ambient concentrations for all sources at the facility contributing an approved creditable decrease at the receptor site from the estimated ambient concentration from the modification at the receptor. (3-28-23)

**f.** The approved offset ambient concentration from a source or modification for a toxic air pollutant at each receptor is calculated by subtracting the estimated decreases in ambient concentrations for all sources contributing an approved offset at the receptor from the estimated ambient concentration for the source or modification at the receptor. (3-28-23)

**g.** The T-RACT ambient concentration of the source or modification is estimated by using refined modeling and the T-RACT emission rate. (3-28-23)

**h.** The approved interpollutant ambient concentration from a source or modification for a toxic air pollutant at each receptor is calculated as follows: (3-28-23)

**i.** Step 1: Calculate the estimated decrease in ambient concentrations for each toxic air pollutant from each source contributing an approved interpollutant trade at the receptor by multiplying the approved interpollutant ratio by the overall decrease in the ambient concentration of the toxic air pollutant at the receptor site. (3-28-23)

**ii.** Step 2: Calculate the total estimated decrease at the receptor by summing all of the individual estimated decreases calculated in Subsection 210.03.h.i. for that receptor. (3-28-23)

**iii.** Step 3: Calculate the approved interpollutant ambient concentration by subtracting the total estimated decrease at the receptor from the estimated ambient concentration for the source or modification at the receptor. (3-28-23)

**04. Preconstruction Compliance Demonstration.** The applicant may use any of the Department approved standard methods described in Subsections 210.05 through 210.08 and may use any applicable specialized method described in Subsections 210.09 through 210.12 to demonstrate preconstruction compliance for each identified toxic air pollutant. (3-28-23)

**05. Uncontrolled Emissions.** (3-28-23)

**a.** Compare the source's or modification's uncontrolled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. (3-28-23)

**b.** If the source's or modification's uncontrolled emission rate is less than or equal to the applicable screening emission level, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (3-28-23)

**06. Uncontrolled Ambient Concentration.** (3-28-23)

**a.** Compare the source's or modification's uncontrolled ambient concentration at the point of

compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (3-28-23)

**b.** If the source's or modification's uncontrolled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (3-28-23)

**07. Controlled Emissions.** (3-28-23)

**a.** Compare the source's or modification's controlled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. (3-28-23)

**b.** If the source's or modification's controlled emission rate is less than or equal to the applicable screening emission level, no further procedure for demonstrating preconstruction compliance is required for that toxic air pollutant as part of the application process. (3-28-23)

**08. Controlled Ambient Concentration.** (3-28-23)

**a.** Compare the source's or modification's controlled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (3-28-23)

**b.** If the source's or modification's controlled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (3-28-23)

**c.** The Department will include an emission limit for the toxic air pollutant in the permit to construct that is equal to or, if requested by the applicant, less than the emission rate that was used in the modeling. (3-28-23)

**09. Net Emissions.** (3-28-23)

**a.** As provided in Section 007 (definition of net emissions increase) and Sections 460 and 461, the owner or operator may net emissions to demonstrate preconstruction compliance. (3-28-23)

**b.** Compare the modification's approved net emissions increase (expressed as an emission rate) for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. (3-28-23)

**c.** If the modification's approved net emissions increase is less than or equal to the applicable screening emission level, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (3-28-23)

**d.** The Department will include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (3-28-23)

**10. Net Ambient Concentration.** (3-28-23)

**a.** As provided in Section 007 (definition of net emission increase) and Sections 460 and 461, the owner or operator may net ambient concentrations to demonstrate preconstruction compliance. (3-28-23)

**b.** Compare the modification's approved net ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (3-28-23)

**c.** If the modification's approved net ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (3-28-23)

**d.** The Department will include emission limits and other permit terms for the toxic air pollutant in the

permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (3-28-23)

**11. Toxic Air Pollutant Offset Ambient Concentration.** (3-28-23)

**a.** As provided in Sections 206 and 460, the owner or operator may use offsets to demonstrate preconstruction compliance. (3-28-23)

**b.** Compare the source's or modification's approved offset ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (3-28-23)

**c.** If the source's or modification's approved offset ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (3-28-23)

**d.** The Department will include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (3-28-23)

**12. T-RACT Ambient Concentration for Carcinogens.** (3-28-23)

**a.** As provided in Subsections 210.12 and 210.13, the owner or operator may use T-RACT to demonstrate preconstruction compliance for toxic air pollutants listed in Section 586. This method may be used in conjunction with netting (Subsection 210.09), and offsets (Subsection 210.11). (3-28-23)

**b.** Compare the source's or modification's approved T-RACT ambient concentration at the point of compliance for the toxic air pollutant to the amount of the toxic air pollutant that would contribute an ambient air cancer risk probability of less than one to one hundred thousand (1:100,000) (which amount is equivalent to ten (10) times the applicable acceptable ambient concentration listed in Section 586). (3-28-23)

**c.** If the source's or modification's approved T-RACT ambient concentration at the point of compliance is less than or equal to the amount of the toxic air pollutant that would contribute an ambient air cancer risk probability of less than one to one hundred thousand (1:100,000), no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (3-28-23)

**d.** The Department will include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (3-28-23)

**13. T-RACT Determination Processing.** (3-28-23)

**a.** The applicant may submit all information necessary to the demonstration at the time the applicant submits the complete initial application, or the applicant may request the Department to review a complete initial application to determine if Subsection 210.12 may be applicable to the source or modification. (3-28-23)

**b.** Notwithstanding Subsections 209.01.a. and 209.01.b., if the applicant requests the Department to review a complete initial application and Subsection 210.12 is determined to be applicable, the completeness determination for the initial application will be revoked until a supplemental application is submitted and determined complete. When the supplemental application is determined complete, the timeline for agency action will be reinitiated. (3-28-23)

**14. T-RACT Determination.** T-RACT will be determined on a case-by-case basis by the Department as follows: (3-28-23)

**a.** The applicant must submit information to the Department identifying and documenting which control technologies or other requirements the applicant believes to be T-RACT. (3-28-23)

**b.** The Department will review the information submitted by the applicant and determine whether the applicant has proposed T-RACT. (3-28-23)

**c.** The technological feasibility of a control technology or other requirements for a particular source will be determined considering several factors including, but not limited to: (3-28-23)

**i.** Process and operating procedures, raw materials and physical plant layout. (3-28-23)

**ii.** The environmental impacts caused by the control technology that cannot be mitigated, including, but not limited to, water pollution and the production of solid wastes. (3-28-23)

**iii.** The energy requirements of the control technology. (3-28-23)

**d.** The economic feasibility of a control technology or other requirement, including the costs of necessary mitigation measures, for a particular source will be determined considering several factors including, but not limited to: (3-28-23)

**i.** Capital costs. (3-28-23)

**ii.** Cost effectiveness, which is the annualized cost of the control technology divided by the amount of emission reduction. (3-28-23)

**iii.** The difference in costs between the particular source and other similar sources, if any, that have implemented emissions reductions. (3-28-23)

**e.** If the Department determines that the applicant has proposed T-RACT, the Department will determine which of the options, or combination of options, will result in the lowest emission of toxic air pollutants, develop the emission standards constituting T-RACT and incorporate the emission standards into the permit to construct. (3-28-23)

**f.** If the Department determines that the applicant has not proposed T-RACT, the Department will disapprove the submittal. If the submittal is disapproved, the applicant may supplement its submittal or demonstrate preconstruction compliance through a different method provided in Section 210. If the applicant does not supplement its submittal or demonstrate preconstruction compliance through a different method provided in Section 210, the Department will deny the permit. (3-28-23)

**15. Short Term Source Factor.** For short term sources, the applicant may utilize a short-term adjustment factor of ten (10). For a carcinogen, multiply either the applicable acceptable ambient concentration (AACC) or the screening emission rate, but not both, by ten (10), to demonstrate preconstruction compliance. This method may be used for TAPs listed in Section 586 only and may be utilized in conjunction with standard methods for quantification of emission rates (Subsections 210.05 through 210.08). (3-28-23)

**16. Environmental Remediation Source.** (3-28-23)

**a.** For Remediation sources subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and the "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order, if the estimated ambient concentration at the point of impact is greater than the acceptable ambient impacts listed in Sections 585 and 586, Best Available Control Technology will be applied and operated until the estimated uncontrolled emissions from the remediation source are below the acceptable ambient concentration. (3-28-23)

**b.** For Remediation sources not subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and the "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order, will, for the purposes of these rules, be considered the same as any other new or



modified source of toxic air pollution. (3-28-23)

**c.** For an environmental remediation source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, the Department may waive the requirements of Section 513. (3-28-23)

**17. Interpollutant Trading Ambient Concentration.** (3-28-23)

**a.** As provided in Subsections 209.01.c., 210.17 through 210.19, the owner or operator may use interpollutant trading to demonstrate preconstruction compliance. This method may be used in conjunction with netting (Subsection 210.10), and offsets (Subsection 210.11) (3-28-23)

**b.** Compare the source's or modification's approved interpollutant ambient concentration at the point of compliance for the toxic air pollutant emitted by the source or modification to the applicable acceptable ambient concentration listed in Sections 585 or 586. (3-28-23)

**c.** If the source's or modification's approved interpollutant ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration listed in Sections 585 or 586, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (3-28-23)

**d.** The Department will include emission limits for all of the toxic air pollutants involved in the trade in the permit to construct. The Department will also include other permit terms in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (3-28-23)

**18. Interpollutant Trading Determination Processing.** (3-28-23)

**a.** The applicant may submit all information necessary to the demonstration at the time the applicant submits the complete initial application, or the applicant may request the Department to review a complete initial application to determine if Subsection 210.17 may be applicable to the source or modification. (3-28-23)

**b.** Notwithstanding Subsections 209.01.a. and 209.01.b., if the applicant requests the Department to review a complete initial application and Subsection 210.17 is determined to be applicable, the completeness determination for the initial application will be revoked until a supplemental application is submitted and determined complete. When the supplemental application is determined complete, the timeline for agency action will be reinitiated. (3-28-23)

**19. Interpollutant Determination.** (3-28-23)

**a.** The applicant may request an interpollutant trade if the Department determines that: (3-28-23)

**i.** The facility complies with an emission standard at least as stringent as best available control technology (BACT); and (3-28-23)

**ii.** The owner or operator has instituted all known and available methods of pollution prevention at the facility to reduce, avoid or eliminate toxic air pollution prior to its generation including, but not limited to, recycling, chemical substitution, and process modification provided that such pollution prevention methods are compatible with each other, and the product or service being produced; and (3-28-23)

**iii.** The owner or operator has taken all available offsets; and (3-28-23)

**iv.** The owner or operator has identified all geographical areas and populations that may be impacted by the proposed interpollutant trade. (3-28-23)

**b.** Interpollutant trades will be approved or denied on a case-by-case basis by the Department. Approvals will be granted only if: (3-28-23)

- i. The Department of Health and Welfare's Division of Health approves the interpollutant trade; and (3-28-23)
- ii. The Department of Environmental Quality determines that the interpollutant trade will result in a overall benefit to the environment; and (3-28-23)
- iii. An EPA approved database or other EPA approved reference provides relative potency factors, or comparable factors, or other data that is sufficient to allow for adequate review and approval of the proposed trade is submitted for all of the toxic air pollutants being traded; and (3-28-23)
- iv. The reductions occur at the same facility where the proposed source or modification will be constructed; and (3-28-23)
- v. The interpollutant trade will not cause an increase in the ambient concentrations of the carcinogenic toxic air pollutants involved in the particular interpollutant trade at any receptor site; and (3-28-23)
- vi. The total cancer risk with the interpollutant trade will be less than the total cancer risk without the interpollutant trade; and (3-28-23)
- vii. The total non-cancer health risk with the interpollutant trade will be less than the total non-cancer health risk without the interpollutant trade. (3-28-23)

**20. 40 CFR Parts 60, 61 and 63 Sources.** No demonstration of compliance with the toxic air pollutant provisions is required to obtain a permit to construct or to demonstrate permit to construct exemption criteria for a new source or for modification of an existing source if the toxic air pollutant is also a listed hazardous air pollutant from: (3-28-23)

- a. The equipment or activity covered by a 40 CFR Part 60, 61, or 63 rule; or (3-28-23)
- b. The source category of equipment or activity addressed by a 40 CFR Part 60, 61, or 63 rule even if the equipment or activity is not subject to compliance requirements under the federal rule. (3-28-23)

**211. CONDITIONS FOR PERMITS TO CONSTRUCT.**

**01. Reasonable Conditions.** The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with: (3-28-23)

- a. Sampling ports of a size, number, and location as the Department may require; (3-28-23)
- b. Safe access to each port; (3-28-23)
- c. Instrumentation to monitor and record emissions data; (3-28-23)
- d. Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility; and (3-28-23)
- e. Any other sampling and testing facilities as may be deemed reasonably necessary. (3-28-23)

**02. Cancellation.** The Department may cancel a permit to construct if the construction is not begun within two (2) years from the date of issuance, or if during the construction, work is suspended for one (1) year. (3-28-23)

**03. Notification to The Department.** Any owner or operator of a stationary source or facility subject to a permit to construct must furnish the Department written notifications as follows: (3-28-23)

- a. A notification of the anticipated date of initial start-up of the stationary source or facility not more

than sixty (60) days or less than thirty (30) days prior to such date; and (3-28-23)

**b.** A notification of the actual date of initial start-up of the stationary source or facility within fifteen (15) days after such date. (3-28-23)

**04. Performance Test.** Within sixty (60) days after achieving the maximum production rate at which the stationary source or facility will be operated but not later than one hundred eighty (180) days after initial start-up of such stationary source or facility, the owner or operator of such stationary source or facility may be required to conduct a performance test in accordance with methods and under operating conditions approved by the Department and furnish the Department a written report of the results of such performance test. (3-28-23)

**a.** Such test will be at the expense of the owner or operator. (3-28-23)

**b.** The Department may monitor such test and may also conduct performance tests. (3-28-23)

**c.** The owner or operator of a stationary source or facility must provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present. (3-28-23)

**212. RELAXATION OF STANDARDS OR RESTRICTIONS.**

At such time that a particular facility or modification becomes a major facility or major modification solely by virtue of a relaxation in any enforceable emission standard or restriction on the operating rate, hours of operation or on the type or amount of material combusted, stored or processed, that was used to exempt the facility or modification from certain requirements for a permit to construct, the requirements for new major facilities or major modifications will apply to the facility or modification as though construction had not yet commenced. (3-28-23)

**213. PRE-PERMIT CONSTRUCTION.**

This section describes how owners or operators may commence construction or modification of certain stationary sources before obtaining the required permit to construct. (3-28-23)

**01. Pre-Permit Construction Eligibility.** Pre-permit construction approval is available for new sources and modifications that are not considered major as defined in 40 CFR 52.21 proposed in accordance with Subsection 213.01.d. Pre-permit construction is not available for any new source or modification that: uses emissions netting to stay below major source levels; uses optional offsets pursuant to Section 206; or would have an adverse impact on the air quality related values of any Class I area. Owners or operators may ask the Department for the ability to commence construction or modification of qualifying sources under Section 213 before receiving the required permit to construct. To obtain the Department's pre-permit construction approval, the owner or operator must: (3-28-23)

**a.** Apply for a permit to construct in accordance with Subsections 202.01.a., 202.02, and 202.03 of this chapter. (3-28-23)

**b.** Consult with Department representatives prior to submitting a pre-permit construction approval application. (3-28-23)

**c.** Submit a pre-permit construction approval application that must contain, but not be limited to: a letter requesting the ability to construct before obtaining the required permit to construct, a copy of the notice referenced in Subsection 213.02; proof of eligibility; process description(s); equipment list(s); proposed emission limits and modeled ambient concentrations for all regulated air pollutants and toxic air pollutants, such that they demonstrate compliance with all applicable air quality rules and regulations. The models must be conducted in accordance with Subsection 202.02 and with written Department approved protocol and submitted with sufficient detail so that modeling can be duplicated by the Department. (3-28-23)

**d.** Owners or operators seeking limitations on a source's potential to emit such that permitted emissions will be either below major source levels or below a significant increase must describe in detail in the pre-permit construction application the proposed restrictions and certify in accordance with Section 123 that they will comply with the restrictions, including any applicable monitoring and reporting requirements. (3-28-23)

**02. Permit to Construct Procedures for Pre-Permit Construction.** (3-28-23)

**a.** Within ten (10) days after the submittal of the pre-permit construction approval application, the owner or operator must hold an informational meeting in at least one (1) location in the region in which the stationary source or facility is to be located. The informational meeting must be made known by notice published at least ten (10) days before the meeting in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. A copy of such notice must be included in the application. (3-28-23)

**b.** Within fifteen (15) days after the receipt of the pre-permit construction approval application, the Department will notify the owner or operator in writing of pre-permit construction approval or denial. The Department may deny the pre-permit construction approval application for any reason it deems valid. (3-28-23)

**c.** Upon receipt of the pre-permit construction approval letter issued by the Department, the owner or operator may begin construction at their own risk as identified in Subsection 213.02.d. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction application pursuant to Subsection 213.01.d. will become enforceable. The owner or operator must not operate those emissions units subject to permit to construct requirements in accordance with Section 200 unless and until issued a permit pursuant to Section 209. (3-28-23)

**d.** If the pre-permit construction approval application is determined incomplete or the permit to construct is denied, the Department will issue an incompleteness or denial letter pursuant to Section 209. If the Department denies the permit to construct, then the owner or operator will have violated Section 201 on the date it commenced construction as defined in Section 006. The owner or operator may not contest the final permit to construct decision based on the fact that they have already begun construction. (3-28-23)

**214. DEMONSTRATION OF PRECONSTRUCTION COMPLIANCE FOR NEW AND RECONSTRUCTED MAJOR SOURCES OF HAZARDOUS AIR POLLUTANTS.**

**01. Compliance with Federal MACT.** All owners or operators of major sources of hazardous air pollutants that are subject to an applicable Maximum Available Control Technology (MACT) standard promulgated by EPA pursuant to Section 112 of the Clean Air Act and 40 CFR Part 63 must comply with the applicable MACT standard and such owners or operators are not subject to Subsections 214.04 and 214.05. (3-28-23)

**02. Requirement to Obtain Preconstruction MACT Determination from the Department.** No owner or operator may construct or reconstruct a major source of hazardous air pollutants unless such owner or operator has obtained a MACT standard determination from the Department. The Department will make the MACT standard determination on a case-by-case basis and in accordance with Section 112(g)(2)(B) of the Clean Air Act and 40 CFR 63.40 through 63.44 as incorporated by reference in Section 107. (3-28-23)

**03. Development of MACT by the Department After EPA Deadline.** In the event that EPA fails to promulgate a MACT standard for a category or subcategory of major sources of hazardous air pollutants identified by the EPA under the Clean Air Act by the date established under Section 112(e) of the Clean Air Act, the owner or operator of any major source of hazardous air pollutants in such category or subcategory must submit an application to the Department for a MACT standard determination. The Department will make the MACT standard determination on a case-by-case basis and in accordance with Section 112(j) of the Clean Air Act and 40 CFR 63.50 through 63.56 as incorporated by reference in Section 107. (3-28-23)

**215. MERCURY EMISSION STANDARD FOR NEW OR MODIFIED SOURCES.**

No owner or operator may commence construction or modification of a stationary source or facility that results in an increase in annual potential emissions of mercury of twenty-five (25) pounds or more unless the owner or operator has obtained a permit to construct under Sections 200 through 227. The permit to construct application must include an MBACT analysis for the new or modified source or sources for review and approval by the Department. A determination of applicability under Section 215 will be based upon the best available information. Fugitive emissions are not included in a determination of applicability under Section 215. (3-28-23)

**01. Exemptions.** New or modified stationary sources within a source category subject to 40 CFR Part

63 are exempt from the requirements of Section 215. (3-28-23)

**02. Applicability.** Except as provided in Subsection 215.01, Section 215 applies to all new or modified sources. (3-28-23)

**216. -- 219. (RESERVED)**

**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 precludes 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 are not 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 and 223 (as required): (3-28-23)

**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: (3-28-23)

**i.** Equal or exceed one hundred (100) tons per year of any regulated air pollutant. (3-28-23)

**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. (3-28-23)

**b.** The source is not part of a proposed new major facility or part of a proposed major modification. (3-28-23)

**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., must maintain documentation on site that identifies the exemption determined to apply to the source and verify that the source qualifies for the identified exemption. The records and documentation must 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 that covers the operation of the source. The owner or operator must submit the documentation to the Department upon request. (3-28-23)

**221. CATEGORY I EXEMPTION.**

No permit to construct is required for a source that satisfies the criteria set forth in Section 220 and the following: (3-28-23)

**01. Below Regulatory Concern.** The maximum capacity of a source to emit an air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed must be less than ten percent (10%) of the significant emission rates set out in the definition of significant at Section 006. (3-28-23)

**02. Radionuclides.** The source is not required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (3-28-23)

**03. Toxic Air Pollutants.** The source complies with Section 223. (3-28-23)

**04. Mercury.** The source has potential emissions that are less than twenty-five (25) pounds per year of mercury. Fugitive emissions are not to be included in the calculation of potential mercury emissions. (3-28-23)

**222. CATEGORY II EXEMPTION.**

No permit to construct is required for the following sources. (3-28-23)

**01. Exempt Source.** A source that satisfies the criteria set forth in Section 220 and is specified below: (3-28-23)

**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 must: (3-28-23)

i. Comply with Section 223. (3-28-23)

ii. Not be required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (3-28-23)

**b.** Environmental characterization activities including emplacement and operation of field instruments, drilling of sampling and monitoring wells, sampling activities, and environmental characterization activities. (3-28-23)

**c.** Stationary internal combustion engines of less than or equal to six hundred (600) horsepower and that 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 may not be used. To qualify for this exemption, the source must be operated in accordance with the following: (3-28-23)

i. One hundred (100) horsepower or less -- unlimited hours of operation. (3-28-23)

ii. One hundred one (101) to two hundred (200) horsepower -- less than four hundred fifty (450) hours per month. (3-28-23)

iii. Two hundred one (201) to four hundred (400) horsepower -- less than two hundred twenty-five (225) hours per month. (3-28-23)

iv. Four hundred one (401) to six hundred (600) horsepower -- less than one hundred fifty (150) hours per month. (3-28-23)

**d.** Stationary internal combustion engines used exclusively for emergency purposes that 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 may not be used. (3-28-23)

**e.** A pilot plant is defined as a stationary source located at least one quarter ( $\frac{1}{4}$ ) mile from any sensitive receptor; functions to test processing, mechanical, or pollution control equipment's full-scale feasibility; and does not produce products for sale except in developmental quantities. It uses a slip stream of no more than ten percent (10%) from an existing process stream and satisfies the following: (3-28-23)

i. The source must 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); (3-28-23)

ii. The source is not required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H; and (3-28-23)

iii. The exemption for a pilot plant terminates one (1) year after the commencement of operations and may not be renewed. (3-28-23)

**02. Other Exempt Sources.** A source that satisfies the criteria set forth in Section 220 and that is specified below: (3-28-23)

- a. Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment. (3-28-23)
- b. Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs. (3-28-23)
- 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. (3-28-23)
- d. Other fuel burning equipment for indirect heating with a capacity of less than one million (1,000,000) btu's per hour input. (3-28-23)
- e. Mobile internal combustion engines, marine installations and locomotives. (3-28-23)
- f. Agricultural activities and services. (3-28-23)
- g. Retail gasoline, natural gas, propane gas, liquefied petroleum gas, distillate fuel oils and diesel fuel sales. (3-28-23)
- h. Used Oil Fired Space Heaters which comply with all the following criteria: (3-28-23)
  - 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"; (3-28-23)
    - (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. (3-28-23)
    - (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. (3-28-23)
      - ii. Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals; (3-28-23)
      - 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; (3-28-23)
      - 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 (3-28-23)
      - 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. (3-28-23)
    - 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. (3-28-23)
  - 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. (3-28-23)

- k. Dry cleaning facilities that are not major under, but subject to, 40 CFR Part 63, Subpart M. (3-28-23)

**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 criteria in Subsection 220.02, and reporting criteria in Subsection 223.04: (3-28-23)

**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. (3-28-23)

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

**a.** The uncontrolled emission rate (refer to Section 210) for all toxic air pollutants must be less than or equal to all applicable screening emission levels listed in Sections 585 and 586; or (3-28-23)

**b.** The uncontrolled ambient concentration (refer to Section 210) for all toxic air pollutants at the point of compliance must be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586. (3-28-23)

**03. Level II Exemption.** To obtain a Level II exemption, the maximum capacity of a source to emit a toxic air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed at the point of compliance is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. (3-28-23)

**04. Toxic Air Pollutant Exemption Report.** The owner or operator of a source claiming a Level I or II exemption must submit a certified report, on or before May 1 for the previous calendar year, to the Department for each Level I or II exemption determination. The owner or operator is not required to annually submit a certified report for a Level I or II exemption determination previously claimed and reported. The report must state the date construction has or will commence and must include copies of all exemption determinations completed by the owner or operator for each Level I and II exemption. (3-28-23)

**224. PERMIT TO CONSTRUCT APPLICATION FEE.**

All applicants for a permit to construct must submit a permit to construct application fee of one thousand dollars (\$1,000) to the Department at the time of the original submission of the application. The permit to construct application fee is not required to be submitted for: (3-28-23)

**01. Exemption Applicability Determinations.** Exemption applicability determinations set forth in Sections 220 through 223; (3-28-23)

**02. Typographical Errors.** Changes to correct typographical errors; or (3-28-23)

**03. Name or Ownership Change.** A change in the name or ownership of the holder of a permit to construct when the Department determines no other review or analysis is required. (3-28-23)

**225. PERMIT TO CONSTRUCT PROCESSING FEE.**

A permit to construct processing fee, calculated by the Department pursuant to the categories provided in the following table, must be paid to the Department by the person receiving the permit. The applicable processing fee category is determined by adding together the amount of increases of regulated pollutant emissions and subtracting any decreases of regulated pollutant emissions as identified in the permit to construct. The fee calculation does not include fugitive emissions.



PERMIT TO CONSTRUCT CATEGORY	FEE
General permit, no facility-specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis. General permit facilities may include portable concrete batch plants, portable hot-mix asphalt plants and portable rock crushing plants.)	\$500
New source or modification to existing source with increase of emissions of less than one (1) ton per year	\$1,000
New source or modification to existing source with increase of emissions of one (1) to less than ten (10) tons per year	\$2,500
New source or modification to existing source with increase of emissions of ten (10) to less than one hundred (100) tons per year	\$5,000
Nonmajor new source or modification to existing source with increase of emissions of one hundred (100) tons per year or more	\$7,500
New major facility or major modification	\$10,000
Permit modifications where no engineering analysis is required	\$250
Application submittals for exemption applicability determinations, typographical errors, and name and ownership changes as described in Subsections 224.01, 224.02, 224.03	\$0.00

(3-28-23)

**226. PAYMENT OF FEES FOR PERMITS TO CONSTRUCT.**

**01. Fee Submittal.** The permit to construct application fee must be submitted with the application. The permit to construct processing fee is payable upon receipt of an assessment sent to the person receiving a permit by the Department. Information for making payments is available at <http://www.deq.idaho.gov>. (3-28-23)

**02. Delinquency.** No application for a permit to construct will be processed by the Department unless accompanied by a permit to construct application fee. No permit to construct will be issued by the Department until the Department has received the permit to construct processing fee. (3-28-23)

**227. RECEIPT AND USAGE OF FEES.**

Permit to construct application and processing fee receipts will be deposited by the Department into a stationary source permit account. Monies from this account will be used solely toward technical, legal and administrative support of the Department's permit to Construct and Tier II permit programs and will not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act. The permit to construct application fee payable under Section 227 will be retained by the Department regardless of whether a permit to construct is issued by the Department in response to an application. (3-28-23)

**228. -- 299. (RESERVED)**

**300. PROCEDURES AND REQUIREMENTS FOR TIER I OPERATING PERMITS.**

Sections 300 through 397 establish requirements and procedures for the issuance of Tier I operating permits. Unless specifically identified in this Chapter, definitions for the Tier 1 operating permit program are located in 40 CFR Part 70, incorporated by reference in Section 107. (3-28-23)

**301. REQUIREMENT TO OBTAIN TIER I OPERATING PERMIT.**

**01. Prohibition.** No owner or operator may operate any Tier I source without an effective Tier I operating permit. (3-28-23)

**02. Exceptions.** No Tier I operating permit is required if the owner or operator is in compliance with Sections 311 through 315 and the Department has not taken final action on the application. (3-28-23)

**302. OPTIONAL TIER I OPERATING PERMIT.**

Any facility listed in Section 301 not required to obtain a Tier I operating permit may opt to apply for a Tier I operating permit. (3-28-23)

**303. -- 310. (RESERVED)**

**311. STANDARD PERMIT APPLICATIONS.**

Sections 311 through 315 establish standard Tier I operating permit application procedures. (3-28-23)

**312. DUTY TO APPLY.**

For each Tier I source, the owner or operator must submit a timely and complete permit application in accordance with Sections 311 through 315. (3-28-23)

**313. TIMELY APPLICATION.**

**01. New Tier 1 Operating Permits.** For sources that become Tier I sources located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source must submit to the Department a complete application for a Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless the Department provides written notification of an earlier date to the owner or operator. (3-28-23)

**02. Renewals of Tier I Operating Permits.** The owner or operator of the Tier I source must submit a complete application to the Department for a renewal of the Tier I operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing Tier I operating permit. To ensure that the term of the operating permit does not expire before the permit is renewed, the owner or operator is encouraged to submit the application nine (9) months prior to expiration. (3-28-23)

**03. Changes to Tier I Operating Permits.** Sections 380 through 386 provide the requirements and procedures for changes at Tier I sources and to Tier I operating permits. (3-28-23)

**314. REQUIRED STANDARD APPLICATION FORM AND REQUIRED INFORMATION.**

**01. General Requirements.** (3-28-23)

**a.** Applications must be submitted on a form or forms provided by the Department or by other means specified by these rules or the Department. The application must be certified by the responsible official in accordance with Section 123. (3-28-23)

**i.** If the Tier I source is regulated under 42 U.S.C. Sections 7651 through 7651o, the owner or operator must also submit nationally standardized acid rain forms provided by EPA. (3-28-23)

**b.** All information must be in sufficient detail so that the Department may efficiently and effectively determine the applicability of requirements and make all other necessary evaluations and determinations. (3-28-23)

**02. General Information for the Facility.** (3-28-23)

**a.** Provide identifying information, including the name, address and telephone number of: (3-28-23)

**i.** The owner; (3-28-23)

**ii.** The operator; (3-28-23)

**iii.** The facility where the Tier I source is located; (3-28-23)

- iv. The registered agent of the owner, if any; (3-28-23)
- v. The registered agent of the operator, if any; (3-28-23)
- vi. The responsible official, if other than the owner or operator; and (3-28-23)
- vii. The contact person. (3-28-23)
- b.** Provide a general description of the processes used and products produced by the facility where the Tier I source is located, including any associated with each requested alternative operating scenario and trading scenario. The description must include narrative and applicable SIC codes. (3-28-23)
- c.** Provide a general description of each process line affecting a Tier I source. (3-28-23)
- 03. Specific Information for Each Emissions Unit.** The owner or operator must provide, in an itemized format, all of the information identified in Subsections 314.04 through 314.11 for each emissions unit, unless the emissions unit is an insignificant activity. (3-28-23)
- 04. Emissions.** (3-28-23)
  - a.** Identify and describe all emissions of pollutants for which the source is major and all emissions of regulated air pollutants from each emissions unit. Fugitive emissions must be included in the application in the same manner as stack emissions, regardless of whether the source category is included in the list of sources contained in the definition of major facility (Section 008). (3-28-23)
  - b.** Emissions rates must be quantified in tons per year (tpy) and in such additional terms as are necessary to determine compliance consistent with the applicable test method. (3-28-23)
  - c.** Identify and describe all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of the Clean Air Act. (3-28-23)
  - d.** To the extent it is needed to determine or regulate emissions, identify and quantify all fuels, fuel use, raw materials, production rates, and operating schedules. (3-28-23)
  - e.** Identify and describe all air pollution control equipment and compliance monitoring devices or activities. (3-28-23)
  - f.** Identify and describe all limitations on source operation or any work practice standards affecting emissions. (3-28-23)
  - g.** Provide the calculations on which the information provided under Subsections 314.04.a. through 314.04.e. is based. (3-28-23)
- 05. Applicable Requirements.** (3-28-23)
  - a.** Cite and describe all applicable requirements affecting the emissions unit; and (3-28-23)
  - b.** Describe or reference all methods required by each applicable requirement for determining the compliance status of the emissions unit with the applicable requirement, including any applicable monitoring, recordkeeping and reporting requirements or test methods. (3-28-23)
- 06. Other Requirements.** Other specific information that may be necessary to determine the applicability of, implement or enforce any requirement of the Act, these rules, 42 U.S.C. Sections 7401 through 7671q or federal regulations. (3-28-23)
- 07. Proposed Determinations of Nonapplicability.** Identify requirements for which the applicant

seeks a determination of nonapplicability and provide an explanation of why the requirement is not applicable to the Tier I source. (3-28-23)

**08. Alternative Operating Scenarios.** (3-28-23)

**a.** Identify all requested alternative operating scenarios. (3-28-23)

**b.** Provide a detailed description of all requested alternative operating scenarios. Include all the information required by Section 314 that is relevant to the alternative operating scenario. (3-28-23)

**09. Compliance Certifications.** (3-28-23)

**a.** Provide a compliance certification regarding the compliance status of each emissions unit at the time the application is submitted to the Department that: (3-28-23)

**i.** Identifies all applicable requirements affecting each emissions unit. (3-28-23)

**ii.** Certifies the compliance status of each emissions unit with each of the applicable requirements. (3-28-23)

**iii.** Provides a detailed description of the method(s) used for determining the compliance status of each emissions unit with each applicable requirement, including a description of any monitoring, recordkeeping, reporting and test methods that were used. Also provide a detailed description of the method(s) required for determining compliance. (3-28-23)

**iv.** Certifies the compliance status of the emissions unit with any applicable enhanced monitoring requirements. (3-28-23)

**v.** Certifies the compliance status of the emissions unit with any applicable enhanced compliance certification requirements. (3-28-23)

**vi.** Provides all other information necessary to determining the compliance status of the emissions unit. (3-28-23)

**b.** Provide a schedule for submission of compliance certifications during the term of the Tier I operating permit. The schedule must require compliance certifications to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. (3-28-23)

**10. Compliance Plans.** (3-28-23)

**a.** Provide a compliance description as follows: (3-28-23)

**i.** For each applicable requirement with which the emissions unit is in compliance, state that the emissions unit will continue to comply with the applicable requirement. (3-28-23)

**ii.** For each applicable requirement that will become effective during the term of the Tier I operating permit that does not contain a more detailed schedule, state that the emissions unit will meet the applicable requirement on a timely basis. (3-28-23)

**iii.** For each applicable requirement that will become effective during the term of the Tier I operating permit that contains a more detailed schedule, state that the emissions unit will comply with the applicable requirement on the schedule provided in the applicable requirement. (3-28-23)

**iv.** For each applicable requirement with which the emission unit is not in compliance, state that the emissions unit will be in compliance with the applicable requirement by the time the Tier I operating permit is issued or provide a compliance schedule in accordance with Subsection 314.10.b. (3-28-23)

- b.** All compliance schedules must: (3-28-23)
  - i.** Include a schedule of remedial measures leading to compliance, including an enforceable sequence of actions and specific dates for achieving milestones and achieving compliance. (3-28-23)
  - ii.** Incorporate the terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. (3-28-23)
  - iii.** Be supplemental to, and not sanction noncompliance with, the applicable requirements on which it is based. (3-28-23)
- c.** Provide a schedule for submission to the Department of periodic progress reports no less frequently than every six (6) months or at a more frequent period if one (1) is specified in the underlying applicable requirement or by the Department. (3-28-23)

**11. Trading Scenarios.** (3-28-23)

- a.** Identify all requested trading scenarios authorized by Section 440. (3-28-23)
- b.** Provide a detailed description of all requested trading scenarios. Include all the information required by Section 314 that is relevant to the trading scenario and all the information required by Section 440, if applicable. Emissions trades must comply with all applicable requirements. (3-28-23)
- c.** Provide proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. Emissions trades involving emissions units for which the emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trade will not be approved. (3-28-23)

**12. Additional Information.** Provide additional information that the Department determines necessary to perform its functions efficiently and effectively. Such functions include, but are not limited to, determining the applicability of requirements for all regulated air pollutants, determining compliance with applicable requirements, developing or defining Tier I operating permit terms and conditions, defining all approved alternative operating scenarios, evaluating excess emissions procedures or making all necessary evaluations and determinations. (3-28-23)

**315. DUTY TO SUPPLEMENT OR CORRECT APPLICATION.**

**01. Failure to Submit.** Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. (3-28-23)

**02. Necessary Additional Information.** If, while processing an application that has been determined or deemed to be complete, the Department determines that additional information is necessary to evaluate or take final action on that application, the Department may request such information in writing and set a deadline for a response. The applicant must submit the requested information on or before the deadline set by the Department. (3-28-23)

**03. Additional Information After Completeness.** The applicant must promptly provide additional information as necessary to address any requirements that become applicable to the Tier I source after the date a complete application was filed but prior to release of a proposed action. (3-28-23)

**316. EFFECT OF INACCURATE INFORMATION IN APPLICATIONS OR FAILURE TO SUBMIT RELEVANT INFORMATION.**

Notwithstanding the shield provisions of Section 325, the owner or operator is subject to enforcement action for operation of the Tier I source without a Tier I operating permit if the owner or operator submitted an incomplete or inaccurate application or the Tier I source is later determined not to qualify for coverage under the conditions and terms of the Tier I operating permit. (3-28-23)

**317. INSIGNIFICANT ACTIVITIES.**

**01. Applicability Criteria.** This Section contains the criteria for identifying insignificant activities for the purposes of the Tier I operating permit program. Notwithstanding any other provision of this rule, no emission unit or activity subject to an applicable requirement qualifies as an insignificant emission unit or activity. Applicants may not exclude from Tier I operating permit applications information that is needed to determine whether the facility is major or whether the facility is in compliance with applicable requirements. (3-28-23)

- a.** Presumptively insignificant emission units. (3-28-23)
  - i.** Except as provided above, the activities listed in this section may be omitted from the permit application. (3-28-23)
    - (1) Blacksmith forges. (3-28-23)
    - (2) Mobile transport tanks on vehicles except for those containing asphalt and not including loading and unloading operations. (3-28-23)
    - (3) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities. (3-28-23)
    - (4) Storage tanks, reservoirs and pumping and handling equipment of any size, limited to soaps, lubricants, lubricating oil, treater oil, hydraulic fluid, vegetable oil, grease, animal fat, aqueous salt solutions or other materials and processes using appropriate lids and covers where there is no generation of objectionable odor or airborne particulate matter. (3-28-23)
    - (5) Pressurized storage of oxygen, nitrogen, carbon dioxide, air, or inert gases. (3-28-23)
    - (6) Storage of solid material, dust-free handling. (3-28-23)
    - (7) Boiler water treatment operations, not including cooling towers. (3-28-23)
    - (8) Vents from continuous emission monitors and other analyzers. (3-28-23)
    - (9) Vents from rooms, buildings and enclosures that contain permitted emissions units or activities from which local ventilation, controls, and separate exhaust are provided. (3-28-23)
    - (10) Internal combustion engines for propelling or powering a vehicle. (3-28-23)
    - (11) Recreational fireplaces including the use of barbecues, campfires and ceremonial fires. (3-28-23)
    - (12) Brazing, soldering, and welding equipment and cutting torches for use in cutting metal wherein components of the metal do not generate hazardous air pollutants or hazardous air pollutant precursors. (3-28-23)
    - (13) Atmospheric generators used in connection with metal heat treating processes using non-hazardous air pollutant metals as the primary raw material. (3-28-23)
    - (14) Non-hazardous air pollutant metal finishing or cleaning using tumblers. (3-28-23)
    - (15) Drop hammers or hydraulic presses for forging or metalworking. (3-28-23)
    - (16) Electrolytic deposition, used to deposit brass, bronze, copper, iron, tin, zinc, precious and other metals not listed as the parents of hazardous air pollutants. (3-28-23)
    - (17) Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit volatile organic compound or hazardous air pollutant. (3-28-23)
    - (18) Process water filtration systems. (3-28-23)

- (19) Portable electrical generators that can be moved by hand from one (1) location to another. Moved by hand means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device. (3-28-23)
- (20) Plastic and resin curing equipment, excluding FRP and provided these activities are not related to the source's primary business activity. (3-28-23)
- (21) Extrusion equipment, metals, minerals, plastics, grain or wood used without solvents containing hazardous air pollutant. (3-28-23)
- (22) Presses and vacuum forming, for curing rubber and plastic products or for laminating plastics without solvents containing hazardous air pollutants present. (3-28-23)
- (23) Roller mills and calendars for use with rubber and plastics without solvents containing hazardous air pollutants. (3-28-23)
- (24) Conveying and storage of plastic pellets. (3-28-23)
- (25) Plastic compression, injection, and transfer molding and extrusion, rotocasting, pultrusion, blowmolding, excluding acrylics, PVC, polystyrene and related copolymers and the use of plasticizer. Only oxygen, carbon dioxide, nitrogen, air or inert gas allowed as blowing agent. (3-28-23)
- (26) Plastic pipe welding. (3-28-23)
- (27) Wax application in either a molten state or aqueous suspension. (3-28-23)
- (28) Plant maintenance and upkeep including routine housekeeping, janitorial activities, cleaning and preservation of equipment, preparation for and painting of structures or equipment, retarring roofs, applying insulation to buildings in accordance with applicable environmental and health and safety requirements and lawn, landscaping and groundskeeping activities. Provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit modification. (3-28-23)
- (29) Agricultural activities on a facility's property that are not subject to registration or new source review by the permitting authority. (3-28-23)
- (30) Maintenance of paved streets and parking lots including paving, stripping, salting, sanding, cleaning and sweeping of streets and paved surfaces. Provided these activities are not related to the source's primary business activity, do not otherwise trigger a permit modification, and fugitive emissions are reasonably controlled as required in Section 808. (3-28-23)
- (31) Ultraviolet curing processes. (3-28-23)
- (32) Hot melt adhesive application with no volatile organic compounds or hazardous air pollutants in the adhesive formula. (3-28-23)
- (33) Laundering, dryers, extractors, tumblers for fabrics, using water solutions of bleach and/or detergents except for boilers. (3-28-23)
- (34) Steam cleaning operations. (3-28-23)
- (35) Steam sterilizers. (3-28-23)
- (36) Food service activities including cafeterias, kitchen facilities and barbecues located at a source for providing food service on premises. (3-28-23)

- (37) Portable drums and totes. (3-28-23)
- (38) Fluorescent light tube and aerosol can crushing in units designed to reduce emissions from these activities. (3-28-23)
- (39) Flares used to indicate danger to the public. (3-28-23)
- (40) General vehicle maintenance including vehicle exhaust from repair facilities provided these activities are not related to the source's primary business activity and do not have applicable requirements under title VI of the Clean Air Act. (3-28-23)
- (41) Comfort air conditioning or air-cooling systems, not used to remove air contaminants from specific equipment. (3-28-23)
- (42) Natural draft hoods, natural draft stacks, or natural draft ventilators for sanitary and storm drains, safety valves, and storage tanks subject to size and service limitations expressed elsewhere in this section. (3-28-23)
- (43) Natural and forced air vents for bathroom/toilet facilities. (3-28-23)
- (44) Office activities. (3-28-23)
- (45) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used exclusively to withdraw materials for laboratory analyses and testing. (3-28-23)
- (46) Fire suppression systems and similar safety equipment and equipment used to train firefighters including fire drill pits. (3-28-23)
- (47) Materials and equipment used by, and activity related to operation of infirmary; infirmary is not the source's business activity except equipment subject to 40 CFR Part 61 for radionuclides. (3-28-23)
- (48) Satellite Accumulation Areas (SAAs) and Temporary Accumulation Areas (TAAs) managed in compliance with RCRA. (3-28-23)
- (49) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, shot blasting, sintering, or polishing: Ceramics, glass, leather, metals, plastics, rubber, concrete, paper stock, or wood provided that these activities are not conducted as part of a manufacturing process. (3-28-23)
- (50) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment subject to other exemption limitation, e.g., internal and external combustion equipment. (3-28-23)
- (51) Slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment. (3-28-23)
- (52) Ozonation equipment. (3-28-23)
- (53) Temporary construction activities at a facility provided that the installation or modification of emissions units must comply with all applicable federal, state, and local rules and regulations. (3-28-23)
- (54) Batch loading and unloading of solid phase catalysts. (3-28-23)
- (55) Pulse capacitors. (3-28-23)
- (56) Gas cabinets using only gases that are not regulated air pollutants. (3-28-23)
- (57) CO2 lasers, used only on metals and other materials that do not emit hazardous air pollutants in the process. (3-28-23)



- (58) Structural changes not having air contaminant emissions. (3-28-23)
- (59) Equipment used to mix, package, store and handle soaps, lubricants, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions, provided appropriate lids and covers are utilized. (3-28-23)
- (60) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy, e.g., blueprint activity, photocopiers, mimeograph, telefax, photographic developing, and microfiche provided these activities are not related to the source's primary business activity. (3-28-23)
- (61) Pharmaceutical and cosmetics packaging equipment. (3-28-23)
- (62) Paper trimmers/binders provided these activities are not related to the source's primary business activity. (3-28-23)
- (63) Bench-scale laboratory equipment and laboratory equipment used exclusively for physical or chemical analysis, including associated vacuum producing devices but excluding research and development facilities. (3-28-23)
- (64) Repair and maintenance shop activities not related to the source's primary business activity. (3-28-23)
- (65) Handling equipment and associated activities for glass and aluminum which is destined for recycling, provided these activities are not related to the source's primary business activity. (3-28-23)
- (66) Hydraulic and hydrostatic testing equipment. (3-28-23)
- (67) Batteries and battery charging stations, except at battery manufacturing plants. (3-28-23)
- (68) Porcelain and vitreous enameling equipment. (3-28-23)
- (69) Solid waste containers. (3-28-23)
- (70) Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants. (3-28-23)
- (71) Shock chambers. (3-28-23)
- (72) Wire strippers. (3-28-23)
- (73) Humidity chambers. (3-28-23)
- (74) Solar simulators. (3-28-23)
- (75) Environmental chambers not using hazardous air pollutant gases. (3-28-23)
- (76) Totally enclosed conveyors not including transfer points. (3-28-23)
- (77) Steam vents and safety relief valves. (3-28-23)
- (78) Air compressors, pneumatically operated equipment, systems, and hand tools. (3-28-23)
- (79) Steam leaks. (3-28-23)
- (80) Boiler blow-down tank. (3-28-23)
- (81) Salt cake mix tanks at pulp mills. (3-28-23)

- (82) Digester chip feeders at pulp mills. (3-28-23)
- (83) Weak liquor and filter tanks at pulp mills. (3-28-23)
- (84) Process water and white water storage tanks at pulp mills. (3-28-23)
- (85) Demineralizer water tanks, demineralization, demineralizer vents, and oxygen scavenging (deaeration) of water. (3-28-23)
- (86) Clean condensate tanks. (3-28-23)
- (87) Alum tanks. (3-28-23)
- (88) Broke beaters, repulpers, pulp and repulping tanks, stock chests and pulp handling. (3-28-23)
- (89) Lime and mud filtrate tanks. (3-28-23)
- (90) Hydrogen peroxide tanks. (3-28-23)
- (91) Lime mud washer. (3-28-23)
- (92) Lime mud filter. (3-28-23)
- (93) Hydro and liquor clarifiers or filters and storage tanks and associated pumping, piping, and handling. (3-28-23)
- (94) Lime grits washers, filters, and handing. (3-28-23)
- (95) Lime silos and feed bins. (3-28-23)
- (96) Paper forming. (3-28-23)
- (97) Starch cooking. (3-28-23)
- (98) Pulp stock cleaning and screening. (3-28-23)
- (99) Paper winders or other paper converting equipment. (3-28-23)
- (100) Sludge dewatering and wet sludge handling. (3-28-23)
- (101) Screw press vents. (3-28-23)
- (102) Pond dredging. (3-28-23)
- (103) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation. (3-28-23)
- (104) Non-PCB oil filled circuit breakers, oil filled transformers and other equipment that is analogous to, but not considered to be, a tank. (3-28-23)
- (105) Lab-scale electric or steam-heated drying ovens and autoclaves. (3-28-23)
- (106) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems. (3-28-23)
- (107) Water cooling towers processing exclusively noncontact cooling water. (3-28-23)

- (108) Paper coating and sizing. (3-28-23)
- (109) Process wastewater and ponds. (3-28-23)
- (110) Outdoor firearms practice ranges. (3-28-23)
- b. Insignificant activities on the basis of size or production rate. (3-28-23)
- i. Units and activities listed in this section must be listed in the permit application. The following units and activities are determined to be insignificant based on their size or production rate: (3-28-23)
- (1) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than two hundred sixty (260) gallon capacity thirty five cubic feet (35cft), heated only to the minimum extend to avoid solidification if necessary. (3-28-23)
- (2) Operation, loading and unloading of storage tanks, not greater than one thousand one hundred (1,100) gallon capacity, with lids or other appropriate closure, not for use with hazardous air pollutants, maximum (max.) vp five-hundred fifty (550) mm Hg. (3-28-23)
- (3) Operation, loading and unloading of volatile organic compound storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure, vp not greater than eighty (80) mm Hg at twenty-one (21) degrees C. Operation, loading and unloading of gasoline storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure. (3-28-23)
- (4) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas (LPG), storage tanks, vessel capacity under forty thousand (40,000) gallons. (3-28-23)
- (5) Combustion source, less than five million (5,000,000) Btu/hr, exclusively using natural gas, butane, propane, and/or LPG. (3-28-23)
- (6) Combustion source, less than five hundred thousand (500,000) Btu/hr, using any commercial fuel containing less than four-tenths percent (.4%) by weight sulfur for coal or less than one percent (1%) by weight sulfur for other fuels. (3-28-23)
- (7) Combustion source, of less than one million (1,000,000) Btu/hr, if using kerosene, No. 1 or No. 2 fuel oil. (3-28-23)
- (8) Combustion source, not greater than five hundred thousand (500,000) Btu/hr, if burning waste wood, wood waste or waste paper. (3-28-23)
- (9) Welding using not more than one (1) ton per day of welding rod. (3-28-23)
- (10) Foundry sand molds, unheated and using binders with less than twenty-five hundredths percent (.25%) free phenol by sand weight. (3-28-23)
- (11) "Parylene" coaters using less than five hundred (500) gallons of coating per year. (3-28-23)
- (12) Printing and silkscreening, using less than two (2) gallon/day of any combination of the following: Inks, coatings, adhesives, fountain solutions, thinners, retarders, or nonaqueous cleaning solutions. (3-28-23)
- (13) Water cooling towers and ponds, not using chromium-based corrosion inhibitors, not used with barometric jets or condensers, not greater than ten thousand (10,000) gpm, not in direct contact with gaseous or liquid process streams containing regulated air pollutants. (3-28-23)
- (14) Combustion turbines, of less than five hundred (500) HP. (3-28-23)

- (15) Batch solvent distillation, not greater than fifty-five (55) gallons batch capacity. (3-28-23)
- (16) Municipal and industrial water chlorination facilities of not greater than twenty million (20,000,000) gallons per day capacity. The exemption does not apply to wastewater treatment. (3-28-23)
- (17) Surface coating, using less than two (2) gallons per day. (3-28-23)
- (18) Space heaters and hot water heaters using natural gas, propane or kerosene and generating less than five million (5,000,000) Btu/hr. (3-28-23)
- (19) Tanks, vessels, and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids excluding: (3-28-23)
- (a) Ninety-nine percent (99%) or greater H<sub>2</sub>SO<sub>4</sub> or H<sub>3</sub>PO<sub>4</sub>. (3-28-23)
- (b) Seventy percent (70%) or greater HNO<sub>3</sub>. (3-28-23)
- (c) Thirty percent (30%) or greater HCl. (3-28-23)
- (d) More than one (1) liquid phase where the top phase is more than one percent (1%) volatile organic compounds. (3-28-23)
- (20) Equipment used exclusively to pump, load, unload, or store high boiling point organic material, material with initial boiling point (IBP) not less than one hundred fifty (150) degrees C or vapor pressure (vp) not more than five (5) mm Hg at twenty-one (21) degrees C with lids or other appropriate closure. (3-28-23)
- (21) Smokehouses under twenty (20) square feet. (3-28-23)
- (22) Milling and grinding activities, using paste-form compounds with less than one percent (1%) volatile organic compounds. (3-28-23)
- (23) Rolling, forging, drawing, stamping, shearing, or spinning hot or cold metals. (3-28-23)
- (24) Dip-coating operations, using materials with less than one percent (1%) volatile organic compounds. (3-28-23)
- (25) Surface coating, aqueous solution or suspension containing less than one percent (1%) volatile organic compounds. (3-28-23)
- (26) Cleaning and stripping activities and equipment, using solutions having less than one percent (1%) volatile organic compounds by weight. On metallic substrates, acid solutions are not considered for listing as insignificant. (3-28-23)
- (27) Storage and handling of water-based lubricants for metal working where the organic content of the lubricant is less than ten percent (10%). (3-28-23)
- (28) Municipal and industrial wastewater chlorination facilities of not greater than one million (1,000,000) gallons per day capacity. (3-28-23)
- (29) Domestic sewage treatment ponds with average flowrates less than four hundred (400) gpm or treating waste from less than three thousand (3000) people from non-residential sources. (3-28-23)
- (30) An emission unit or activity with potential emissions less than or equal to the significant emission rate as defined in Section 006 and actual emissions less than or equal to ten percent (10%) of the levels contained in Section 006 of the definition of significant and no more than one (1) ton per year of any hazardous air pollutant. (3-28-23)

**318. -- 321. (RESERVED)**

**322. STANDARD CONTENTS OF TIER I OPERATING PERMITS.**

All Tier I operating permits must contain and the Department has the authority to impose, implement and enforce, the following elements for all permitted operating scenarios and emissions trading scenarios. Fugitive emissions must be included in the Tier I operating permit in the same manner as stack emissions. All Tier I operating permits must:

(3-28-23)

**01. Emission Limitations and Standards.** Contain emission limitations and standards, including, but not limited to, those operational requirements and limitations that assure compliance with the applicable requirements identified in the application, or determined by the Department to be applicable to the source; (3-28-23)

**02. Authority for and Form of Terms and Conditions.** Specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based; (3-28-23)

**03. Terms or Conditions for Applicable Requirements.** Contain at least one (1) permit term or condition for every applicable requirement specifically identified in the application or determined by the Department to be applicable to the source; (3-28-23)

**04. Alternative Operating Scenarios.** Contain terms and conditions to ensure compliance with all applicable requirements for each alternative operating scenario that was requested by the applicant and approved by the Department, including, but not limited to, a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) operating scenario to another, record the change in an operating scenario log located and retained at the permitted facility; (3-28-23)

**05. Trading Scenarios.** (3-28-23)

**a.** Contain terms and conditions for each trading scenario that was requested by the applicant and approved by the Department including, but not limited to, terms and conditions that ensure that any emission trade is quantifiable, accountable, enforceable and based on replicable procedures. (3-28-23)

**b.** State that no permit revision is required under approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in the permit; and (3-28-23)

**c.** At a minimum, include a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) trading scenario to another, record the change in a trading scenario log located and retained at the permitted facility and provide notice to the Department in accordance with Section 383; (3-28-23)

**06. Monitoring.** Contain the following with respect to monitoring: (3-28-23)

**a.** Sufficient monitoring to ensure compliance with all of the terms and conditions of the Tier I operating permit; (3-28-23)

**b.** All emissions monitoring and analysis procedures or test methods required under the applicable requirements; (3-28-23)

**c.** If the applicable requirement does not require specific periodic testing or monitoring, terms and conditions requiring periodic monitoring, recordkeeping, or both, that is sufficient to yield reliable data for the relevant time periods that are representative of the emissions unit's compliance with the Tier I operating permit, as reported pursuant to Subsection 322.08, and ensuring the use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement; and (3-28-23)

**d.** Requirements that the Department determines are necessary, concerning the use, maintenance and installation of monitoring equipment or methods; (3-28-23)

**07. Recordkeeping.** Incorporate by reference all applicable recordkeeping requirements and require the following: (3-28-23)

**a.** Sufficient recordkeeping to assure compliance with all the terms and conditions of the Tier I operating permit; (3-28-23)

**b.** Recording of monitoring information including but not limited to: (3-28-23)

**i.** The date, place (as defined in the Tier I operating permit) and time of sampling or measurements; (3-28-23)

**ii.** The date(s) analyses were performed; (3-28-23)

**iii.** The company or entity that performed the analyses; (3-28-23)

**iv.** The analytical techniques or methods used; (3-28-23)

**v.** The results of such analyses; and (3-28-23)

**vi.** The operating conditions existing at the time of sampling or measurement; and (3-28-23)

**c.** Retention of all monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes but is not limited to all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the Tier I operating permit; (3-28-23)

**08. Reporting.** Incorporate by reference all applicable reporting requirements and require the following: (3-28-23)

**a.** Sufficient reporting to assure compliance with all of the terms and conditions of the Tier I operating permit; (3-28-23)

**b.** Prompt reporting of deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report must be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report must be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports must describe the probable cause of such deviations and any corrective actions or preventative measures taken; and (3-28-23)

**c.** Submittal of reports for any required monitoring at least every six (6) months. All instances of deviations from Tier I operating permit requirements, which include monitoring, recordkeeping, and reporting, must be clearly identified in such reports. All required reports must be certified in accordance with Section 123; (3-28-23)

**09. Testing.** Contain terms and conditions requiring sufficient testing to assure compliance with all of the terms and conditions of the Tier I operating permit; (3-28-23)

**10. Compliance Schedule and Progress Reports.** Contain terms and conditions regarding the compliance plan submitted in the application in accordance with Subsection 314.10 including: (3-28-23)

**a.** For each applicable requirement for which the source is not in compliance at the time of the permit issuance, terms and conditions consistent with the compliance schedule submitted by the applicant including all of the following: (3-28-23)

**i.** A schedule of remedial measures leading to compliance including an enforceable sequence of actions and specific dates for achieving the milestones and achieving compliance; (3-28-23)

**ii.** A requirement that the permittee submit periodic progress reports to the Department no less frequently than every six (6) months or at a more frequent period if one is specified in the underlying applicable

requirement or by the Department; (3-28-23)

iii. A requirement that any progress report must include a statement of when the milestones and compliance were or will be achieved, an explanation of why any dates in the compliance schedule submitted by the applicant or in the terms or conditions of the Tier I operating permit were not or will not be met and a detailed description of any preventative or corrective measures undertaken by the permittee; (3-28-23)

iv. All terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment; and (3-28-23)

v. A statement that the terms and conditions regarding the compliance schedule are supplemental to, and do not sanction noncompliance with, the underlying applicable requirement; (3-28-23)

**b.** For each applicable requirement that will become effective during the term of the Tier I operating permit and that requires a detailed compliance schedule, the permit must include such compliance schedule; and (3-28-23)

**c.** For each applicable requirement that will become effective during the term of the Tier I operating permit that does not require a detailed compliance schedule, the permit must include a statement that the permittee must meet, on a timely basis, all such applicable requirements; (3-28-23)

**11. Periodic Compliance Certifications.** Require submittal of compliance certifications during the term of the permit for each emissions unit to the Department and the EPA as follows: (3-28-23)

**a.** Compliance certifications for all emissions units must be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department; (3-28-23)

**b.** The compliance certification for each emissions unit must address all the terms and conditions contained in the Tier I operating permit that are applicable to such emissions unit including emissions limitations, standards and work practices; (3-28-23)

**c.** The compliance certification must be in an itemized format providing: (3-28-23)

i. The identification of each term or condition of the Tier I operating permit that is the basis of the certification; (3-28-23)

ii. The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means must include, at a minimum, the methods and means required under Subsections 322.06, 322.07, and 322.08; (3-28-23)

iii. The status of compliance with the terms and conditions of the Tier I operating permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification must be based on the method or means designated in Subsection 322.11.c.ii. above, identify each deviation and take it into account in the compliance certification, and also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and (3-28-23)

iv. Such information as the Department may require to determine the compliance status of the emissions unit; and (3-28-23)

**d.** All original compliance certifications must be submitted to the Department and a copy of all compliance certifications submitted to the EPA; (3-28-23)

**12. Permit Conditions Regarding Acid Rain Allowances.** Include all requirements for acid rain allowances. (3-28-23)

- a. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds. (3-28-23)
- b. No limit is placed on the number of allowances held by the source and no permit revisions are required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement. (3-28-23)
- c. The source may not use allowances as a defense to noncompliance with any other applicable requirement. (3-28-23)
- d. Any such allowance must be accounted for according to the procedures established in 40 CFR Part 72 and 40 CFR Part 73; (3-28-23)
- 13. Permit Duration.** State that it is effective for a fixed term of five (5) years; (3-28-23)
- 14. Other Specific Requirements.** Include any terms or conditions determined by the Department to be necessary for approval of the Tier I operating permit; and (3-28-23)
- 15. General Requirements.** Contain provisions stating: (3-28-23)
- a. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit revocation, termination, revocation and reissuance, or revision; or for denial of a permit renewal application; (3-28-23)
- b. It is not a defense in an enforcement action that it would have been necessary to halt or reduce any activity in order to maintain compliance with the terms and conditions of this permit; (3-28-23)
- c. This permit may be revised, revoked, reopened and reissued, or terminated for cause; (3-28-23)
- d. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition; (3-28-23)
- e. This permit does not convey any property rights of any sort, or any exclusive privilege; (3-28-23)
- f. The permittee must furnish all information requested by the Department, within a reasonable time, that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing or terminating the permit or to determine compliance with the permit; (3-28-23)
- g. Upon request, the permittee must furnish to the Department copies of records required to be kept by this permit; (3-28-23)
- h. The provisions of this permit are severable, and if any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit is not affected thereby; (3-28-23)
- i. The permittee must comply with Sections 380 through 386 as applicable; (3-28-23)
- j. Unless specifically identified as a "State Only" provision, all terms and conditions in the permit, including any terms and conditions designed to limit a source's potential to emit, are enforceable: (3-28-23)
- i. By the Department in accordance with State law; and (3-28-23)
- ii. By the United States or any other person in accordance with Federal law; (3-28-23)
- k. Provisions specifically identified as a "State Only" provision are enforceable only in accordance with State law. "State Only" provisions are those that are not required under the Federal Clean Air Act or under any of



its applicable requirements or those provisions adopted by the State prior to federal approval; (3-28-23)

**l.** Upon presentation of credentials, the permittee must allow the Department or an authorized representative of the Department to do the following: (3-28-23)

**i.** Enter upon the permittee's premises where a Tier I source is located or emissions-related activity is conducted, or where records are kept under the conditions of this permit; (3-28-23)

**ii.** Have access to and copy, at reasonable times, any records that are kept under the conditions of this permit; (3-28-23)

**iii.** Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit; and (3-28-23)

**iv.** Sample or monitor at reasonable times substances or parameters for the purpose of determining or ensuring compliance with this permit or applicable requirements; (3-28-23)

**m.** Nothing in this permit alters or affects the following: (3-28-23)

**i.** Any administrative authority or judicial remedy available to prevent or terminate emergencies or imminent and substantial dangers; (3-28-23)

**ii.** The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance; (3-28-23)

**iii.** The applicable requirements of the acid rain program, consistent with 42 U.S.C. Section 7651g(a); and (3-28-23)

**iv.** The owner or operator's duty to provide information; (3-28-23)

**n.** The owner or operator of a Tier I source must pay registration fees to the Department in accordance with Sections 387 through 397, which are hereby incorporated by reference; (3-28-23)

**o.** All documents submitted to the Department must be certified in accordance with Section 123; (3-28-23)

**p.** If a timely and complete application for a Tier I operating permit renewal is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit including any permit shield that may have been granted pursuant to Section 325 remains in effect until the renewal permit has been issued or denied; and (3-28-23)

**q.** The permittee must promptly report deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report must be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report must be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports must describe the probable cause of such deviations and any corrective actions or preventative measures taken. (3-28-23)

**323. -- 324. (RESERVED)**

**325. ADDITIONAL CONTENTS OF TIER I OPERATING PERMITS -- PERMIT SHIELD.**  
Each Tier I operating permit will include provisions stating: (3-28-23)

**01. General Permit Shield.** Compliance with the terms and conditions of the Tier I operating permit, including those applicable to all alternative operating scenarios and trading scenarios, will be deemed compliance with all of the following: (3-28-23)

**a.** Applicable requirements as of the date of permit issuance that are specifically identified in the Tier

I operating permit and have a corresponding term or condition in the Tier I operating permit. (3-28-23)

**b.** Non-applicable requirements. For a requirement to be a non-applicable requirement, all of the following criteria must be met: (3-28-23)

**i.** The permittee must have provided the information required by Subsection 314.08.b. in the application. (3-28-23)

**ii.** The requirement must be specifically identified in the Tier I operating permit as a non-applicable requirement. (3-28-23)

**iii.** The requirement must have been determined by the Department, in writing and in acting on the permit application or revision, to not be applicable to the Tier I source. (3-28-23)

**iv.** Tier I operating permit must include the Department's determination or a concise summary thereof. (3-28-23)

**02. Limitation on Permit Shield.** Permit revisions and other actions authorized by Sections 300 through 386 may eliminate, modify or suspend the permit shield. (3-28-23)

**326. -- 331. (RESERVED)**

**332. EMERGENCY AS AN AFFIRMATIVE DEFENSE REGARDING EXCESS EMISSIONS.**

**01. General.** An emergency, defined as any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency, constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitation if the conditions of Subsection 332.02 are met. An emergency will not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (3-28-23)

**02. Demonstration of Emergency.** The affirmative defense of emergency must be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that: (3-28-23)

**a.** An emergency occurred and that the permittee can identify the cause(s) of the emergency; (3-28-23)

**b.** The permitted facility was at the time being properly operated; (3-28-23)

**c.** During the period of the emergency, the permittee took all reasonable steps, as determined by the Department, to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and (3-28-23)

**d.** The permittee submitted written notice of the emergency to the Department within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. Compliance with this section satisfies the written reporting requirements under Section 135 and Subsection 322.15.q. (3-28-23)

**03. Burden of Proof.** In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof. (3-28-23)

**04. Applicability.** Section 332 is in addition to any emergency or upset provision contained in any applicable requirement. (3-28-23)

**333. -- 334. (RESERVED)**

**335. GENERAL TIER I OPERATING PERMITS AND AUTHORIZATIONS TO OPERATE.**

**01. Issuance of General Tier I Operating Permits.** The Department may, after notice and opportunity for public participation provided in accordance with Section 364, issue a general Tier I operating permit covering numerous similar sources. (3-28-23)

**02. Contents of General Tier I Operating Permits.** Each general Tier I operating permit will: (3-28-23)

**a.** Include all terms and conditions identified in Sections 322 and 325. (3-28-23)

**b.** Include specific criteria by which sources may qualify for coverage under the general Tier I operating permit; and (3-28-23)

**c.** May provide for applications that deviate from the requirements of Sections 311 through 315, provided that such applications meet all other requirements of 42 U.S.C. 7661 through 7661f and include all information necessary to determine qualification for, and to ensure compliance with, the general Tier I operating permit. (3-28-23)

**03. Applications for Authorizations to Operate.** The owner or operator of a Tier I source may apply for an authorization to operate under the terms and conditions of a general Tier I operating permit by: (3-28-23)

**a.** Stating in the application submitted pursuant to Sections 311 through 315 that the owner or operator has determined that the Tier I source qualifies for coverage under a specifically identified general Tier I operating permit and that the owner or operator requests that operations of the Tier I source be authorized under a specifically identified general Tier I operating permit; or (3-28-23)

**b.** Complying with the specific application requirements, if any, provided in the general Tier I operating permit. (3-28-23)

**04. Procedures for Issuing Authorizations to Operate.** Without repeating the public participation procedures required under Section 364, the Department will issue an authorization to operate a Tier I source under a specifically identified general Tier I operating permit if the Department determines that the Tier I source qualifies for coverage. (3-28-23)

**05. Review of Authorizations to Operate.** The issuance of an authorization to operate is a final agency action for purposes of administrative and judicial review of the authorization. The general Tier I operating permit is not subject to administrative or judicial review upon the issuance of an authorization to operate. (3-28-23)

**06. Phase II Sources.** General Tier I operating permits are not authorized for Phase II sources under the acid rain program unless otherwise provided in 40 CFR Part 72. (3-28-23)

**336. TIER I OPERATING PERMITS FOR TIER I PORTABLE SOURCES.**

**01. Portable Tier I Source Permit Issuance.** (3-28-23)

**a.** The Department may issue a single Tier I operating permit authorizing emissions from similar operations of a portable Tier I source by the owner or operator at multiple temporary locations. (3-28-23)

**b.** The operation must be temporary and involve at least one (1) change of location for the portable Tier I source during the term of the Tier I operating permit. (3-28-23)

**02. Phase II Sources.** No Phase II source may be permitted as a portable Tier I source. (3-28-23)

**03. Portable Tier I Source Permit Content.** Tier I operating permits for portable Tier I sources will include the following: (3-28-23)

- a. Terms and conditions that will ensure compliance with all applicable requirements at all authorized locations; (3-28-23)
- b. Requirements that the owner or operator notify the Department at least ten (10) days in advance of each change in location in accordance with Section 500; and (3-28-23)
- c. All terms and conditions identified in Sections 322,325, and 332. (3-28-23)

**337. -- 359. (RESERVED)**

**360. STANDARD PROCESSING OF TIER I OPERATING PERMIT APPLICATIONS.**

Sections 360 through 369 establish standard procedures and requirements for processing Tier I operating permits. (3-28-23)

**361. COMPLETENESS OF APPLICATIONS.**

**01. Criteria.** Except as otherwise provided by these rules, the application must comply with Section 314 including that the information must be in sufficient detail. (3-28-23)

**02. Timelines for Completeness Determinations.** The Department will send written notice to the applicant of whether the application is complete within sixty (60) days of receiving the application and, if the Department fails to send the written notice, the application will be deemed complete. (3-28-23)

**03. Effects of Completeness Determination.** (3-28-23)

a. The submittal of a complete application activates the application shield provided by Subsection 361.02. (3-28-23)

b. The submittal of a complete Tier I operating permit application does not affect the permit to construct requirements of Sections 200 through 225 or 42 U.S.C. Sections 7401 through 7515. (3-28-23)

c. The timelines for final agency action provided in Subsections 367.02 and 367.03 begin on the date of the completeness determination. (3-28-23)

**362. STATEMENT OF BASIS FOR TIER I OPERATING PERMITS.**

**01. Statement of Basis for Draft Permit.** As part of its review of the Tier I operating permit application, the Department will prepare a statement of basis that sets forth the legal and factual basis for the draft Tier I operating permit terms and conditions (including references to the applicable statutory or regulatory provisions) or the draft denial. (3-28-23)

**02. Revised Statement of Basis for Proposed Permit.** If the Department revises its analysis, its conclusions or the terms or conditions of the Tier I operating permit in response to public comment, the Department may revise the statement of basis for the proposed permit or the proposed denial. (3-28-23)

**03. Release of Statement of Basis.** The statement of basis will be made available to the public in accordance with Section 364 and sent to the EPA with the proposed Tier I operating permit or proposed denial. (3-28-23)

**363. PREPARATION OF DRAFT PERMIT OR DRAFT DENIAL.**

Except as otherwise provided in these rules, the Department will prepare a draft permit or draft denial as promptly as practicable or one hundred twenty (120) days before the deadline for final action, whichever is earlier. (3-28-23)

**364. PUBLIC NOTICES, COMMENTS AND HEARINGS.**

**01. Generally.** Except as otherwise provided in these rules, all Tier I operating permit proceedings will

provide for public notice and public comment, including offering an opportunity for a hearing, on a draft permit or on a draft denial. (3-28-23)

**02. Public Comment Package.** A public comment package including the draft permit or draft denial, the technical memorandum and the application will be prepared and distributed to appropriate public locations, the applicant and affected States. (3-28-23)

**03. Giving Notice.** Notice will be given: by publication in a newspaper of general circulation in the area where the Tier I source is located or in a State publication designed to give general public notice; by mailing the notice to persons on a mailing list developed by the Department, including those who request in writing to be on the list; by mailing the notice to all affected States; and by other means if necessary to ensure adequate notice to the affected public. (3-28-23)

**04. Content of the Notice.** The notice will identify the affected facility; provide the name and address of the permittee; provide the name and address of the Department processing the application; identify the draft permit action; identify the emissions change if the permit action is a permit revision or reopening; provide the locations where the public may locate a copy of the public comment package; provide the name, address, email address, and telephone number of a person from whom interested persons may obtain additional information that is relevant to the permit decision by filing a written public documents request and paying any costs; provide a brief description of the comment procedures, including the deadline for comments and the name and address of the person to whom written comments must be delivered; and state the time and place of any hearing that has been scheduled or provide information regarding how a person may request a hearing. (3-28-23)

**05. Public Comment Procedures.** (3-28-23)

**a.** The Department will provide at least thirty (30) days for public comment. (3-28-23)

**b.** The Department will give notice of any public hearing at least thirty (30) days in advance of the hearing. (3-28-23)

**c.** The public hearing, if any, is an informal meeting, conducted by a hearing officer designated by the Department and transcribed. Written comments or supporting documents may be submitted during the hearing. (3-28-23)

**d.** The public comments and additional information received during the comment period are available to the public upon the filing of a written public documents request and the payment of any costs. (3-28-23)

**365. PREPARATION OF PROPOSED PERMIT OR PROPOSED DENIAL.**

**01. Timeline.** Except as otherwise provided by these rules, the Department will prepare a proposed permit or proposed denial within thirty (30) days after the close of the public comment period, unless the Department determines that additional time is required to evaluate comments and information received. (3-28-23)

**02. Availability.** The proposed permit or proposed denial will be available to the public upon the filing a written public documents request and the payment of any costs. (3-28-23)

**03. Notice to Affected States.** If the Department refuses to accept all recommendations that an affected State submitted during the public comment period, the Department will send a copy of the notice sent to EPA in accordance with Subsection 366.01.d. to the affected State that submitted the recommendation. (3-28-23)

**366. EPA REVIEW PROCEDURES.**

**01. Submittal of Proposal to EPA.** Except as otherwise provided in these rules and unless EPA waives its opportunity to review a proposed permit, the Department will transmit the following to EPA: (3-28-23)

**a.** The proposed permit or proposed denial. (3-28-23)

- b.** The statement of basis, as revised if appropriate. (3-28-23)
- c.** The application including all supplements and corrections submitted by the applicant, unless the applicant has submitted the information under a claim of confidentiality or unless the Department has entered an agreement with EPA to submit only a summary form and relevant portions of the permit application. (3-28-23)
- d.** Notice of any refusal by the Department to accept all recommendations for the proposal that any affected State submitted during the public comment period. The notice will include the Department's reasons for not accepting any such recommendation. The Department is not required to accept recommendations that are not based on applicable requirements. (3-28-23)
- 02. Opportunity for EPA Objection.** (3-28-23)
- a.** EPA may submit to the Department a written objection to the proposal within forty-five (45) days of receipt of the transmittal identified in Subsection 366.01. (3-28-23)
- b.** The written objection must state the EPA's reasons for the objection and provide the terms and conditions that the Tier I operating permit must include to respond to the objection or state that the permit must be denied. (3-28-23)
- c.** EPA must provide a copy of the written objection to the applicant. (3-28-23)
- 03. Response to EPA Objections.** Within ninety (90) days of receiving a written objection from EPA, the Department will prepare a revised proposal and submit it to EPA in accordance with Subsection 366.01. If EPA determines that the revised proposal is objectionable, the Department will review the permit action taken by EPA and take a comparable final permit action in accordance with Section 367. (3-28-23)
- 04. Public Petitions to EPA.** (3-28-23)
- a.** If the EPA does not object in writing under Subsection 366.02, any person may petition the EPA within sixty (60) days after the expiration of the EPA's forty-five (45) day review period to make such objection. (3-28-23)
- b.** Any such petition must be based only on objections to the draft permit or draft denial that were raised with specificity during the public comment period provided for in Section 364 unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. (3-28-23)
- c.** If the EPA objects to the proposal in accordance with Subsection 366.02 as a result of a petition filed under Subsections 366.04.a. and 366.04.b., the Department will: (3-28-23)
- i.** Not issue a permit action until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a Tier I operating permit or its requirements pending EPA's review of the petition and Department review of the objection if the Tier I operating permit was issued by the Department after the end of the forty-five (45) day review period and prior to an EPA objection initiated by a petition. (3-28-23)
- ii.** Process the objection in accordance with Subsection 366.03. (3-28-23)
- 367. ACTION ON APPLICATION.**
- 01. Issuance Conditions.** Except as otherwise provided by these rules, a Tier I operating permit, or any portion thereof, may be issued only if all of the following conditions have been met: (3-28-23)
- a.** The owner or operator has submitted a complete application in accordance with Section 361. (3-28-23)
- b.** The public has been provided notice and opportunities for comment and a hearing in accordance

with Section 364. (3-28-23)

- c. Affected States have been provided notice in accordance with Section 364 and Subsection 365.03. (3-28-23)
- d. The terms and conditions of the Tier I operating permit comply with Sections 321 through 336 including providing for compliance with all applicable requirements. (3-28-23)
- e. The EPA has been provided with the proposal and an opportunity to object and the Department has responded as required by Section 366. (3-28-23)

**02. Copy to EPA.** The Department will send a copy of the final Tier I operating permit to EPA. (3-28-23)

**03. Original to Permittee.** The Department will send the original Tier I operating permit to the permittee. (3-28-23)

**368. EXPIRATION OF PRECEDING PERMITS.**

If a timely and complete Tier I permit application is received by the Department and is not acted upon in a timely manner as prescribed by these rules, the permit to construct, Tier I operating permit or Tier II operating permit, if any, that has been previously issued to the owner or operator of the Tier I source by the Department or EPA continues in full force until the Department has completed action of the permit application. No Tier I operating permit will be considered to have expired due solely to the Department's inaction on a timely Tier I operating permit application. (3-28-23)

**369. TIER I OPERATING PERMIT RENEWAL.**

**01. Renewal Procedures.** Tier I operating permits being renewed are subject to the same procedural requirements, including those for public participation, including affected State review, and EPA review, that apply to initial Tier I operating permit issuance. (3-28-23)

**02. Expiration and Renewal Application Shield.** Tier I operating permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted. (3-28-23)

**370. -- 379. (RESERVED)**

**380. CHANGES TO TIER I OPERATING PERMITS.**

**01. Applicability.** Sections 380 through 397 establish procedures and requirements for permit revisions and changes requiring notice. These provisions do not alter the requirements for permits to construct set forth at Sections 200 through 227. (3-28-23)

**02. Changes Requiring Permit Revisions.** Sections 381 through 383 establish procedures and requirements for Tier I operating permit revisions. A permit revision is required for changes that are not addressed or prohibited by the Tier I operating permit if such changes are subject to any requirements under Title IV of the Clean Air Act or are modifications under any provision of Title I of the Clean Air Act. (3-28-23)

**03. Changes Requiring Notice.** Sections 384 and 385 establish procedures and requirements for providing notice by the permittee to the Department and EPA of certain emission trades and changes that contravene a permit term (Section 384), or certain changes that are not addressed or prohibited by the permit (Section 385). (3-28-23)

**04. Reopening.** Section 386 establishes procedures for reopening the permit for cause by the Department, EPA, or the permittee. (3-28-23)

**05. Acid Rain.** Changes regulated under Title IV of the Clean Air Act, 42 U.S.C. Sections 7651 through 7651o, are governed by regulations promulgated under Title IV of the Act. (3-28-23)

**381. ADMINISTRATIVE PERMIT AMENDMENTS.**

- 01. Criteria.** An administrative permit amendment is a permit revision that: (3-28-23)
- a.** Corrects typographical errors; (3-28-23)
  - b.** Identifies a change in the name, address, or phone number of any person identified in the Tier I operating permit, or provides a similar minor administrative change at the Tier I source; (3-28-23)
  - c.** Requires more frequent monitoring or reporting by the permittee; (3-28-23)
  - d.** Allows for a change in ownership or operational control of a Tier I source where the Department determines that no other change in the Tier I operating permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department; (3-28-23)
  - e.** Incorporates into the Tier I operating permit the requirements from a permit to construct that was issued by the Department in accordance with Subsection 209.05.c.; or (3-28-23)
  - f.** Is any other type of change that EPA and the Department have determined as part of the Part 70 program to be similar to those in Subsections 381.01.a. through 381.01.d. (3-28-23)
- 02. Administrative Permit Amendment Application Procedures.** (3-28-23)
- a.** If initiated by the permittee, the permittee must submit a request to the Department that: (3-28-23)
    - i.** States at the beginning of the request that it is a “REQUEST FOR ADMINISTRATIVE PERMIT AMENDMENT.” (3-28-23)
    - ii.** Describes the proposed administrative permit amendment including any permit to construct to be incorporated; (3-28-23)
    - iii.** States the date on which the proposed administrative amendment will occur at the facility; (3-28-23)
    - iv.** Identifies any Tier I operating permit term or condition that is no longer applicable as a result of the change; and (3-28-23)
    - v.** Identifies any applicable requirement that would apply to the Tier I source as a result of the change. (3-28-23)
  - b.** If initiated by the Department, the Department will notify the permittee that the Department is initiating an administrative permit amendment and provide a brief summary of the proposed administrative permit amendment including all of the information required by Subsection 381.02.a.i. through 381.02.a.v. (3-28-23)
  - c.** The Department will, within sixty (60) days of the receipt of a request for an administrative permit amendment, take final action on the request and may incorporate such changes without providing notice to the public or affected States provided that the Department designates any such administrative permit amendment as having been made pursuant to Section 381. The Department will submit a copy of the revised permit, or an addendum, to the EPA and send the original to the permittee. (3-28-23)
- 03. Implementation Procedures.** (3-28-23)
- a.** The permittee may implement the changes addressed in the request for an administrative permit amendment under Subsections 381.01.a. through 381.01.f. immediately upon submittal of the request. (3-28-23)



**b.** If the permittee obtains a permit to construct under Subsection 209.05.c., then so long as the change does not violate any terms or conditions of the existing Tier I operating permit, the permittee may operate the source described in the permit to construct immediately upon submittal of the request for an administrative permit amendment. (3-28-23)

**04. Permit Shield.** Upon final action by the Department, the permit shield described in Section 325 extends only to administrative permit amendments identified in Subsection 381.01.e. (3-28-23)

**382. SIGNIFICANT PERMIT MODIFICATION.**

**01. Criteria.** Significant modification procedures are used for applications requesting permit revisions that do not qualify as minor permit modifications or as administrative amendments. Nothing herein will be construed to preclude the permittee from making changes consistent with this chapter that would render existing permit compliance terms and conditions irrelevant. A significant permit modification is a permit revision for changes that: (3-28-23)

**a.** Violate an existing Tier I permit term or condition derived from an applicable requirement; (3-28-23)

**b.** Involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit. Every significant change in existing monitoring terms or conditions (except more frequent monitoring or reporting under Subsection 381.01.c.) and every relaxation of reporting or recordkeeping terms or conditions is considered significant; (3-28-23)

**c.** Require or change a case-by-case determination of an emission limitation or other standard; a source-specific determination for temporary sources of ambient impacts; or a visibility or increment analysis; (3-28-23)

**d.** Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include, but are not limited to, an enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Clean Air Act or an alternative emissions limit for an early reduction of hazardous air pollutants that was approved pursuant to regulations promulgated under 42 U.S.C. Section 7412(i)(5) of the Clean Air Act; (3-28-23)

**e.** Constitute a modification under any provision of Title I of the Clean Air Act; or (3-28-23)

**f.** Could be processed as an administrative amendment or as a minor modification, except the permittee has requested the change be processed as a significant modification, including incorporating the requirements of a permit to construct that was issued by the Department in accordance with Subsection 209.05.a. (3-28-23)

**02. Significant Permit Modification Application Procedures.** A permittee may initiate a significant permit modification by submitting a complete significant permit modification application to the Department. The application must: (3-28-23)

**a.** Request the use of significant permit modification procedures and state at the beginning of the request that it is a "REQUEST FOR SIGNIFICANT PERMIT MODIFICATION"; (3-28-23)

**b.** Meet the standard application requirements of Sections 314 and 315; (3-28-23)

**c.** Provide a summary sheet; (3-28-23)

**i.** Describing the proposed significant permit modification; (3-28-23)

**ii.** Describing and quantifying any change in emissions resulting from the significant permit modification including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted;

(3-28-23)

iii. Identifying any Tier I operating permit term or condition that will no longer be applicable as a result of the significant permit modification; and (3-28-23)

iv. Identifying new applicable requirement resulting from the change. (3-28-23)

d. Significant permit modifications will be issued in accordance with all procedural requirements as they apply to Tier I operating permit issuance and renewal, including those for applications (Sections 314 and 315), public participation (Section 364), review by affected States (Sections 364 and 365), and review by EPA (Section 366). (3-28-23)

e. The Department will process the majority of significant permit modifications within nine (9) months of receiving a complete application. The Department will determine which significant permit modification applications will be processed within nine (9) months. (3-28-23)

**03. Implementation Procedures.** The permittee must comply with Sections 200 through 223 as applicable, including Subsection 209.05 governing permit to construct procedures for Tier I sources. (3-28-23)

**04. Permit Shield.** Upon final action by the Department, the permit shield described in Section 325 will extend to significant permit modifications. (3-28-23)

**383. MINOR PERMIT MODIFICATION.**

**01. Criteria.** (3-28-23)

a. Minor permit modification procedures may be used for permit modifications involving economic incentives, marketable permits, emissions trading, and other similar approaches explicitly provided for in the SIP or applicable requirements promulgated by EPA. A permittee may not use minor modification procedures for changes described in Subsections 382.01.a. through 382.01.e. (3-28-23)

b. Any other permit modification that is not required to be processed as a significant permit modification under Section 382. (3-28-23)

c. Groups of a permittee's applications eligible for processing as minor permit modifications may be processed under minor permit modification procedures if collectively, the changes proposed in the minor modification applications do not exceed the lesser of: (3-28-23)

i. Ten percent (10%) of the emissions allowed by the existing Tier I operating permit for the emissions unit for which the change is requested; (3-28-23)

ii. Twenty percent (20%) of the major facility criteria in Section 008; or (3-28-23)

iii. Five (5) tons per year. (3-28-23)

**02. Minor Permit Modification Application Procedures.** A permittee may initiate a minor permit modification by submitting a complete standard application described in Section 314 to the Department. The application must: (3-28-23)

a. Request the use of minor permit modification procedures and state at the beginning of the request that it is a "REQUEST FOR MINOR PERMIT MODIFICATION," designate either "INDIVIDUAL" or "GROUP" processing, and provide a summary sheet; (3-28-23)

i. Describing the proposed minor permit modification; (3-28-23)

ii. Stating the date on which the proposed minor permit modification will occur at the facility; (3-28-23)

- iii. Describing and quantifying any change in emissions resulting from the minor permit modification including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; (3-28-23)
  - iv. Identifying any Tier I operating permit term or condition that will no longer be applicable as a result of the minor permit modification; (3-28-23)
  - v. Identifying any new applicable requirement that is applicable to the Tier I source as a result of the minor permit modification; (3-28-23)
  - vi. Certifying by a responsible official under Section 123 that the proposed permit modification meets the criteria for a minor permit modification and, if applicable, the use of group processing procedures; and (3-28-23)
  - vii. Listing the permittee's other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with the other applications, equals or exceeds the thresholds under Subsection 383.01.c. above; (3-28-23)
- b.** Include completed forms for the Department to use to notify the EPA and affected States as required under Sections 364 and 366; and (3-28-23)
  - c.** Include the applicant's suggested draft Tier I permit with the minor permit modification. (3-28-23)
- 03. EPA and Affected State Notification Procedures.** (3-28-23)
- a.** Within five (5) working days of receipt of a complete minor permit modification application, the Department will notify EPA and the affected States of the requested permit modification and forward the forms completed by the applicant and other required information, if any, to the EPA and affected States. Affected States and EPA review will occur simultaneously. (3-28-23)
  - b.** On a quarterly basis or within five (5) working days of receiving an application demonstrating that the aggregate of a permittee's pending applications equals or exceeds the threshold level established in Subsection 383.01.c. above, whichever is earlier, the Department shall notify EPA and the affected States of the requested permit modification and forward the forms completed by the applicant and other required information, if any, to the EPA and affected States. Affected States and EPA review shall occur simultaneously. (3-28-23)
  - c.** The Department will promptly notify EPA and any affected States in writing including its reasons for not accepting any such recommendation if the Department refuses to accept all the timely recommendations submitted by affected States. (3-28-23)
  - d.** The Department may not issue a final permit modification until after EPA's forty-five (45) day review period or until EPA has notified the Department that EPA will not object to issuance of the permit modification, whichever is first; although the Department can approve the permit modification prior to that time. (3-28-23)
  - e.** Within ninety (90) days of the Department's receipt of a complete minor permit modification application or within fifteen (15) days after the end EPA's forty-five (45) day review period, whichever is later, the Department will take one (1) of the following actions: (3-28-23)
    - i. Issue the minor permit modification as proposed; (3-28-23)
    - ii. Deny the minor permit modification application; (3-28-23)
    - iii. Determine that the requested minor permit modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or (3-28-23)
    - iv. Revise the proposed minor permit modification, transmit the revised proposal to the EPA in accordance with Section 366, and notify the permittee. (3-28-23)

f. Within one hundred and eighty (180) days of the Department's receipt of a complete application for modifications eligible for group processing or within fifteen (15) days after the end of EPA's forty-five (45) day review period, whichever is later, the Department will take one (1) of the actions specified in Subsections 383.03.e.i., 383.03.e.ii., 383.03.e.iii., or 383.03.e.iv. (3-28-23)

**04. Implementation Procedures.** (3-28-23)

a. The permittee may make the change proposed in its minor permit modification immediately upon submittal of a complete application to the Department before final action by the Department. (3-28-23)

b. After the source makes the allowed change and until the Department takes any of the actions specified in Subsections 383.03.e.i., 383.03.e.ii., or 383.03.e.iii., the permittee must comply with both the applicable requirements governing the change and the proposed terms and conditions. (3-28-23)

c. During this time period, the permittee need not comply with the existing permit terms and conditions it seeks to modify; provided that, if the source fails to comply with the applicable requirements governing the change and the proposed revisions, the existing permit terms and conditions it seeks to modify may be enforced against it. (3-28-23)

**05. Permit Shield.** The permit shield described in Section 325 does not apply to any minor permit modification. (3-28-23)

**384. SECTION 502(B)(10) CHANGES AND CERTAIN EMISSION TRADES.**

**01. Criteria.** This section authorizes emission changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of the Title I of the Clean Air Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or total emissions). (3-28-23)

a. Changes authorized are changes that: (3-28-23)

i. Are Section 502(b)(10) changes; (3-28-23)

ii. Are changes involving trades of increases and decreases of emissions within the permitted facility where the State Implementation Plan provides for such emissions trades without requiring a permit revision. SIP trades are allowed in compliance with this Section even if the Tier I operating permit does not already provide for such emission trading; or (3-28-23)

iii. Are changes made under the terms and conditions of the Tier I permit that authorize the trading of emissions increases and decreases within the permitted facility for the purpose of complying with a federally enforceable emissions cap that is established by the Department in the Tier I operating permit independent of otherwise applicable requirements. (3-28-23)

b. Changes constituting a modification under Title I of the Clean Air Act or subject to a requirement under Title IV of the Clean Air Act are not authorized by this Section. (3-28-23)

**02. Notice Procedures.** The permittee may make a change under this Section if the permittee provides written notification to the Department and EPA so that the notification is received at least seven (7) days in advance of the proposed change; or, in the event of an emergency, the permittee provides the notification so that it is received at least twenty-four (24) hours in advance of the proposed change. The permittee, the Department, and EPA will attach the notification to their copy of the Tier I operating permit. (3-28-23)

a. For each such change, the written notification must: (3-28-23)

i. State at the beginning of the notification "NOTIFICATION OF SECTION 502(b)(10) CHANGE" or "NOTIFICATION OF EMISSION TRADE"; (3-28-23)

- ii. Describe the proposed change; (3-28-23)
  - iii. Provide the date on which the proposed change will occur; (3-28-23)
  - iv. Describe and quantify any expected change in emissions including identification of any new regulated air pollutant(s) that will be emitted; (3-28-23)
  - v. Identify any permit term or condition that is no longer applicable as a result of the change; (3-28-23)
  - vi. Specifically identify and describe the emergency, if any; and (3-28-23)
  - vii. Identify any new applicable requirement that would apply to the Tier I source as a result of the change. (3-28-23)
  - b.** For changes described in Subsection 384.01.a.ii., the written notification must also include: (3-28-23)
    - i. Identification of the provisions in the SIP that provide for the emissions trade; (3-28-23)
    - ii. All of the information required by the provision in the SIP authorizing the emissions trade; (3-28-23)
    - iii. Specific identification of the provisions in the SIP with which the permittee will comply; and (3-28-23)
    - iv. The pollutants subject to the trade. (3-28-23)
  - c.** For changes described in Subsection 384.01.a.iii., the written notification must also describe how the change will comply with the terms and conditions of the permit. (3-28-23)
- 03. Permit Shield.** The permit shield described in Section 325 only extends to changes made in accordance with Subsection 384.01.a.iii. (3-28-23)

**385. OFF-PERMIT CHANGES AND NOTICE.**

**01. Criteria.** This section authorizes changes that are neither addressed nor prohibited by the Tier I operating permit to be made without a permit revision if each such change meets all applicable requirements and does not violate any existing permit terms or conditions. Changes constituting a modification under Title I of the Clean Air Act, or subject to a requirement under Title IV of the Clean Air Act are not off-permit changes. (3-28-23)

**02. Notice Procedure.** Sources must provide written notice to the Department and EPA of each such change except changes that qualify as insignificant under Section 317, within seven (7) days of making the off-permit change. (3-28-23)

- a.** The written notification provided to the Department and EPA must: (3-28-23)
  - i. State at the beginning of the notification “NOTIFICATION OF OFF-PERMIT CHANGE”; (3-28-23)
  - ii. Describe the off-permit change; (3-28-23)
  - iii. State the date on which the off-permit change will occur or has occurred; (3-28-23)
  - iv. Describe and quantify any change in emissions resulting from the off-permit change including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; and (3-28-23)

v. Identify any new applicable requirement that is applicable to the Tier I source as a result of the off-permit change. (3-28-23)

b. The permittee must keep a record at the facility describing all off-permit changes made at the Tier I source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and identifying the emissions resulting from those changes. (3-28-23)

**03. Permit Shield Applicability.** The permit shield described in Section 325 does not apply to any off-permit change. (3-28-23)

**386. REOPENING FOR CAUSE.**

The Department will reopen a Tier I permit if cause exists. (3-28-23)

**01. Criteria.** Cause for reopening exists under any of the following circumstances: (3-28-23)

a. Additional applicable requirements become applicable to a major Tier I source with a remaining permit term of three (3) or more years; provided that no such reopening is required if the original effective date of the applicable requirement is later than the date on which the Tier I operating permit is due to expire and the original Tier I operating permit or any of its terms and conditions has not been extended pursuant to Section 368; provided further that the permittee must comply with the additional applicable requirement no later than the effective date; (3-28-23)

b. Whenever additional applicable requirements become applicable to an affected source, as defined for the purposes of the acid rain program; (3-28-23)

c. The Department or EPA determines that the Tier I operating permit contains a material mistake or inaccurate statements were used or considered in establishing the emissions standards or other terms or conditions of the Tier I operating permit; or (3-28-23)

d. The Department or EPA determines that the Tier I operating permit does not ensure compliance with the applicable requirements. (3-28-23)

**02. Procedures for Reopenings.** (3-28-23)

a. The Department will follow the same procedures for reopening as they apply to initial permit issuance and will affect only those parts of the permit for which cause to reopen exists. Reopenings will be made as expeditiously as practicable in accordance with Sections 360 through 379. (3-28-23)

b. The Department will notify the permittee in writing of reopening and provide a brief summary of the reason for the reopening at least thirty (30) days prior to the reopening. (3-28-23)

c. The EPA may initiate reopenings for circumstances listed in Subsections 386.01.a. through 386.01.d. by providing written notification to the Department and the permittee. (3-28-23)

i. The Department will within ninety (90) days after receipt of notification from EPA, forward to EPA a proposed determination of termination, revocation, revision, or revocation and reissuance, as appropriate. The Administrator may extend the ninety (90) day period for an additional ninety (90) days if EPA finds that a new or revised permit application is necessary or that the Department must require the permittee to submit additional information. (3-28-23)

ii. The EPA will review the proposed determination from the Department within ninety (90) days of receipt. (3-28-23)

iii. The Department will have ninety (90) days from receipt of an EPA objection to resolve any EPA objection and to terminate, modify, or revoke and reissue the permit. (3-28-23)

iv. If the Department fails to submit a proposed determination or fails to resolve any EPA objection,

the EPA may terminate, modify, revoke and reissue the permit after taking the following actions: (3-28-23)

- (1) Providing at least thirty (30) days' notice to the permittee in writing of the reason for such action, and (3-28-23)
- (2) Providing the permittee an opportunity for comment on the EPA's proposed action and an opportunity for a hearing. (3-28-23)

**387. TIER I REGISTRATION FEE.**

Sections 387 through 397 set the procedures for the annual registration and fee assessment for Tier I sources, including facilities that obtained air quality permits that limited potential emissions below Tier I source levels during the previous year. Any person owning or operating a Tier I source during the previous calendar year must by April 1 of each year, register with the Department and submit the following information described at <http://www.deq.idaho.gov>: (3-28-23)

- 01. Facility Information.** The name, address, telephone number and location of the facility; (3-28-23)
- 02. Owner/Operator Information.** The name, address and telephone numbers of the owners and operators; (3-28-23)
- 03. Facility Emission Units.** The number and type of emission units present at the facility or the Tier I permit number for the facility; and (3-28-23)
- 04. Pollutant Registration.** The actual emissions from the previous calendar year for oxides of sulfur (SOx), oxides of nitrogen (NOx), particulate matter (PM10), and volatile organic compounds (VOC) calculated using methods to include, but not limited to, continuous emissions monitoring (CEMS), certified source tests, material balances (mass-balance), state/industry emission factors, or AP-42 emission factors applied to throughput, actual operating hours, production rates, in-place control equipment, or the types of materials processed, stored, or combusted. (3-28-23)

**388. – 389. (RESERVED)**

**390. TIER I ANNUAL FEE.**

A Tier I annual fee includes the following three components: (3-28-23)

- 01. Fixed Annual Fee.** A fixed annual fee for Tier I sources emitting regulated air pollutants listed in Subsection 387.04 as follows:

<b>Emissions (tons/year)</b>	<b>Fixed Annual Fee</b>
4500 and above	\$70,785
3000 – 4499	\$47,190
1000 – 2999	\$37,540
500 – 999	\$18,235
200 – 499	\$11,800
0 – 199	\$5,900

(3-28-23)

- 02. Fee Based on Presumptive Minimum.** A fee based on the 40 CFR Part 70 presumptive minimum (<https://www.epa.gov/title-v-operating-permits/permit-fees>) is calculated by multiplying the presumptive minimum fee in effect on April 1 of each year by the sum of all air pollutant emissions listed in Subsection 387.04, but not to exceed the following maximum values:

Emissions (tons/year)	Maximum Fee
4500 and above	\$181,000
3000 – 4499	\$91,000
1000 – 2999	\$44,400
500 – 999	\$31,500
200 – 499	\$13,500
0 – 199	\$4,550

(3-28-23)

**03. Fee-for-Service.** A fee for service that the Department will assess based on actual time expended and expenses incurred by the Department in the previous calendar year for 40 CFR Part 70 program activities in an amount not to exceed forty five thousand dollars (\$45,000) per year. (3-28-23)

**391. (RESERVED)**

**392. REGISTRATION FEE ASSESSMENT.**

All applicable facilities must pay to the Department an annual registration fee based on the information supplied by the registrant using the methods described in Section 390. If the facility fails to submit registration information, the Department will calculate the fee and assess both the fee and the costs of calculating the fee. No later than May 15 of each year, the Department will send to each registrant an assessment of the annual fee. (3-28-23)

**393. PAYMENT OF TIER I REGISTRATION FEE.**

The fee must be paid to and received by the Department no later than July 1 of each year. Information for making payments is available at <http://www.deq.idaho.gov>. (3-28-23)

**394. EFFECT OF DELINQUENCY ON APPLICATIONS.**

No permit to construct or operate will be processed by the Department for any facility or person having Tier I operating permit fees delinquent in full or in part. (3-28-23)

**395.—396. (RESERVED)**

**397. LUMP SUM PAYMENTS OF REGISTRATION FEES.**

**01. Agreement.** The Department may enter an agreement with any person for the lump sum payment of all, or any addition to, the registration fees in Section 390. (3-28-23)

**02. Minimum Amount.** The minimum amount for any lump sum agreement is three hundred thousand dollars (\$300,000). (3-28-23)

**03. Payment Waiver.** Upon the execution and full performance of the agreement by the person, the Department will waive the payment requirements of Section 390. All other provisions of Sections 387 through 397 remain applicable to the person. (3-28-23)

**398. -- 399. (RESERVED)**

**400. PROCEDURES AND REQUIREMENTS FOR TIER II OPERATING PERMITS.**

Sections 400 through 409 establish uniform procedures for the issuance of “Tier II Operating Permits.” (3-28-23)

**401. TIER II OPERATING PERMIT.**



**01. Optional Tier II Operating Permits.** The owner or operator of any stationary source or facility not subject to (or wishes to accept limitations on the facility's potential to emit so as to not be subject to) Sections 300 through 399 may apply to the Department for an operating permit to: (3-28-23)

- a.** Authorize the use of an emission offset pursuant to Sections 204.02.b. or 206; (3-28-23)
- b.** Authorize the use of a potential to emit limitation, an emission reduction or netting transaction to exempt a facility or modification from certain requirements for a permit to construct; (3-28-23)
- c.** Authorize the use of a potential to emit limitation to exempt the facility from Tier I permitting requirements; and (3-28-23)
- d.** Bank an emission reduction credit pursuant to Section 461. (3-28-23)

**02. Required Tier II Operating Permits.** (3-28-23)

**a.** A Tier II operating permit is required for any stationary source or facility that has annual actual mercury emissions in excess of sixty-two (62) pounds. Fugitive emissions are not included in a determination of the actual mercury emissions. The owner or operator of the stationary source or facility must submit a Tier II permit application for review and approval by the Department, no later than twelve (12) months after becoming subject to Subsection 401.02.a., that includes an MBACT analysis for all sources that emit mercury. A determination of applicability under Subsection 401.02 will be based upon best available information. An MBACT analysis for review and approval by the Department must be included in a Tier II renewal application for any mercury emitting source not otherwise subject to MBACT. (3-28-23)

**b.** Stationary sources within a source category subject to 40 CFR Part 63 are exempt from the requirements of Subsection 401.02.a. (3-28-23)

**03. Tier II Operating Permits Required by the Department.** The Department may require or revise a Tier II operating permit for any stationary source or facility whenever the Department determines that: (3-28-23)

- a.** Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (3-28-23)
- b.** Specific emission standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (3-28-23)

**04. Tier II Operating Permits Establishing a Facility Emissions Cap.** The owner or operator of any stationary source or facility may request a Tier II operating permit establishing a Facility Emissions Cap (FEC) pursuant to Sections 175 through 181. (3-28-23)

#### **402. APPLICATION PROCEDURES.**

Application for a Tier II operating permit must be made using forms furnished by the Department, or by other means approved by the Department. The application must be certified by the responsible official and be accompanied by all information necessary to perform any analysis or make any determination required under Sections 400 through 410. (3-28-23)

**01. Required Information.** Site information, plans, description, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. (3-28-23)

**02. Additional Specific Information.** (3-28-23)

**a.** For emission reduction credits, a description of the emission reduction credits proposed for use, including descriptions of the stationary sources or facilities providing the reductions, a description of the system of continuous emission control that provides the emission reduction credits, emission estimates, and other information necessary to determine that the emission reductions satisfy the requirements for emission reduction credits (Section

460). (3-28-23)

**b.** For emission offsets, information on the air quality impacts of the traded emissions as necessary to determine the change in ambient air quality that would occur. (3-28-23)

**c.** For restrictions on potential to emit, a description of the proposed potential to emit limitations including the proposed monitoring and recordkeeping requirements that will be used to verify compliance with the limitations. (3-28-23)

**03. Estimates of Ambient Concentrations.** All estimates of ambient concentrations must be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR Part 51 Appendix W (Guideline on Air Quality Models). Where an air quality model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted, subject to written approval of the EPA Administrator and public comment pursuant to Subsection 404.01.c. (3-28-23)

**04. Additional Information.** Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 400 through 409 shall be furnished upon request. (3-28-23)

**403. PERMIT REQUIREMENTS FOR TIER II SOURCES.**

No Tier II operating permit will be granted unless the applicant shows to the satisfaction of the Department that: (3-28-23)

**01. Emission Standards.** The stationary source would comply with all applicable local, state or federal emission standards. (3-28-23)

**02. NAAQS.** The stationary source would not cause or significantly contribute to a violation of any ambient air quality standard. (3-28-23)

**404. PROCEDURE FOR ISSUING PERMITS.**

**01. General Procedures.** General procedures for Tier II operating permits. (3-28-23)

**a.** Within thirty (30) days after receipt of the application for a Tier II operating permit, the Department will determine whether the application is complete or whether more information must be submitted and will notify the applicant of its findings in writing. (3-28-23)

**b.** Within sixty (60) days after the application is determined to be complete the Department will: (3-28-23)

**i.** Notify the applicant in writing of the approval or denial of the application if an opportunity for public comment is not required pursuant to Subsection 404.01.c. The Department will set forth reasons for any denial; or (3-28-23)

**ii.** Issue a proposed approval or proposed denial. (3-28-23)

**c.** An opportunity for public comment will be provided on an application for any Tier II operating permit pursuant to Subsection 401.01 and any other application that the Department determines an opportunity for public comment should be provided. (3-28-23)

**i.** The availability of such materials will be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (3-28-23)

**ii.** A copy of such notice will be sent to the applicant and to appropriate federal, state and local agencies. (3-28-23)

**iii.** There will be a thirty (30) day period after initial publication for comment on the Department's

proposed action, such comment to be made in writing to the Department. (3-28-23)

iv. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, unless the Department deems that additional time is required to evaluate comments and information received, the Department will notify the applicant in writing of approval or denial of the permit. The Department will set forth the reasons for any denial. (3-28-23)

v. All comments and additional information received during the comment period, together with the Department's final determination, will be made available to the public at the same location as the preliminary determination. (3-28-23)

d. A copy of each proposed and final permit will be sent to EPA. (3-28-23)

**02. Specific Procedures.** Procedures for Tier II operating permits. (3-28-23)

a. The Department will send a notification to the proposed permittee by registered mail of his intention to issue a Tier II operating permit for the facility concerned. The notification will contain a copy of the proposed permit in draft form stating the proposed emission standards and any required action, with corresponding dates, that must be taken by the proposed permittee in order to achieve or maintain compliance with the proposed Tier II operating permit. (3-28-23)

b. The application and the Department's proposed Tier II operating permit will be made available to the public in at least one (1) location in the region in which the facility is located. The availability of such materials will be made known by notice published in a newspaper of general circulation in the county(ies) in which the facility is located. A copy of such notice will be sent to the applicant. There will be a thirty (30) day period after publication for comment on the Department's proposed Tier II operating permit. Such comment must be made in writing to the Department. (3-28-23)

c. A public hearing will be scheduled to consider the standards and limitations contained in the proposed Tier II operating permit if the proposed permittee files a request with the Department within ten (10) days of receipt of the notification, or if the Department determines that there is good cause to hold a hearing. (3-28-23)

d. After consideration of comments and any additional information submitted during the comment period or at any public hearing, the Department will render a final decision upon the proposed Tier II operating permit within thirty (30) days of the close of the comment period or hearing. At this time the Department may adopt the entire Tier II operating permit as originally proposed or any part or modification thereof. (3-28-23)

e. All comments and additional information received during the comment period, together with the Department's final permit, will be made available to the public at the same location as the proposed Tier II operating permit. (3-28-23)

**04. Permit Revision or Renewal.** The Department may approve a revision of any Tier II operating permit or renewal of any Tier II operating permit provided the stationary source or facility continues to meet all applicable requirements of Sections 400 through 409. Revised permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsection 404.01.c. only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Department. Renewed Tier II operating permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsections 404.01.c., and 404.02.b. through 404.02.e. only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Department. The expiration of a permit will not affect the operation of a stationary source or a facility during the administrative procedure period associated with the permit renewal process. The permittee must submit a complete application to the Department for a renewal of the terms and conditions establishing the Tier II operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing permit. To ensure that the term of the permit does not expire before the terms and conditions are renewed, the permittee is encouraged to submit the application nine (9) months prior to expiration. (3-28-23)

**05. Transfer of Tier II Permit.** (3-28-23)

**a.** Transfers by Revision. A Tier II permit may be transferred to a new owner or operator in accordance with Subsection 404.04. (3-28-23)

**b.** Automatic Transfers. Any Tier II permit, with or without transfer prohibition language, may be automatically transferred if: (3-28-23)

**i.** The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; (3-28-23)

**ii.** The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and (3-28-23)

**iii.** The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 404.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 404.05.b.ii. (3-28-23)

**405. CONDITIONS FOR TIER II OPERATING PERMITS.**

**01. Reasonable Conditions.** The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with: (3-28-23)

**a.** Sampling ports of a size, number, and location as the Department may require; (3-28-23)

**b.** Safe access to each port; (3-28-23)

**c.** Instrumentation to monitor and record emissions data; (3-28-23)

**d.** Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility; and (3-28-23)

**e.** Any other sampling and testing facilities as may be deemed reasonably necessary. (3-28-23)

**02. Performance Tests.** Any performance tests required by the permit must be performed in accordance with methods and under operating conditions approved by the Department. The owner or operator must furnish to the Department a written report of the results of such performance test. (3-28-23)

**a.** Such test is at the expense of the owner or operator. (3-28-23)

**b.** The Department may monitor such test and may also conduct performance tests. (3-28-23)

**c.** The owner or operator of a stationary source or facility must provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present. (3-28-23)

**03. Permit Term.** Tier II operating permits will be issued for a period not to exceed five (5) years. This five (5) year operating permit restriction does not apply to the provisions contained in Section 461.02. (3-28-23)

**406. (RESERVED)**

**407. TIER II OPERATING PERMIT PROCESSING FEE.**

**01. Tier II Operating Permit Processing Fee.** A Tier II operating permit processing fee, calculated by

the Department pursuant to the categories provided in the following table, must be paid to the Department by the person receiving a Tier II permit or permit renewal. The fee calculation will not include fugitive emissions.

<b>TIER II OPERATING PERMIT CATEGORY</b>	<b>FEE</b>
General permit, no facility specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis.)	\$500
Stationary sources or facilities with permitted emissions of less than one (1) ton per year	\$1,250
Stationary sources or facilities with permitted emissions of one (1) to less than ten (10) tons per year	\$2,500
Stationary sources or facilities with permitted emissions of ten (10) to less than one hundred (100) tons per year	\$5,000
Stationary sources or facilities with permitted emissions of one hundred (100) tons or more per year	\$10,000
Synthetic minor stationary sources with permitted emissions below a major threshold level	\$10,000

(3-28-23)

**02. Tier II Operating Permit Processing Fee Not Required.** If the Department determines no other review or analysis is required, the Tier II operating permit processing fee is not required to be submitted when:  
 (3-28-23)

- a. A permit to construct issued within the last five (5) years is rolled into a Tier II permit; (3-28-23)
- b. A change to correct typographical errors is requested; (3-28-23)
- c. A change in the name or ownership of the holder of a Tier II operating permit is requested; or  
 (3-28-23)
- d. A synthetic minor permit is issued and the Department’s processing costs can be charged against fees collected from the person receiving the permit under Title V of the federal Clean Air Act amendments of 1990.  
 (3-28-23)

**408. PAYMENT OF TIER II OPERATING PERMIT PROCESSING FEE.**

**01. Fee Submittal.** The Tier II operating permit processing fee is payable upon receipt of an assessment sent, along with the final permit or permit renewal, to the person receiving a permit or permit renewal by the Department. Information for making payments is available at <http://www.deq.idaho.gov>.  
 (3-28-23)

**02. Delinquency.** Failure to submit a Tier II operating permit processing fee within forty-five (45) days of receipt of an assessment by the Department will result in a monthly accrual of interest in the amount of twelve percent (12%) per annum on the outstanding balance until the fee is paid in full.  
 (3-28-23)

**409. RECEIPT AND USAGE OF FEES.**

Tier II operating permit processing fee and delinquency interest receipts will be deposited by the Department into a stationary source permit account. Monies from this account are used solely toward technical, legal and administrative support of the Department’s Permit to Construct and Tier II permit programs and will not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990.  
 (3-28-23)

**410. -- 459. (RESERVED)**

**460. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.**

In order to be credited in a permit to construct, Tier I operating permit or Tier II operating permit any emission reduction must satisfy the following: (3-28-23)

**01. Allowable Emissions.** The proposed level of allowable emissions must be less than the actual emissions of the stationary source(s) or emission unit(s) providing the emission reduction credit. No emission reduction(s) can be credited for actual emissions that exceed the allowable emissions of the stationary source(s) or emission unit(s). (3-28-23)

**02. Timing of Emission Reduction.** In an attainment or unclassifiable area, any emission reduction that occurs prior to the minor source baseline date must have been banked with the Department prior to the minor source baseline date to be credited; in a nonattainment area the emission reduction must occur after the base year of any control strategy for the particular air pollutant. (3-28-23)

**03. Emission Rate Calculation.** The emission rate before and after the reduction must be calculated using the same method and averaging time and the characteristics necessary to evaluate any future use of the emission reduction credit must be described. (3-28-23)

**04. Permit Issuance.** A permit to construct, Tier I operating permit or Tier II operating permit will be issued to establish a new emission standard for the facility, or restrict the operating rate, hours of operation, or the type or amount of material combusted, stored or processed for the stationary source(s) or emission unit(s) providing the emission reductions. (3-28-23)

**05. Imposed Reductions.** Emission reductions imposed by local, state or federal regulations or permits will not be allowed for emission reduction credits. (3-28-23)

**06. Mobile Sources.** The proposed level of allowable emissions must be less than the actual emissions of the mobile sources or stationary sources providing the emission reduction credit. Mobile source emission reduction credits will be made state or federally enforceable by SIP revision. The form of the SIP revision may be a state or local regulation, operating permit condition, consent or enforcement order, or any mechanism available to the state that is enforceable. (3-28-23)

**461. REQUIREMENTS FOR BANKING EMISSION REDUCTION CREDITS (ERC'S).**

**01. Application to Bank an ERC.** The owner or operator of any facility may apply to the Department for a Tier I or Tier II operating permit (or a revision thereto) to bank an emission reduction credit. An application to bank an emission reduction credit must be received by the Department no later than one (1) year after the reduction occurs. The Department may issue or revise such a Tier I or Tier II operating permit and a "Certificate of Ownership" for an emission reduction credit, provided that all emission reductions satisfy the requirements of Section 460. (3-28-23)

**02. Banking Period.** Emission reduction credits may be banked with the Department. The banked emission reduction credits may be used for offsets, netting in accordance with the definition of net emissions increase at Section 007, or sold to other facilities. The use of banked emission reduction credits must satisfy the applicable requirements of the program in which they are proposed for use, including approval of a permit to construct or a Tier I or Tier II operating permit. (3-28-23)

**03. Certificate of Ownership.** Upon issuing or revising a Tier I or Tier II operating permit for an emission reduction credit, the Department will issue a "Certificate of Ownership" that will identify the owner of the credits, quantify the credited emission reduction and describe the characteristics of the emissions that were reduced and emissions unit(s) that previously emitted them. (3-28-23)

**04. Adjustment by Department.** If at any time the Department, or the owner or operator of a facility that has produced an emission reduction credit, finds that the actual reduction in emissions differs from that in the certificate of ownership, the Department will adjust the amount of banked emission reduction credits to reflect the actual emission reduction and issue a revised certificate of ownership. (3-28-23)

**05. Proportional Discounts.** If at any time the Department finds that additional emission reductions are necessary to attain and maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment, banked emission reduction credits at facilities in the affected area may be proportionally discounted by an amount that will not exceed the percentage of emission reduction required for that area. (3-28-23)

**06. Transfer of Ownership.** Whenever the holder of a certificate of ownership for banked emission reduction credits, sells or otherwise transfers ownership of all or part of the banked credits, the holder must submit the certificate of ownership to the Department. The Department will issue a revised certificate(s) of ownership that reflects the old and new holder(s) and amount(s) of banked emission reduction credits. (3-28-23)

**07. Public Registry.** The Department will maintain a public registry of all banked emissions reduction credits, indicating the current holder of each certificate of ownership and the amount and type of credited emissions. (3-28-23)

**462. -- 499. (RESERVED)**

**500. REGISTRATION PROCEDURES AND REQUIREMENTS FOR PORTABLE EQUIPMENT.**  
All existing portable equipment must be registered at least ten (10) days prior to relocating, using forms provided by the Department, except that no registration is required for mobile internal combustion engines, marine installations and locomotives. (3-28-23)

**501. -- 509. (RESERVED)**

**510. STACK HEIGHTS AND DISPERSION TECHNIQUES.**  
Sections 510 through 514 establish criteria for good engineering practice for stack heights and dispersion techniques and apply to existing, new, and modified stationary sources and facilities. Sections 510 through 514 do not apply to stack heights in existence, or dispersion techniques implemented, on or before December 31, 1970, except where regulated or toxic air pollutant(s) are being emitted from such stacks or using such dispersion techniques by sources that were constructed, or reconstructed, or for which major modifications were carried out, after December 31, 1970. Definitions for Section 510 through 514 are found in 40 CFR 51.100 incorporated by reference in Section 107. (3-28-23)

**511. REQUIREMENTS.**  
The required degree of emission control of any regulated or toxic air pollutant must not be affected by the amount of any stack height that exceeds good engineering practice (GEP) or by any other dispersion technique. (3-28-23)

**512. OPPORTUNITY FOR PUBLIC HEARING.**  
Whenever a new or revised emission limitation is to be based on a good engineering practice stack height that exceeds the height allowed by the GEP stack height formulae, the Department will notify the public of the availability of the demonstration study submitted and will provide an opportunity for public hearing on the demonstration study. (3-28-23)

**513. APPROVAL OF FIELD STUDIES AND FLUID MODELS.**  
Any field study or fluid model used to demonstrate GEP stack height and any determination of "excessive concentration" must be approved by the EPA prior to an emission limit being established. The construction of any new stack or any increase to the height of any existing stack determined by the GEP stack height formulae without completing a fluid model and a field study, must be approved by the EPA. (3-28-23)

**514. NO RESTRICTION ON ACTUAL STACK HEIGHT.**  
Sections 510 through 514 do not restrict, in any manner, the actual stack height of any stationary source or facility. (3-28-23)

**515. -- 549. (RESERVED)**

**550. AIR QUALITY EPISODES.**

Sections 550 through 562 define requirements for air quality episodes. (3-28-23)

**551. -- 555. (RESERVED)**

**556. CRITERIA FOR DECLARING AIR QUALITY EPISODES.**

An air quality episode will be declared by the Department when pollutant concentrations reach, or are forecasted to reach, and persist, at or above the levels listed below. Pollutant concentrations will be determined by the Department through its analysis of meteorological and ambient air quality monitoring data.

Pollutant	Averaging Period	Advisory <sup>a</sup>	Alert	Warning	Emergency <sup>b</sup>
CO	8 hour	NA	15 ppm	30 ppm	40 ppm
NO <sub>2</sub>	1 hour	NA	0.6 ppm	1.2 ppm	1.6 ppm
	24 hour	NA	0.15 ppm	0.3 ppm	0.4 ppm
O <sub>3</sub>	1 hour	NA	0.2 ppm	0.4 ppm	0.5 ppm
SO <sub>2</sub>	24 hour	NA	0.3 ppm	0.6 ppm	0.8 ppm
PM <sub>2.5</sub>	1 hour	80 µg/m <sup>3</sup>	NA	NA	NA
	24 hour	50 µg/m <sup>3</sup>	NA	NA	NA
PM <sub>10</sub>	1 hour	385 µg/m <sup>3</sup>	NA	NA	NA
	24 hour	150 µg/m <sup>3</sup>	350 µg/m <sup>3</sup>	420 µg/m <sup>3</sup>	500 µg/m <sup>3</sup>

Table Footnotes

**a.** The Department may call an Advisory, if it determines, after evaluating the pertinent meteorology, weather conditions and air quality conditions such as visibility, and source parameters such as source type, strength, location and projected duration, that an Advisory is required to protect the public health.

**b.** The Department will only declare an emergency with specific concurrence of Governor.

(3-28-23)

**557. REQUIREMENTS DURING AIR QUALITY EPISODES.**

All persons in an area under a declared air quality episode must comply with the following requirements. The Department may waive one (1) or more of the requirements at each episode level if, on the basis of information available, the requirement is an inappropriate response to the specific episode conditions that exist. (3-28-23)

**01. Advisory.** All open burning, as defined in Sections 600-624, is prohibited. No new ignition of open burning of any kind is allowed after an Advisory is declared. The Department may require, if practicable, or in an emergency situation, the cessation of any open burning. (3-28-23)

**02. Alert.** (3-28-23)

**a.** All open burning, as defined in Sections 600-624, is prohibited. (3-28-23)

**b.** The use of burners and incinerators for the disposal of any form of solid or liquid waste will be prohibited. (3-28-23)

**c.** Persons operating fuel-burning equipment that requires boiler lancing or soot blowing must perform such operations between the hours of 12:00 p.m. (noon) and 4:00 p.m. (3-28-23)

**d.** Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to switch to natural gas or distillate oil if available. (3-28-23)



- 03. Warning.** (3-28-23)
- a.** All open burning, as defined in Sections 600-624, is prohibited. (3-28-23)
  - b.** The use of burners and incinerators for the disposal of any form of solid or liquid waste is prohibited. (3-28-23)
  - c.** Persons operating fuel-burning equipment that requires boiler lancing or soot blowing must perform such operations between the hours of 12:00 p.m. (noon) and 4:00 p.m. (3-28-23)
  - d.** Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to either: (3-28-23)
    - i.** Switch completely to natural gas or distillate oil; or (3-28-23)
    - ii.** If these low sulfur fuels are not available, curtail the use of existing fuels to the extent possible without causing injury to persons or damage to equipment. (3-28-23)

- 04. Emergency.** (3-28-23)
- a.** All open burning, as defined in Sections 600-624, is prohibited. (3-28-23)
  - b.** The use of burners and incinerators for the disposal of any form of solid or liquid waste is prohibited. (3-28-23)
  - c.** Persons operating fuel-burning equipment that requires boiler lancing or soot blowing must perform such operations between the hours of 12:00 p.m. (noon) and 4:00 p.m. (3-28-23)
  - d.** Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to either: (3-28-23)
    - i.** Switch completely to natural gas or distillate oil; or (3-28-23)
    - ii.** If these low sulfur fuels are not available, curtail the use of existing fuels to the extent possible without causing injury to persons or damage to equipment. (3-28-23)

**558. NOTIFICATION OF AIR QUALITY EPISODE.**

**01. Method of Communication.** When the Department declares an air quality episode, it will utilize appropriate media to ensure that the following information is announced to the public, affected government, and commercial, industrial, institutional, and agricultural entities as practicable. (3-28-23)

- 02. Information to Be Given.** (3-28-23)
- a.** Level of episode that is declared. (3-28-23)
  - b.** Location and description of the designated area. (3-28-23)
  - c.** Description of the cause of degraded air quality. (3-28-23)
  - d.** Specific warnings and advice to those persons who, because of acute or chronic health problems, may be most susceptible to the effects of the degraded air quality. (3-28-23)
  - e.** Air quality forecast for the following two (2) days. (3-28-23)
  - f.** Duration of the episode and when the next statement from the Department will be issued. (3-28-23)

- g. Listing of all requirements applicable to the public, commercial, institutional and industrial sectors. (3-28-23)

**559.—561. (RESERVED)**

**562. SPECIFIC AIR QUALITY EPISODE ABATEMENT PLANS FOR STATIONARY SOURCES.**

In addition to the general rules presented in Section 557, the Department will require that specific stationary sources adopt and implement their own Air Quality Episode Abatement Plans in accordance with the criteria set forth in Section 556. An individual plan can be revised periodically by the Department after consultation between the Department and the owners and/or operators of the source. (3-28-23)

**563 – 576. (RESERVED)**

**577. AMBIENT AIR QUALITY STANDARDS FOR FLUORIDES.**

Primary and secondary air quality standards are those concentrations in the ambient air which result in a total fluoride content in vegetation used for feed and forage of no more than: (3-28-23)

- 01. **Annual Standard.** Forty (40) ppm, dry basis -- annual arithmetic mean. (3-28-23)
- 02. **Bimonthly Standard.** Sixty (60) ppm, dry basis -- monthly concentration for two (2) consecutive months. (3-28-23)
- 03. **Monthly Standard.** Eighty (80) ppm, dry basis -- monthly concentration never to be exceeded. (3-28-23)

**578. (RESERVED)**

**579. BASELINES FOR PREVENTION OF SIGNIFICANT DETERIORATION.**

- 01. **Baseline Date(s).** (3-28-23)
  - a. Major Source Baseline Date. (3-28-23)
    - i. In the case of PM10 and sulfur dioxide, January 6, 1975; (3-28-23)
    - ii. In the case of nitrogen dioxide, February 8, 1988; and (3-28-23)
    - iii. In the case of PM2.5, October 20, 2010. (3-28-23)
  - b. Minor Source Baseline Date. The earliest date after the trigger date on which a major stationary source or a major modification subject to prevention of significant deterioration (PSD) submits a complete application. The trigger date is: (3-28-23)
    - i. In the case of PM10 and sulfur dioxide, August 7, 1977; and (3-28-23)
    - ii. In the case of nitrogen dioxide, February 8, 1988. (3-28-23)
    - iii. In the case of PM2.5, October 20, 2011. (3-28-23)
  - c. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if: (3-28-23)
    - i. The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d) of the Clean Air Act for the pollutant on the date of its complete prevention of significant deterioration (PSD) application; and (3-28-23)

ii. In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant. (3-28-23)

d. Any minor source baseline date established originally for the TSP increments remains in effect and applies for purposes of determining the amount of available PM10 increments, except that the Department may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Department, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM10 emissions. (3-28-23)

**02. Baseline Area.** Any intrastate area designated as attainment or unclassifiable under 42 U.S.C. Section 7407(d), in which the major facility or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than 1 µg/m<sup>3</sup> (annual average) for SO<sub>2</sub>, NO<sub>2</sub>, or PM<sub>10</sub>; or equal or greater than 0.3 µg/m<sup>3</sup> (annual average) for PM<sub>2.5</sub>. (3-28-23)

**03. Baseline Concentration.** The ambient concentration for a particular regulated air pollutant which exists in the applicable baseline area on the applicable minor source baseline date. (3-28-23)

a. The baseline concentration represents: (3-28-23)

i. The actual emissions from sources in existence on the applicable minor source baseline date; and (3-28-23)

ii. The allowable emissions of major facilities and major modifications that commenced construction before the applicable major source baseline date, but were not in operation by the applicable minor source baseline date. (3-28-23)

b. The baseline concentration does not include the actual emissions of new major facilities and major modifications that commenced construction on or after the applicable major source baseline date. (3-28-23)

## **580. CLASSIFICATION OF PREVENTION OF SIGNIFICANT DETERIORATION AREAS.**

**01. Restrictions On Area Classification.** Restrictions on classification are listed in 40 CFR 52.21(e). (3-28-23)

**02. Procedures for Redesignation of Prevention of Significant Deterioration (PSD) Areas.** The Governor may submit to EPA a proposal to redesignate areas as a revision to the SIP. In preparing any such proposal the Department will: (3-28-23)

a. Consult with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation; (3-28-23)

b. Prepare a discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposal. This document will be made available for public inspection at least thirty (30) days prior to the public hearing on the proposed redesignation and the notice announcing the hearing will include notification of the availability of the document; (3-28-23)

c. Provide written notice to the appropriate Federal Land Manager of any federal lands proposed for redesignation and provide at least thirty (30) days for the Federal Land Manager to confer with the Department and to submit written comments and recommendations. If written comments and recommendations are submitted, the Department will publish a list of any inconsistency between the proposed redesignation and the comments and recommendations, including the reasons for making a redesignation against the recommendation of the Federal Land Manager; (3-28-23)

d. Notify other states, Indian governing bodies, and federal land managers whose land may be affected by the proposed redesignation at least thirty (30) days prior to the public hearing; (3-28-23)

e. For a redesignation to Class III: After consulting with the appropriate committees of the legislature, if it is in session, or the leadership of the legislature, if it is not in session, obtain specific approval by the Governor and by all general purpose units of local government representing a majority of the residents of the area to be redesignated; demonstrate that the redesignation would not cause, or contribute to, violations of any ambient air quality standard, or violations of PSD increments in any other area; and make available, for public inspection prior to the public hearing, any permit application and accompanying material for any major facility or major modification which could only be permitted if the area were designated as Class III; and (3-28-23)

f. Hold at least one (1) public hearing on the proposed redesignation. (3-28-23)

**581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS.**

Section 581 establishes the allowable degree of deterioration for the areas within the State that have air quality better than the ambient standards. (3-28-23)

**01. Incorporated Federal Program Requirements - Class I, II and III Areas.** Class I, II, and III area PSD increment requirements contained in 40 CFR 52.21(c) are incorporated by reference in Section 107. These CFR sections have been codified in the electronic CFR at [www.ecfr.gov](http://www.ecfr.gov). (3-28-23)

**02. Exceedances.** For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location. (3-28-23)

**03. Exclusions.** The following concentrations will be excluded in determining compliance with the maximum allowable increases: (3-28-23)

a. Concentrations attributable to the increase in emissions from facilities that have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, over the emissions from such facilities before the effective date of such order or plan; this does not apply more than five (5) years after the effective date of such order or plan; (3-28-23)

b. Concentrations of PM-10 attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities; (3-28-23)

c. The increase in concentrations attributable to new facilities outside the United States over the concentrations attributable to existing facilities which are included in the baseline concentration; and (3-28-23)

d. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen dioxide, or particulate matter from facilities that are affected by a revision to the SIP approved by EPA; this exclusion may not exceed two (2) years unless a longer time is approved by EPA, is not renewable, and applies only to revisions that: (3-28-23)

i. Would not affect the applicable pollutant concentrations in a Class I area or an area where an applicable increment is known to be violated and would not cause or contribute to a violation of an ambient air quality standard; and (3-28-23)

ii. Require limitations to be in effect at the end of the approved time period that would ensure that the emissions from facilities affected by the revision would not exceed those concentrations occurring before the revision was approved. (3-28-23)

**582. -- 584. (RESERVED)**

**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. (3-28-23)

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
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 perflu-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

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
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:			
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			
112-07-2	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
1317-65-3	Calcium carbonate	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
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
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

<b>CAS NUMBER</b>	<b>SUBSTANCE</b>	<b>OEL (mg/m3)</b>	<b>EL (lb/hr)</b>	<b>AAC (mg/m3)</b>
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
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
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



CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
108-91-8	Cyclohexylamine	41	2.73	2.05
121-82-4	Cyclonite	1.5	0.1	0.075
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, I-Dichloro-I-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

<b>CAS NUMBER</b>	<b>SUBSTANCE</b>	<b>OEL (mg/m3)</b>	<b>EL (lb/hr)</b>	<b>AAC (mg/m3)</b>
100-37-8	2-Diethylamino-ethanol	50	3.33	2.5
111-40-0	Diethylene triamine	4	0.267	0.2
60-29-7	Diethyl 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

<b>CAS NUMBER</b>	<b>SUBSTANCE</b>	<b>OEL (mg/m3)</b>	<b>EL (lb/hr)</b>	<b>AAC (mg/m3)</b>
85-00-7	Diquat	0.5	0.033	0.01
97-77-8	Disulfiram	2	0.133	0.1
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

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
110-49-6	Ethylene glycol methyl ether acetate, see 2-Methoxyethyl acetate			
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	Ferrovandium 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

<b>CAS NUMBER</b>	<b>SUBSTANCE</b>	<b>OEL (mg/m3)</b>	<b>EL (lb/hr)</b>	<b>AAC (mg/m3)</b>
77-47-4	Hexachlorocyclopentadiene	0.1	0.007	0.005
1335-87-1	Hexachloronaphthalene	0.2	0.013	0.010
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			
999-61-1	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 <sub>2</sub> O <sub>3</sub> ) 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

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
67-63-0	Isopropyl alcohol	980	65.3	49
75-31-0	Isopropylamine	12	0.8	0.6
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-propyl 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			

<b>CAS NUMBER</b>	<b>SUBSTANCE</b>	<b>OEL (mg/m3)</b>	<b>EL (lb/hr)</b>	<b>AAC (mg/m3)</b>
110-43-0	Methyl n-amyl ketone	235	15.7	11.75
100-61-8	N-Methyl aniline	2	0.133	0.1
74-83-9	Methyl bromide	19	1.27	0.95
591-78-6	Methyl n-butyl ketone	20	1.33	1
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:			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
NA	Soluble compounds	5	0.333	0.25
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



<b>CAS NUMBER</b>	<b>SUBSTANCE</b>	<b>OEL (mg/m3)</b>	<b>EL (lb/hr)</b>	<b>AAC (mg/m3)</b>
19624-22-7	Pentaborane	0.01	0.001	0.0005
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

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
142-64-3	Piperazine dihydro-chloride	5	0.333	0.25
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

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
14167-18-1	Salcoine as CO	0.1	0.007	0.005
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

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
1395-21-7	Subtilisins (Proteolytic enzymes as 100% pure crystalline enzyme)	0.00006	4.0E-07	3.0E-7
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

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
NA	Oxide & inorganic compounds, except SnH4, as Sn	2	0.133	0.1
NA	Organic compounds as Sn	0.1	0.007	0.005
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	35	2.3	1.75
25013-15-4	Vinyl toluene	240	16	12

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
8032-32-4	VM & P Naphtha	1370	91.3	68.5
81-81-2	Warfarin	0.1	0.007	0.005
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

**Note:** **ACGIH:** American Conference of Government Industrial Hygienists; **CL:** Derived from ACGIH ceiling Limit UF = 10; **ID:** Idaho Division of Environmental Quality. Not OEL based; **LA:** From LA Dept. of Environmental Quality. Not OEL based eight (8) hour TWA; **MA:** From MA Dept. of Environmental Protection, Div. of Air Quality Control. Not OEL based, annual averaging time, no UF; **MI:** From MI Dept. of Natural Resources, Air Quality Div. Based on toxicological data, annual averaging time, no UF.; **NY:** From New York Dept. of Conservation, Div. of Air Quality. Not OEL based, annual averaging. time no UF; **OEL:** Reference Occupational Exposure Level; **PL:** From Phil. Dept. of Air Management Services. Not OEL based, annual. averaging time no UF; **PL1:** From Phil. Dept. of Air Management Services. Unspecified OEL based, annual averaging time, UF=10; **PL2:** From Phil. Dept. of Air Management Services. Not OEL based annual averaging. time, UF=10; **PL3:** From Phil. Dept. of Air Management Services. Not OEL based, annual averaging. time, UF=1000.; **TWA:** Time Weighted Average; **UF:** Uncertainty Factor; **WA:** From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based. (3-28-23)

**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. (3-28-23)

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
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

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
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
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
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	4.0E-06	1.7E-03	2.5E-01
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 are 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. U.S. EPA, (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

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
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
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
319-85-7	Hexachlorocyclohexane (Lindane) Beta (BHC)	5.3E-04	1.3E-05	1.8E-03
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
302-01-2	Hydrazine	2.9E-03	2.3E-06	3.4E-04
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
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



CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
	(Polycyclic Organic Matter or 7-PAH group) For emissions of the 7-PAH group, the following PAHs are 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
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

**Note:** **ID:** Idaho Division of Environmental Quality. Not OEL based; **URF:** Unit Risk Factor from EPA. **WA:** From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based. (3-28-23)

**587. -- 591. (RESERVED)**

**592. STAGE 1 VAPOR COLLECTION.**

Sections 592 through 598 set requirements for Stage 1 vapor collection systems. Stage 1 vapor collection is 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. Section 599 sets the requirements for gasoline cargo tanks that deliver gasoline to those required to install and operate Stage 1 vapor collection systems. These sections apply to gasoline dispensing facilities (GDF) and gasoline cargo tanks in Ada and Canyon Counties only. Nothing in these rules is intended to supersede or render inapplicable any federal, state, or local laws, including, but not limited to 40 CFR Part 63, Subpart CCCCC. (3-28-23)

**593. AFFECTED EQUIPMENT OR PROCESSES.**

**01. Applicability.** Sections 592 through 598 apply to transfers of gasoline to underground storage tanks with a tank capacity of ten thousand (10,000) gallons and not otherwise subject to 40 CFR 63.11118. The emission sources include the underground gasoline storage tanks and associated equipment components in vapor or liquid gasoline service at new, reconstructed, or existing GDFs. Pressure/vacuum vents on underground gasoline storage tanks and the equipment necessary to unload product from cargo tanks into the storage tanks at GDFs are covered emission sources. (3-28-23)

**02. New Sources.** A source is a new source if construction commenced on the source after April 1, 2009. (3-28-23)

**03. Reconstructed Sources.** A source is reconstructed if meeting the criteria for reconstruction as defined in 40 CFR 63.2, incorporated by reference in Section 107. (3-28-23)

**04. Existing Sources.** A source is an existing source if it is not new or reconstructed. (3-28-23)

**594. COMPLIANCE DATES.**

For a new or reconstructed source, the owner or operator must comply with the standards in Sections 595 and 596 upon startup. Owners or operators of new sources must install dual point systems. (3-28-23)

**595. SUBMERGED FILL REQUIREMENTS.**

The owner or operator must only load gasoline into underground storage tanks at the facility by utilizing submerged filling. (3-28-23)

**01. Installed On or Before November 9, 2006.** Submerged fill pipes installed on or before November 9, 2006, must be no more than twelve (12) inches from the bottom of the storage tank. (3-28-23)

**02. Installed After November 9, 2006.** Submerged fill pipes installed after November 9, 2006, must be no more than six (6) inches from the bottom of the storage tank. (3-28-23)

**596. VAPOR BALANCE REQUIREMENTS.**

The owner or operator of a GDF must comply with the following: (3-28-23)

**01. Loading.** When loading an underground gasoline storage tank equipped with a vapor balance system, connect and ensure the proper operation of the vapor balance system whenever gasoline is being loaded. (3-28-23)

**02. Maintenance.** Maintain all equipment associated with the vapor balance system to be vapor tight and in good working order. (3-28-23)

**03. Inspection.** Inspect the vapor balance equipment on an annual basis to discover potential or actual equipment failures. A log form is available on the Department's website at <http://www.deq.idaho.gov>. (3-28-23)

**04. Repair.** Replace, repair or modify any worn or ineffective component or design element within twenty-four (24) hours to ensure the vapor-tight integrity and efficiency of the vapor balance system. If repair parts must be ordered, either a written or verbal order for those parts must be initiated within two (2) working days of detecting such a leak. Such repair parts must be installed within five (5) working days after receipt. (3-28-23)

**597. TESTING AND MONITORING REQUIREMENTS.**

The owner or operator of a GDF must comply with the following requirements within ninety (90) days of registration under Section 598 and every three (3) years thereafter. (3-28-23)

**01. Testing.** (3-28-23)

**a.** The owner or operator must demonstrate compliance in accordance with 40 CFR 63.11120(a)(1). (3-28-23)

**b.** The owner or operator must demonstrate compliance with the static pressure performance requirement, specified in item 1(h) of Table 1 to 40 CFR Part 63, Subpart CCCCCC, for the vapor balance system by conducting a static pressure test on the underground gasoline storage tanks using the test methods identified in paragraph 597.01.b.i. or 597.01.b.ii. in accordance with 40 CFR 63.11120(a)(2). (3-28-23)

**02. Alternative Testing.** The owner or operator of a GDF, choosing, under the provisions of 40 CFR 63.6(g), to use a vapor balance system other than that described in Table 1 to 40 CFR Part 63, Subpart CCCCCC, must demonstrate to the Department the equivalency of their vapor balance system to that described in Table 1 to 40 CFR Part 63, Subpart CCCCCC in accordance with 40 CFR 63.11120(b). (3-28-23)

**598. REGISTRATION, RECORDKEEPING, AND REPORTING REQUIREMENTS.**

- 01. Registration.** (3-28-23)
- a.** Any GDF subject to these rules must: (3-28-23)
- i.** Within thirty (30) days of installation of the Stage 1 vapor collection system, the owner or operator of the GDF must submit to the Department a registration that provides, at a minimum, the operation name and address, signature of the owner or operator in accordance with Section 123, the location of records and reports required by Subsections 598.02 and 598.03 (including contact person's name, address and telephone number), the number of underground gasoline storage tanks, the number of gasoline tank pipe vents, and the date of completion of installation of the Stage 1 vapor collection system and pressure/vacuum relief valve; and (3-28-23)
- ii.** The registration certification must be displayed at the GDF. (3-28-23)
- b.** Upon modification of an existing Stage 1 vapor collection system or pressure/vacuum relief valve, the owner or operator of the GDF must submit to the Department a registration that details the changes to the information provided in the previous registration and includes the signature of the owner or operator. The registration must be submitted to the Department within thirty (30) days after completion of such modification. (3-28-23)
- c.** A new registration must be submitted to the Department within thirty (30) days after any change in ownership of the GDF. (3-28-23)
- 02. Recordkeeping Requirements.** (3-28-23)
- a.** Each owner or operator must keep the following records: (3-28-23)
- i.** Records of all tests performed under Section 597; (3-28-23)
- ii.** Records related to the operation and maintenance of vapor balance equipment required under Section 596. Any vapor balance component defect must be logged and tracked by station personnel on a monthly basis using forms provided by the Department or a reasonable facsimile; and (3-28-23)
- iii.** Records of permanent changes made at the GDF and vapor balance equipment which may affect emissions. (3-28-23)
- b.** Records required under 598.02.a. must be kept for a period of five (5) years and must be made available for inspection by the Department upon request. (3-28-23)
- 03. Reporting Requirements.** Each owner or operator subject to the management practices in Section 596 must report to the Department the results of all volumetric efficiency tests required under Section 597. Reports submitted under these rules must be submitted within thirty (30) days of the completion of the performance testing. (3-28-23)

**599. GASOLINE CARGO TANKS.**

- 01. Prohibitions.** After a Stage 1 vapor collection system is installed and operating, owners or operators of gasoline cargo tanks that unload gasoline into an underground gasoline storage tank with a capacity of ten thousand (10,000) gallons or more, in Ada or Canyon Counties, must comply with Table 2 to 40 CFR Part 63, Subpart CCCCC, incorporated by reference in Section 107. (3-28-23)
- 02. Recordkeeping and Reporting.** (3-28-23)
- a.** The owner or operator of the gasoline cargo tank subject to Section 599 must maintain records of all certification testing and repairs. The records must identify the gasoline cargo tank; the date of the test or repair; and if applicable, the type of repair and the date of retest. The records must be maintained in a legible, readily available condition for at least two (2) years after the date of testing or repair was completed and must be available for inspection by the Department upon request. (3-28-23)

b. Copies of all tests required under Subsection 599.01 must be submitted to the Department within thirty (30) days of certification testing. (3-28-23)

**600. RULES FOR CONTROL OF OPEN BURNING.**

Sections 600 through 624 establish rules to protect human health and the environment from air pollutants resulting from open burning as well as to reduce the visibility impairment in mandatory Class I Federal Areas in accordance with the regional haze long-term strategy referenced at Section 667. (3-28-23)

**601. FIRE PERMITS, HAZARDOUS MATERIALS, AND LIABILITY.**

Compliance with the provisions of Sections 600 through 624 does not exempt or excuse any person from complying with applicable laws and ordinances of other jurisdictions responsible for fire control or hazardous material disposal or from liability for damages or injuries which may result from open burning. (3-28-23)

**602. NONPREEMPTION OF OTHER JURISDICTIONS.**

The provisions of Sections 600 through 624 are not intended to interfere with the rights of any city, county or other governmental entities or agencies to provide equal or more stringent control of open burning within their respective jurisdictions. (3-28-23)

**603. GENERAL REQUIREMENTS.**

No person may allow, cause or permit any open burning operation unless the materials burned fall within an allowable category of open burning set forth in Sections 606-624, and do not contain any of the following prohibited materials listed in 603.01. (3-28-23)

**01. Prohibited Materials.** The fires must not include any of the following prohibited materials: (3-28-23)

- a. Garbage, as defined in IDAPA 58.01.06 "Solid Waste Management Rules". (3-28-23)
- b. Dead animals, animal parts, or animal wastes (feces, feathers, litter, etc.) except as provided in Section 616. (3-28-23)
- c. Motor vehicles, or parts, or any materials resulting from a salvage operation, defined as 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. (3-28-23)
- d. Tires or other rubber materials or products. (3-28-23)
- e. Plastics. (3-28-23)
- f. Asphalt or composition roofing or any other asphaltic material or product. (3-28-23)
- g. Tar, tar paper, waste or heavy petroleum products, or paints. (3-28-23)
- h. Treated lumber or timbers coated with preservatives, paints or other protective material (3-28-23)
- i. Trade waste, defined as 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, except as specifically allowed under Sections 600 through 624. (3-28-23)
- j. Insulated wire. (3-28-23)
- k. Pathogenic wastes. (3-28-23)
- l. Hazardous wastes as classified according to IDAPA 58.01.05, "Rules and Standards for Hazardous

Waste”. (3-28-23)

**02. Air Quality Episodes.** No person may allow, cause or permit any open burning during any level of an air quality episode declared by the Department in accordance with Sections 550 through 562. (3-28-23)

**03. Emergency Authority.** In accordance with Title 39, Chapter 1, Idaho Code, the Department has the authority to require immediate abatement of any open burning in cases of emergency requiring immediate action to protect human health or safety. (3-28-23)

**604. -- 605. (RESERVED)**

**606. CATEGORIES OF ALLOWABLE BURNING.**  
Sections 606 through 624 establish categories of allowable open burning and applicable requirements. (3-28-23)

**607. RECREATIONAL AND WARMING FIRES.**  
Fires used for the preparation of food or for recreational purposes (e.g. campfires, ceremonial fires, and barbecues), or small fires set for handwarming purposes. A small fire is defined as 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. (3-28-23)

**608. WEED CONTROL FIRES.**  
Fires used for the purpose of weed abatement such as along fence lines, canal banks, rock piles and ditch banks. (3-28-23)

**609. TRAINING FIRES.**  
Fires used by fire and land management agencies as training for fire suppression and firefighting techniques, or to display certain fire ecology or fire behavior effects. Training facilities must notify the Department prior to igniting any training fires. Training fires must not be allowed to smolder after the training session has terminated. Training fires are exempt from Subsections 603.01.c. and 603.01.e. through 603.01.j. (3-28-23)

**610. (RESERVED)**

**611. RESIDENTIAL YARD WASTE FIRES.**  
Fire used for the disposal of yard waste, as defined in the IDAPA 58.01.06, “Solid Waste Management Rules,” at residential locations so long as the burning is conducted on the property where the yard waste was generated and not prohibited by local ordinances or rules. (3-28-23)

**612. SOLID WASTE FACILITY FIRES.**  
Fire used for the disposal of solid waste at any solid waste landfill disposal site or facility only if conducted in accordance with IDAPA 58.01.06, “Solid Waste Management Rules,” or Chapter 74, Title 39, Idaho Code. (3-28-23)

**613. ORCHARD FIRES.**  
Fire used for the disposal of orchard clippings when the burning is conducted on the property where the clippings were generated. (3-28-23)

**614. PRESCRIBED FIRE.**  
Prescribed fire when the provisions of Section 614 are met. (3-28-23)

**01. Prescribed Fire is defined as:**  
The controlled application of fire to wildland fuels in either their natural or modified state, under conditions of weather, fuel moisture and soil moisture that allow the fire to be confined to a predetermined area while producing the intensity of heat and rate of spread required to meet planned objectives, including: (3-28-23)

- a. Fire hazard reduction; (3-28-23)
- b. The control of pests, insects, or diseases; (3-28-23)
- c. The promotion of range forage improvements; (3-28-23)

- d. The perpetuation of natural ecosystems; (3-28-23)
- e. The disposal of slash and woody debris resulting from any land management activity such as; logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system;(3-28-23)
- f. The preparation of planting and seeding sites for forest regeneration; and (3-28-23)
- g. Other accepted natural resource management purposes. (3-28-23)

**02. Burning Permits or Prescribed Fire Plans.**

a. Whenever a burning permit or prescribed fire plan is required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed fire must meet all permit and/or plan conditions and terms which control smoke. (3-28-23)

b. The Department will seek interagency agreements to assure permits or plans issued by agencies referred to in Subsection 614.02.a. provide adequate consideration for controlling smoke from prescribed fire. (3-28-23)

**03. Smoke Management Plans for Prescribed Fire.** (3-28-23)

a. Whenever a permit or plan is not required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed fire must meet all conditions set forth in a Smoke Management Plan for Prescribed Fire. (3-28-23)

b. The Department will develop and put into effect a Smoke Management Plan for Prescribed Fire consistent with the purpose of Sections 600 through 616. (3-28-23)

**04. Rights-of-Way Fires.** The open burning of woody debris generated during the clearing of rights of way must be open burned according to Section 38-125, Idaho Code and Sections 606 through 616 of these rules. (3-28-23)

**615. DANGEROUS MATERIAL FIRES.**

Fires ignited under the direction of a public or military fire chief to dispose of materials that in their current condition present a danger to life, valuable property or the public welfare, or to prevent a fire hazard when no practical alternative method of disposal or removal exists. (3-28-23)

**616. INFECTIOUS WASTE BURNING.**

Fires used to dispose of diseased animals or infested material, upon the order of and under the direction of a public health officer, are exempt from Subsection 603.01.k. (3-28-23)

**617. CROP RESIDUE DISPOSAL.**

Fire used to dispose of crop residue remaining in fields where the crops were grown if conducted in accordance with Section 39-114, Idaho Code, and Sections 618 through 624. (3-28-23)

**618. PERMIT BY RULE.**

No person may conduct an open burn of crop residue or pasture without obtaining the applicable permit by rule. Those persons applying for a spot burn, baled agricultural residue burn, or propane flaming permit must comply with the provisions in Section 624. Registration for a permit by rule must be made using forms furnished by the Department, or by other means prescribed by the Department. (3-28-23)

**619. REGISTRATION.**

Any person applying to burn crop residue must annually provide the following registration information to the Department at least thirty (30) days prior to the date provided in 619.05: (3-28-23)

**01. Location of Requested Burn.** The legal description of the location of the requested burn, using longitude and latitude coordinates; (3-28-23)

**02. Applicant Information.** Name, mailing address, and telephone number of the applicant, and the person who will be responsible for conducting the proposed burning of crop residue and the portable form of communication referenced in Subsection 622.01.c. of this rule; (3-28-23)

**03. Type and Acreage of Crop Residue Requested to be Burned.** The crop type and total area over which burning will be conducted (acres); (3-28-23)

**04. Preventive Measures.** A description of the measures that will be taken to prevent escaped burns or withhold additional material such that the fire burns down, including but not limited to, the availability of water and plowed firebreaks; and (3-28-23)

**05. Date of Burning.** The anticipated date(s) when the field will be ready and requested to be burned. (3-28-23)

**620. BURN FEE.**

**01. Burn Fee.** The burn fee in Section 39-114, Idaho Code, must be paid in its entirety within thirty (30) days following the receipt of the annual burn fee invoice. See also Subsection 624.02.a. for registration and fee requirements for burning under a spot and baled agricultural residue burn permit. Information for making payments is available at <http://www.deq.idaho.gov>. (3-28-23)

**02. Effect of Delinquent Fee Payment.** The Department will not accept or process a registration for a permit by rule to burn for any person or property location having burn fees delinquent, in full or in part. (3-28-23)

**621. BURN APPROVAL.**

**01. Operating Guide.** The Department will develop a Crop Residue Operating Guide to assist in the decision process for approving burns. (3-28-23)

**02. Permittee Approval Process.** The permittee must obtain the Registration Receipt and Initial Permit Requirements from the Department at least twelve (12) hours in advance of the burn. The permittee must obtain final approval to burn from the Department the morning of the requested burn. (3-28-23)

**03. Burn Approval Criteria.** To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed ninety percent (90%) of the ozone national ambient air quality standard (NAAQS) and seventy-five percent (75%) of the level of any other NAAQS on any day and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556. In making this determination, the Department will consider the following: (3-28-23)

**a.** Expected emissions from all crop residue burns requested for the same dates; (3-28-23)

**b.** The proximity of other burns and potential emission sources within the area to be affected by the requested burn; (3-28-23)

**c.** Moisture content of the crop residue to be burned; (3-28-23)

**d.** Acreage, crop type, and fuel characteristics of the crop residue to be burned; (3-28-23)

**e.** Current and forecast meteorological conditions in the area of the requested burn; (3-28-23)

**f.** The proximity of the requested burn to institutions with sensitive populations, including public schools while in session; hospitals; residential health care facilities for children, the elderly or infirm; and other institutions with sensitive populations as approved by the Department. The Department will not approve a burn if

conditions are such that institutions with sensitive populations will be adversely impacted or when the plume is predicted to impact such institutions; (3-28-23)

**g.** Proximity to public roadways; (3-28-23)

**h.** Proximity to airports; and (3-28-23)

**i.** Any other factors relevant to preventing exceedances of the air quality concentrations of Section 621. (3-28-23)

**04. Notification of Approval.** The Department will post all crop residue approvals on its website. The burn approvals will include written notification of the approval and any specific conditions under which the burn is approved. Special conditions may include, but are not limited to: (3-28-23)

**a.** Conditions for burns near institutions with sensitive populations; (3-28-23)

**b.** The requirement to withhold additional material such that the fire burns down if the Department determines pollutant concentrations reach the levels in Subsection 621.03 of this rule; (3-28-23)

**c.** Conditions to ensure the burn does not create a hazard for travel on a public roadway; and (3-28-23)

**d.** The requirement to consult with the Department to determine actions to be taken if conditions at the burn site fail to satisfy the conditions specified in the notice of approval to burn. (3-28-23)

## **622. GENERAL PROVISIONS.**

**01. Burn Provisions.** All persons conducting crop residue burning must comply with the following: (3-28-23)

**a.** Burning of crop residue must not be conducted on weekends, federal or state holidays, or after sunset or before sunrise; (3-28-23)

**b.** Burning of crop residue must not be conducted unless the Department has designated that day a burn day and the permittee has received individual approval in accordance with Subsection 621.02; (3-28-23)

**c.** The person conducting the burn must have in their possession a portable form of communication such as a cellular phone or radio of compatible frequency with the Department in order to receive burn approval information or information that might require measures to withhold additional material such that the fire burns down; (3-28-23)

**d.** Crop residue must remain and be burned in the field where it was grown; (3-28-23)

**e.** When required by the conditions of the approval to burn, the permittee burning in proximity to institutions with sensitive populations must immediately extinguish the fire or withhold additional material such that the fire burns down, if the Department determines the burn is having or will have an adverse impact on such institutions; (3-28-23)

**f.** All persons burning crop residue must complete a grower crop residue burning training provided by the Department prior to their first burn and at least once every five (5) years thereafter; (3-28-23)

**h.** The use of reburn machines, propane flamers, or other portable devices to ignite or reignite a field for the purposes of crop residue burning is considered an allowable form of open burning; (3-28-23)

**j.** All persons burning crop residue must submit a burn report to the Department that includes the following: the date burning was conducted, actual number and location of acres burned, and other information as required by the Department. The Department may restrict further burning by a permittee until burn reports are



submitted; and (3-28-23)

**k.** The open burning of crop residue must be conducted in accordance with the specific conditions in the permittee's burn approval. (3-28-23)

**02. Annual Report.** The Department will develop an annual report that will include, at a minimum, an analysis of the causes of each exceedance of a limitation in Section 621 of this rule, if any, and an assessment of the circumstances associated with any reported endangerment to human health associated with a burn. The report will include any proposed revisions to these rules or the Crop Residue Operating Guide deemed necessary to prevent future exceedances. (3-28-23)

**03. Advisory Committee.** The Department will assemble an advisory committee consisting of representatives from environmental organizations, farming organizations, health organizations, tribal organizations, the Idaho State Department of Agriculture, the Idaho Department of Environmental Quality, and others to discuss open burning of crop residue issues. (3-28-23)

**623. PUBLIC NOTIFICATION.**

**01. Designation of Burn Days.** The Department will designate for a given county or airshed within a county burn or no-burn days. (3-28-23)

**02. Posting on Website.** The Department will post daily on its website: (3-28-23)

**a.** Whether a given day is a burn or no-burn day; (3-28-23)

**b.** The location and number of acres permitted to be burned; (3-28-23)

**c.** Meteorological conditions and any real time ambient air quality monitoring data; and (3-28-23)

**d.** A toll-free number to receive requests for information (3-28-23)

**03. E-Mail Update Service.** The Department will provide an opportunity for interested persons to sign up to receive automatic e-mail updates for information regarding the open burning of crop residue. (3-28-23)

**624. SPOT AND BALED CROP RESIDUE BURN AND PROPANE FLAMING REQUIREMENTS.**

**01. Applicability.** (3-28-23)

**a.** Spot Burn. A spot burn includes no more than one (1) acre of evenly distributed crop residue or two (2) tons of piled crop residue. The open burning of weed patches, spots of heavy residue, equipment plugs and dumps, pivot corners of fields, and pastures may constitute a spot burn. Spot burn does not include the open burning of wind rows. (3-28-23)

**b.** Baled Crop Residue Burn. An open burn used to dispose of broken, mildewed, diseased, or otherwise pest-ridden bales still in the field where they were generated. (3-28-23)

**c.** Propane Flaming. The use of flame-generating equipment to briefly apply flame and/or heat to the topsoil of a cultivated field of pre-emerged or plowed-under crop residue with less than five hundred fifty (550) pounds of burnable, non-green residue per acre in order to control diseases, insects, pests, and weed emergence. (3-28-23)

**02. Spot and Baled Crop Residue Burn Permit.** (3-28-23)

**a.** Any person applying for a spot and baled crop residue burn permit under Section 624 must: (3-28-23)

**i.** Provide the registration information listed in Subsections 619.01 and 619.02; and (3-28-23)

ii. Pay a nonrefundable fee of twenty dollars (\$20) to the Department (see Section 620) at least fourteen (14) days prior to the date the applicant proposes to conduct the first burn of the calendar year. (3-28-23)

b. A spot and baled crop residue burn permit is valid for the calendar year in which it is issued and permits: (3-28-23)

i. Burning of a cumulative total of no more than ten (10) acres of spots and/or equivalent piled or baled crop residue during the year; and (3-28-23)

ii. No more than one (1) acre of spots and/or equivalent piled or baled crop residue per day. Two (2) tons of piled or baled crop residue is assumed to be equivalent to one (1) acre. (3-28-23)

**03. Propane Flaming.** Persons conducting propane flaming as defined under Subsection 624.01.c. must comply with the applicable provisions in Subsections 624.04 and 624.05. (3-28-23)

**04. General Provisions.** All persons intending to burn under Section 624 must comply with the provisions of Subsections 622.01.c., 622.01.d., 622.01.f., through 622.01.i., and 622.01.k. in addition to the following: (3-28-23)

a. The permittee is responsible to ensure that adequate measures are taken so the burn does not create a hazard for travel on a public roadway. (3-28-23)

b. Burning is not allowed if the burn location is within three (3) miles of an institution with a sensitive population and the surface wind speed is greater than twelve (12) miles per hour or if the smoke is adversely impacting or is expected to adversely impact an institution with a sensitive population. (3-28-23)

c. Burning must not be conducted unless the Department has designated that day a burn day, which for purposes of Section 624 may include weekends and holidays, and the permittee burns within the burn window provided on the Department's website. Spot and baled crop residue burns must not smolder and create smoke outside of the designated time period burning is allowed. (3-28-23)

**05. Recordkeeping.** Permittees must record the date, time frame, type of burn, type of crop, and amount burned on the date of the burn. Records of such burns must be retained for two (2) years and made available to the Department upon request. (3-28-23)

**625. VISIBLE EMISSIONS.**

A person must not discharge any air pollutant into the atmosphere from any point of emission for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than twenty percent (20%) opacity as determined by this section. (3-28-23)

**01. Exemptions.** The provisions of this section will not apply to: (3-28-23)

a. Kraft Process Lime Kilns, if operating prior to January 24, 1969; or (3-28-23)

b. Carbon Monoxide Flare Pits on Elemental Phosphorous Furnaces, if operating prior to January 24, 1969; or (3-28-23)

c. Liquid Phosphorous Loading Operations, if operating prior to January 24, 1969; or (3-28-23)

d. Kraft Process Recovery Furnaces; or (3-28-23)

e. Calcining Operations Utilizing an Electrostatic Precipitator to Control Emissions, if operating prior to January 24, 1969. (3-28-23)

**02. Standards for Exempted Sources.** For sources exempted from the provisions of this section, a person must not discharge into the atmosphere from any point of emission, for any air pollutant for a period or

periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than forty percent (40%) opacity as determined by this section. (3-28-23)

**03. Exception.** The provisions of this section do not apply when the presence of uncombined water, nitrogen oxides and/or chlorine gas are the only reason(s) for the failure of the emission to comply with the requirements of this rule. (3-28-23)

**04. Test Methods and Procedures.** The appropriate test method under this section is EPA Method 9 (contained in 40 CFR Part 60) with the method of calculating opacity exceedances altered as follows: (3-28-23)

**a.** Opacity evaluations must be conducted using forms available from the Department or similar forms approved by the Department. (3-28-23)

**b.** Opacity must be determined by counting the number of readings in excess of the percent opacity limitation, dividing this number by four (4) (each reading is deemed to represent fifteen (15) seconds) to find the number of minutes in excess of the percent opacity limitation. This method is described in the Procedures Manual for Air Pollution Control, Section II (Evaluation of Visible Emissions Manual), September 1986. (3-28-23)

**c.** Sources subject to New Source Performance Standards must calculate opacity as detailed above and as specified in 40 CFR Part 60. (3-28-23)

**05. Applicability.** Section 625 does not apply to the open burning of crop residue. (3-28-23)

**626. -- 649. (RESERVED)**

**650. RULES FOR CONTROL OF FUGITIVE DUST.**

The purpose of Sections 650 through 652 is to require that all reasonable precautions be taken to prevent the generation of fugitive dust defined as fugitive emissions composed of particulate matter. (3-28-23)

**651. GENERAL RULES.**

All reasonable precautions must be taken to prevent particulate matter from becoming airborne. In determining what is reasonable, consideration will be given to factors such as the proximity of dust emitting operations to human habitations and/or activities, the proximity to mandatory Class I Federal Areas and atmospheric conditions that might affect the movement of particulate matter. Some of the reasonable precautions may include, but are not limited to, the following: (3-28-23)

**01. Use of Water or Chemicals.** Use, where practical, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land. (3-28-23)

**02. Application of Dust Suppressants.** Application, where practical, of asphalt, oil, water or suitable chemicals to, or covering of dirt roads, material stockpiles, and other surfaces that can create dust. (3-28-23)

**03. Use of Control Equipment.** Installation and use, where practical, of hoods, fans and fabric filters or equivalent systems to enclose and vent the handling of dusty materials. Adequate containment methods should be employed during sandblasting or other operations. (3-28-23)

**04. Covering of Trucks.** Covering, when practical, open bodied trucks transporting materials likely to give rise to airborne dusts. (3-28-23)

**05. Paving.** Paving of roadways and their maintenance in a clean condition, where practical. (3-28-23)

**06. Removal of Materials.** Prompt removal of earth or other stored material from streets, where practical. (3-28-23)

**652. AGRICULTURAL ACTIVITIES.**

For agricultural activity purposes, operating in conformance with generally recognized agricultural practices

constitutes reasonable control of fugitive dust. For the purpose of Section 652: (3-28-23)

**01. Agricultural Activity.** An “agricultural activity” means any activity that is exempt from the requirement to obtain a permit to construct under Subsection 222.02.f., wherein “agricultural activities and services” is defined in Section 007, that occurs in connection with the production of agricultural products for food, fiber, fuel, feed and other lawful purposes, and including, but not limited to: (3-28-23)

**a.** Preparing land for agricultural production; (3-28-23)

**b.** Applying or handling pesticides herbicides, or other chemicals, compounds or substances labeled for insects, pests, crops, weeds, water or soil; (3-28-23)

**c.** Planting, irrigating, growing, fertilizing, harvesting or producing agricultural, horticultural, floricultural and viticulture crops, fruits and vegetable products, field grains, seeds, hay, sod and nursery stock, and other plant products, plant by-products, plant waste and animal compost; (3-28-23)

**d.** Breeding, hatching, raising, producing, feeding and keeping livestock, dairy animals, swine, fur-bearing animals, poultry, eggs, fish and other aquatic species, and other animals, animal products and animal by-products, animal waste, animal compost, and bees, bee products and bee by-products; (3-28-23)

**e.** Transporting agricultural products to or from an agricultural facility; (3-28-23)

**f.** Grinding, chopping, cubing, or any other means of preparing or converting a commodity for animal feed; and (3-28-23)

**g.** Piling, stacking or other means of storing commodities outdoors. (3-28-23)

**02. Generally Recognized Agricultural Practices.** “Generally recognized agricultural practices” means economically feasible practices that are customary among or appropriate to farms and ranches of a similar nature in the local area. In determining whether an agricultural activity is consistent with generally recognized agricultural practices, the Idaho Department of Environmental Quality will consult with the Idaho Department of Agriculture. (3-28-23)

**653. -- 664. (RESERVED)**

**665. REGIONAL HAZE RULES.**

Sections 665 through 667 address regional haze visibility impairment in mandatory Class I Federal Areas in accordance with 40 CFR 51.301, 307, and 308 incorporated by reference in Section 107. (3-28-23)

**666. REASONABLE PROGRESS GOALS.**

The Department will establish reasonable progress goals expressed in deciviews for each mandatory Class I Federal Area located within Idaho. (3-28-23)

**667. LONG-TERM STRATEGY FOR REGIONAL HAZE.**

The Department will submit to EPA a long-term strategy that meets the requirements in 40 CFR 51.308(d)(3) and 308(f)(2). (3-28-23)

**668. -- 674. (RESERVED)**

**675. FUEL BURNING EQUIPMENT -- PARTICULATE MATTER.**

Sections 675 through 681 establish particulate matter emission standards for fuel burning equipment. (3-28-23)

**676. STANDARDS FOR NEW SOURCES.**

A person must not discharge into the atmosphere from any fuel burning equipment with a maximum rated input of ten (10) million BTU's per hour or more, and commencing operation on or after October 1, 1979, particulate matter in excess of the concentrations shown in the following table:

FUEL TYPE	ALLOWABLE PARTICULATE gr/dscf	EMISSIONS Oxygen
Gas	.015	3%
Liquid	.050	3%
Coal	.050	8%
Wood Product	.080	8%

The effluent gas volume must be corrected to the oxygen concentration shown. (3-28-23)

**677. STANDARDS FOR MINOR AND EXISTING SOURCES.**

A person must not discharge into the atmosphere from any fuel burning equipment in operation prior to October 1, 1979, or with a maximum rated input of less than ten (10) million BTU per hour, particulate matter in excess of the concentrations shown in the following table:

FUEL TYPE	ALLOWABLE PARTICULATE gr/dscf	EMISSIONS Oxygen
Gas	.015	3%
Liquid	.050	3%
Coal	.100	8%
Wood Product	.200	8%

The effluent gas volume must be corrected to the oxygen concentration shown. (3-28-23)

**678. COMBINATIONS OF FUELS.**

When two (2) or more types of fuel are burned concurrently, the allowable emission are determined by proportioning the gross heat input and emission standards for each fuel. (3-28-23)

**679. AVERAGING PERIOD.**

For purposes of Sections 675 through 680, emissions are averaged according to the following, whichever is the lesser period of time: (3-28-23)

**01. One Cycle.** One (1) complete cycle of operation; or (3-28-23)

**02. One Hour.** One (1) hour of operation representing worst-case conditions for the emission of particulate matter. (3-28-23)

**680. ALTITUDE CORRECTION.**

For purposes of Sections 675 through 680, standard conditions must be adjusted for the altitude of the source by subtracting one-tenth (0.10) of an inch of mercury for each one hundred (100) feet above sea level from the standard atmospheric pressure at sea level of twenty-nine and ninety-two one hundredths (29.92) inches of mercury. (3-28-23)

**681. TEST METHODS AND PROCEDURES.**

The appropriate test method under Sections 675 through 680 is EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures must also comply with Section 157. (3-28-23)

**682. -- 699. (RESERVED)**

**700. PARTICULATE MATTER -- PROCESS WEIGHT LIMITATIONS.**

**01. Particulate Matter Emission Limitations.** Sections 700 through 703 establish particulate matter emission limitations for process equipment and include the following definitions: (3-28-23)

**a.** Process weight is defined as the total weight of all materials introduced into any source operation that 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 that occurs naturally in the feed material is considered part of the process weight. (3-28-23)

**b.** Process weight rate is established as follows: (3-28-23)

**i.** 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; and (3-28-23)

**ii.** 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 applies. (3-28-23)

**02. Minimum Allowable Emission.** Notwithstanding the provisions of Sections 701 and 702, no source will be required to meet an emission limit of less than one (1) pound per hour. (3-28-23)

**03. Averaging Period.** For the purposes of Sections 701 through 703, emissions must be averaged according to the following, whichever is the lesser period of time: (3-28-23)

**a.** One (1) complete cycle of operation; or (3-28-23)

**b.** One (1) hour of operation representing worst-case conditions for the emissions of particulate matter. (3-28-23)

**04. Test Methods and Procedures.** The appropriate test method under Sections 700 through 703 is EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures must comply with Section 157. (3-28-23)

#### **701. PARTICULATE MATTER -- NEW EQUIPMENT PROCESS WEIGHT LIMITATIONS.**

**01. General Restrictions.** No person may emit into the atmosphere from any process or process equipment commencing operation on or after October 1, 1979, particulate matter in excess of the amount shown by the following equations, where E is the allowable emission from the entire source in pounds per hour, and PW is the process weight in pounds per hour. (3-28-23)

**a.** If PW is less than 9,250 pounds per hour,  
 $E = 0.045(PW)^{0.60}$  (3-28-23)

**b.** If PW is equal to or greater than 9,250 pounds per hour,  
 $E = 1.10(PW)^{0.25}$  (3-28-23)

**02. Exemption.** The provisions of Section 701 do not apply to fuel burning equipment. (3-28-23)

**03. Emission Standards.** The following table illustrates the emission standards set forth in Section 701.

PROCESS WEIGHT	ALLOWABLE EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
175 or less	1	20,000	13.08
200	1.08	40,000	15.56
400	1.64	60,000	17.22
600	2.09	80,000	18.50
800	2.40	100,000	19.56
1,000	2.84	200,000	23.26
2,000	4.30	400,000	27.66
4,000	6.52	600,000	30.61
6,000	8.32	800,000	32.90
8,000	9.89	1,000,000	34.79
10,000	11.00	2,000,000	41.37

(3-28-23)

**702. PARTICULATE MATTER -- EXISTING EQUIPMENT PROCESS WEIGHT LIMITATIONS.**

**01. General Restrictions.** No person may emit into the atmosphere from any process or process equipment operating prior to October 1, 1979, particulate matter in excess of the amount shown by the following equations, where E is the allowable emission from the entire source in pounds per hour, and PW is the process weight in pounds per hour: (3-28-23)

a. If PW is less than 17,000 pounds per hour, (3-28-23)  
 $E = 0.045 (PW)^{0.60}$

b. If PW is equal to or greater than 17,000 pounds per hour, (3-28-23)  
 $E = 1.12 (PW)^{0.27}$ .

**02. Exemptions.** The provisions of Section 702 do not apply to: (3-28-23)

a. Fuel burning equipment; or (3-28-23)

b. Equipment used exclusively to dehydrate sugar beet pulp or alfalfa. (3-28-23)

**03. Emission Standards.** The following table illustrates the emission standards set forth in Section 702.

PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
175 or less	1	20,000	16.24

PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
200	1.08	40,000	19.58
400	1.64	60,000	21.84
600	2.09	80,000	23.61
800	2.48	100,000	25.07
1,000	2.84	200,000	30.23
2,000	4.30	400,000	36.46
4,000	6.52	600,000	40.67
6,000	8.32	800,000	43.96
8,000	9.89	1,000,000	46.69
10,000	11.30	2,000,000	56.30

(3-28-23)

**703. PARTICULATE MATTER -- OTHER PROCESSES.**

**01. Other Processes.** No person with processes exempt under Subsection 702.02.b. may emit particulate matter to the atmosphere from any process or process equipment in excess of the amount shown in the following equations, where E is the total rate of emission from all emission points from the source in pounds per hour and P is the process weight rate in pounds per hour. (3-28-23)

- a. If P is less than sixty thousand (60,000) pounds per hour,  $E = 0.02518(P)^{0.67}$  (3-28-23)
- b. If P is greater than or equal to sixty thousand (60,000) pounds per hour,  $E = 23.84(P)^{0.11} - 40$  (3-28-23)

**02. Emission Standards.** The following table illustrates the emission standards set forth in Section 703.

Process Weight Rate	Rate of Emission	Process Weight Rate	Rate of Emission
Lb/Hr	Lb/Hr	Lb/Hr	Lb/Hr
100	0.551	16,000	16.5
200	0.877	18,000	17.9
400	1.40	20,000	19.2
600	1.83	30,000	25.2
800	2.22	40,000	30.5
1,000	2.58	50,000	35.4
1,500	3.38	60,000	40.0
2,000	4.10	70,000	41.3



Process Weight Rate	Rate of Emission	Process Weight Rate	Rate of Emission
Lb/Hr	Lb/Hr	Lb/Hr	Lb/Hr
2,500	4.76	80,000	42.5
3,000	5.38	90,000	43.6
3,500	5.96	100,000	44.6
4,000	6.52	120,000	46.3
5,000	7.58	140,000	47.8
6,000	8.56	160,000	49.0
7,000	9.49	200,000	51.2
8,000	10.4	1,000,000	69.0
9,000	11.2	2,000,000	77.6
10,000	12.0	6,000,000	92.7
12,000	13.6		

(3-28-23)

**704. -- 724. (RESERVED)**

**725. RULES FOR SULFUR CONTENT OF FUELS.**

The reference test method for measuring fuel sulfur content is ASTM method, D129-95 Standard Test for Sulfur in Petroleum Products (General Bomb Method) or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures must comply with Section 157. (3-28-23)

**01. Definitions.** (3-28-23)

**a.** ASTM. American Society for Testing and Materials. (3-28-23)

**b.** Distillate Fuel Oil. Any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils. (3-28-23)

**c.** Residual Fuel Oil. Any oil meeting the specifications of ASTM Grade 4, Grade 5 and Grade 6 fuel oils. (3-28-23)

**02. Residual Fuel Oils.** No person may sell, distribute, use or make available for use, any residual fuel oil containing more than one and three-fourths percent (1.75%) sulfur by weight. (3-28-23)

**03. Distillate Fuel Oil.** No person may sell, distribute, use or make available for use, any distillate fuel oil containing more than the following percentages of sulfur: (3-28-23)

**a.** ASTM Grade 1. ASTM Grade 1 fuel oil - zero point three percent (0.3%) by weight. (3-28-23)

**b.** ASTM Grade 2. ASTM Grade 2 fuel oil - zero point five percent (0.5%) by weight. (3-28-23)

**04. Coal.** No person may sell, distribute, use or make available for use, any coal containing greater than one percent (1.0%) sulfur by weight. (3-28-23)

**05. Alternative.** The Department may approve in a permit issued in accordance with these rules an alternative fuel sulfur content if the applicant demonstrates that, through control measures or other means, sulfur

dioxide emissions (based on a one (1) hour averaging period) are equal to or less than those resulting from the combustion of fuels complying with the limitations of Subsections 725.01 through 725.04. (3-28-23)

**726. -- 749. (RESERVED)**

**750. RULES FOR CONTROL OF FLUORIDE EMISSIONS.**

This section prevents the emission of fluorides such that the accumulation of fluorine in feed and forage for livestock does not exceed the safe limits specified below. (3-28-23)

**01. Emission Limitations -- Phosphate Fertilizer Plants.** No person may allow, suffer, cause or permit the discharge into the atmosphere of total fluoride emissions in gaseous and in particulate form, expressed as fluoride (F-), from the phosphate fertilizer plant sources listed in Subsection 750.03 in excess of thirty hundredths (0.30) pounds of fluoride per ton of P<sub>2</sub>O<sub>5</sub> input to the calciner operation, calculated at maximum rated capacity. (3-28-23)

**02. Monitoring, Testing, and Reporting Requirements.** Compliance with Subsection 750.01 will be adjudged upon the results of the continuing program of fluoride sampling of potential grazing areas and alfalfa growing areas required by the Department. Sampling conducted by any person subject to Section 750 will be accepted for determining compliance with Subsection 750.01 if such sampling is conducted at sites approved by the Department in advance of sampling, using analytical procedures appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods) or equivalent methods approved by the Department in advance of sampling. Compliance with Subsection 750.01 must be demonstrated by testing methods approved in advance by the Department. When approved by the Department in advance of sampling, engineering calculations may be submitted in lieu of emission data. Monitoring and reporting requirements will be included in operating permits granted to each facility. (3-28-23)

**03. Source Specific Permits.** To assure compliance with Subsection 750.01, the Department will specify methods for calculating total allowable emissions and issue source specific permits containing emission limitations for the following sources within phosphate fertilizer plants: (3-28-23)

- a. Calciner operation; and (3-28-23)
- b. Wet phosphoric acid plants; and (3-28-23)
- c. Super phosphoric acid production; and (3-28-23)
- d. Diammonium phosphate plants; and (3-28-23)
- e. Monoammonium phosphate production; and (3-28-23)
- f. Triple super phosphate (mono calcium phosphate) production. (3-28-23)

**04. Exemptions.** The provisions of Subsections 750.01, 750.02, and 750.03 do not apply to any phosphate fertilizer facility that produces mono ammonium phosphate exclusively if no animal feed is grown or if no animal grazing occurs or if the animal feed and forage meets the ambient air quality standards for fluorides specified in Section 577 within a three (3) mile radius of such facility. This exemption only applies if the owner or operator of the facility, on an annual basis: (3-28-23)

- a. Conducts a fluoride sampling program of potential grazing areas at locations approved in advance of sampling by the Department, using analytical techniques appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods); and (3-28-23)
- b. Submits the results of such sampling program to the Department as soon as they become available. (3-28-23)

**751. -- 759. (RESERVED)**

**760. RULES FOR THE CONTROL OF AMMONIA FROM DAIRY FARMS.**

Sections 760 through 764 establish the requirements for the control of ammonia through best management practices (BMPs) for certain size dairy farms licensed by the Idaho State Department of Agriculture to sell raw milk for human consumption. Compliance with these sections does not relieve the owner or operator of a dairy farm from the responsibility of complying with all other federal, state and local applicable laws, regulations, and requirements, including, but not limited to, Sections 161, 650 and 651. Registration forms and guidance documents relating to these rules are located at [www.deq.idaho.gov](http://www.deq.idaho.gov). (3-28-23)

**761. GENERAL APPLICABILITY.**

The requirements of Sections 760 through 764 apply to the following size dairy farms:

Animal Unit (AU) Basis	Drylot	Free Stall/Scrape	Free Stall/Flush
AU (100 t NH <sub>3</sub> ) Threshold			
No land app	7089	3893	2293
27% volatilization 1	6842	3827	
80% volatilization 2	6397	3700	
Cow Basis (1400 lbs)	Drylot	Free Stall/Scrape	Free Stall/Flush
Total Cows (100 t NH <sub>3</sub> ) Threshold			
No land app	5063	2781	1638
27% volatilization 1	4887	2733	
80% volatilization 2	4569	2643	
1	Assumes: Expected level of N->NH <sub>3</sub> volatilization for: drop-hose or ground level liquid manure application		
2	Assumes: Expected level of N->NH <sub>3</sub> volatilization for: center pivot or other conventional sprinkler irrigation liquid manure application		

(3-28-23)

**762. PERMIT BY RULE.**

**01. General Requirement.** Owners and operators of dairy farms are deemed to have a permit by rule if they comply with all of the applicable provisions of Sections 760 through 764. Owners and operators of dairy farms subject to Sections 760 through 764 must not operate without obtaining the applicable permit by rule within the time frame specified. (3-28-23)

**02. Optional Permit by Rule.** Nothing in Sections 760 through 764 precludes any owner or operator of a dairy farm from requesting and obtaining an air quality permit pursuant to Section 200, nor do Sections 760 through 764 preclude an owner or operator of a dairy farm below the threshold size in Section 761 from complying with Sections 760 through 764 and thereby obtaining a permit by rule. (3-28-23)

**03. Exemption.** If a dairy farm not subject to Sections 760 through 764 otherwise would become subject to those sections as a result of an emergency, the dairy farm must notify the Department in writing within fourteen (14) days of the emergency. The notification must include an explanation of the emergency circumstances. The dairy farm is exempt from the requirements of Sections 760 through 764 as long as the consequences of the emergency continue (but in no case for more than one (1) year) unless for good cause the Department determines it is appropriate to limit, condition or revoke the exemption. For the purpose of this rule “emergency” is defined as a serious situation or occurrence that happens unexpectedly and demands immediate action. (3-28-23)

**763. REGISTRATION FOR PERMIT BY RULE.**

**01. Registration Process.** Any owner or operator of a new dairy farm subject to sections 760 through 764, or an existing dairy farm that becomes subject to these sections due to change in size or type of operation, must register prior to fifteen (15) days of triggering the threshold for which a permit is required. (3-28-23)

**02. Registration Due Date.** Any owner or operator of an existing dairy farm subject to Sections 760 through 764 must register within fifteen (15) days of the effective date of Sections 760 through 764. (3-28-23)

**03. Registration Information.** The following information must be provided by the registrant to the Department of Environmental Quality and the Department of Agriculture: (3-28-23)

- a.** Name, address, location of dairy farm, and telephone number. (3-28-23)
- b.** Information sufficient to establish that the dairy farm is of the size and type described in Section 761. (3-28-23)
- c.** Information describing what BMPs, as described in Section 764, are employed to total twenty-seven (27) points. (3-28-23)

**04. Exemption from Registration Fee.** Dairy farms subject to Sections 760 through 764 are exempt from paying the permit by rule registration fee set forth in Section 800. (3-28-23)

**05. Inspection.** Within thirty (30) days of receipt of the registration information, the state of Idaho will conduct a qualifying inspection to ensure the requisite point total of BMPs are employed. (3-28-23)

**764. DAIRY FARM BEST MANAGEMENT PRACTICES.**

**01. BMPs.** Each dairy farm subject to Sections 760 through 764, or that otherwise obtains a permit by rule under these sections, must employ BMPs for the control of ammonia to total twenty-seven (27) points. Points may be obtained through third party export with sufficient documentation. The table located at Subsection 764.02 lists available BMPs and the associated point value. As new information becomes available or upon request, the Department may determine a practice not listed in the table constitutes a BMP and assign a point value. (3-28-23)

**02. Table - Ammonia Control Practices for Idaho Dairies.**

System	Component	Ammonia Control Effectiveness <sup>1</sup>			Compliance Method <sup>3</sup>
		Open Lot	Freestall Scrape	Freestall Flush	
Waste Storage and Treatment Systems	Synthetic Lagoon Cover	15	20	20	1
	GeoteXtile Covers	10	13	13	1
	Solids Separation	3	3	3	3, 4
	Composting	4	4	4	1
	Separate Slurry and Liquid Manure Basins	6	10	-	1
	In-House Separation	0	12	0	1
	Direct Utilization of Collected Slurry	6	10	-	1, 3, 4

System	Component	Ammonia Control Effectiveness <sup>1</sup>			Compliance Method <sup>3</sup>
		Open Lot	Freestall Scrape	Freestall Flush	
	Direct Utilization of Parlor Wastewater	10	10	10	1
	Direct Utilization of Flush Water	8	0	13	3, 4
	Anaerobic Digester	-	-	-	-
	Anaerobic Lagoon	-	-	-	-
	Aerated Lagoon	10	12	15	2
	Sequencing-Batch Reactor	15	20	20	2
	Lagoon Nitrification/Denitrification Systems	15	20	20	2
	Fixed-Media Aeration Systems	15	20	20	2
	Zeolite Treatment of Liquid Manure 1lb/cow/day	4	5	5	2
	Zeolite Treatment of Liquid Manure 2lb/cow/day	8	10	10	2
General Practices	Vegetative or Wooded Buffers (established)	7	7	7	1
	Vegetative or Wooded Buffers (establishing)	2	2	2	1
	Alternatives to Copper Sulfate	-	-	-	-
Freestall Barns	Scrape Built Up Manure	-	3	3	1
	Frequent Manure Removal	UD	UD	UD	-
	Tunnel Ventilation	-	-	-	-
	Tunnel Ventilation w/Biofilters	-	10	10	1
	Tunnel Ventilation w/Washing Wall	-	10	10	3, 4
Open Lots and Corrals	Rapid Manure Removal	4	2	2	1, 2
	Corral Harrowing	4	2	2	1
	Surface Amendments	10	5	5	2
	In-Corral Composting / Stockpiling	4	2	2	1
	Summertime Deep Bedding	10	5	5	1

System	Component	Ammonia Control Effectiveness <sup>1</sup>			Compliance Method <sup>3</sup>
		Open Lot	Freestall Scrape	Freestall Flush	
Animal Nutrition	Manage Dietary Protein	2	2	2	2
Composting Practices	Alum Incorporation	12	8	6	2
	Carbon:Nitrogen Ratio (C:N) Ratio Manipulation	10	7.5	5	2
	Composting with Windrows	-	-	-	-
	Composting Static Pile	6	4.5	3	1
	Forced Aeration Composting	10	7.5	5	1
	Forced Aeration Composting with Biofilter	12	8	6	1
	Zeolite Incorporation	12	8	6	2
Land Application <sup>2</sup>	Soil Injection - Slurry	10	15	7.5	2
	Incorporation of Manure within 24 hrs	10	10	10	2
	Incorporation of Manure within 48 hrs	5	5	5	2
	Nitrification of Lagoon Effluent	10	10	15	3, 4
	Low Energy/Pressure Application Systems	7	7	10	1
	Freshwater Dilution	5	8	8	1, 2
	Pivot Drag Hoses	8	8	10	1
	Subsurface Drip Irrigation	10	10	12	1

System	Component	Ammonia Control Effectiveness <sup>1</sup>			Compliance Method <sup>3</sup>
		Open Lot	Freestall Scrape	Freestall Flush	
<p>Notes:</p> <p>1. The ammonia emission reduction effectiveness of each practice is rated numerically based on practical year-round implementation. Variations due to seasonal practices and expected weather conditions have been factored into these ratings. Not implementing a BMP when it is not practicable to do so, does not reduce the point value assigned to the BMP, nor does it constitute failure to perform the BMP. UD indicates that the practice is still under development.</p> <p>2. Land application practices assume practice is conducted on all manure; points will be pro-rated to reflect actual waste treatment; points can be obtained on exported material with sufficient documentation.</p> <p>3. Method used by inspector to determine compliance                      1=Observation by Inspector                      2=On-Site Recordkeeping Required                      3, 4=Deviation Reporting Required. Equipment upsets and/or breakdowns must be recorded in a deviation log and if repaired in a reasonable timeframe does not constitute non-compliance with this rule.</p>					

(3-28-23)

**765. -- 789. (RESERVED)**

**790. RULES FOR THE CONTROL OF NONMETALLIC MINERAL PROCESSING PLANTS.**

Sections 790 through 799 establish the requirements for nonmetallic mineral processing plants, frequently referred to as rock crushers. Definitions for nonmetallic mineral processing plants can be found in 40 CFR Part 60, Subpart OOO. Compliance with Section 790 does not relieve the owner or operator of a nonmetallic mineral processing plant from the responsibility of complying with other federal, state, and local applicable laws, regulations, and requirements. (3-28-23)

**791. GENERAL CONTROL REQUIREMENTS.**

**01. Prohibition.** No owner or operator of a nonmetallic mineral processing plant may allow, suffer, or cause the emissions of any air pollutant to the atmosphere 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. (3-28-23)

**02. Control of Fugitive Dust.** In accordance with Sections 650 and 651, owners and operators of nonmetallic mineral processing plants must take all reasonable precautions to prevent the generation of fugitive dust. In determining what is reasonable, consideration will be given to factors such as the proximity to human habitations and/or activities and atmospheric conditions that might affect the movement of particulate matter. (3-28-23)

**792. (RESERVED)**

**793. EMISSIONS STANDARDS FOR NONMETALLIC MINERAL PROCESSING PLANTS NOT SUBJECT TO 40 CFR PART 60, SUBPART OOO.**

Owners and operators of nonmetallic mineral processing plants that are not subject to a 40 CFR Part 60 requirement must comply with the emissions standards set forth in Section 793. (3-28-23)

**01. Processing Plants Not Regulated by 40 CFR Part 60.** Fixed or portable plants that commenced construction, reconstruction, or modification before August 31, 1983, are not subject to 40 CFR 60, Subpart OOO. (3-28-23)

**02. Emissions Standards for Fugitive Emissions.** Emissions that exhibit greater than twenty percent (20%) opacity must not be discharged in the atmosphere from any crusher, grinding mill, screening operation, bucket elevator, belt conveyor, conveying system, transfer point, vent, capture system, storage bin, stockpile, truck dumping operation, vehicle traffic on an affected paved public roadway, vehicle traffic on or wind erosion of an unpaved haul road, or other source of fugitive emissions. Opacity must be determined using the test methods and procedures in Section 625. The plant is not required to have a certified opacity reader. (3-28-23)

**794. PERMIT REQUIREMENTS.**

No owner or operator may commence construction, reconstruction, modification or operation of any 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 must comply with the permitting requirements of Subsection 794.02 or Subsection 794.03 and the applicable portions of Subsection 794.04 and/or Subsection 794.05. (3-28-23)

**01. Permit by Rule Eligibility.** New major facilities or major modifications subject to Sections 204 and 205 are not eligible for a Permit by Rule. (3-28-23)

**02. Permit by Rule.** Owners and operators of nonmetallic mineral processing plants that meet all the applicable requirements set forth in Sections 795 through 799 are deemed to have a permit by rule (PBR) and are not required to obtain a permit to construct under Sections 200 through 227. (3-28-23)

**03. 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 must obtain a permit to construct pursuant to Sections 200 through 227. An existing permit to construct will be considered valid until the permit is modified, incorporated into a Tier II operating permit, or terminated by the Department. (3-28-23)

**04. Tier I Operating Permits.** Owners and operators of nonmetallic mineral processing plants that are affected facilities subject to a requirement of 40 CFR Part 60 are Tier I sources as defined in Section 006. Tier I sources must comply with the applicable permitting requirements of Sections 300 through 397. (3-28-23)

**05. 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 409 must 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: (3-28-23)

**a.** Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (3-28-23)

**b.** Specific emissions standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (3-28-23)

**795. PERMIT BY RULE REQUIREMENTS.**

Sections 795 through 799 establish the requirements for a permit by rule for nonmetallic mineral processing plants. (3-28-23)

**796. APPLICABILITY.**

**01. Permit by Rule.** Owners and operators of nonmetallic mineral processing plants are deemed to have a permit by rule if they comply with all of the applicable provisions of Sections 795 through 799. Nothing in Sections 795 through 799 precludes any owner or operator from obtaining a permit. Portable sources that operate or may be operated at a single location or site of operations for more than twelve (12) consecutive months must obtain a permit to construct. (3-28-23)

**02. Permit Option.** Owners and operators of nonmetallic mineral processing plants that hold a valid



permit to construct or a Tier II operating permit must comply with the terms and conditions of the permit and are not subject to the requirements of the permit by rule in Sections 795 through 799. (3-28-23)

**797. REGISTRATION FOR PERMIT BY RULE.**

**01. Registration Process.** Any owner or operator of a nonmetallic mineral processing plant that opts to operate under the permit by rule must register in the following manner: (3-28-23)

**a.** Any new or modified processing plant must register fifteen (15) days prior to commencing operation or modification. The Department will acknowledge registration in writing within fifteen (15) days. (3-28-23)

**b.** Any permitted processing plant must register with the Department and request termination of the current permit to construct or Tier II operating permit. The Department will normally act on the request within fifteen (15) days and notify the registrant in writing. (3-28-23)

Registration for permit by rule does not relieve the owner or operator of portable equipment from the registration and relocation requirements of Section 500. (3-28-23)

**02. Registration Information.** The following information must be provided by the registrant using forms furnished by the Department, or by other means approved by the Department. (3-28-23)

**a.** For all crushers and grinding mills, the registrant shall supply information on the manufacturer, crusher type (such as jaw, cone), serial number, date of manufacture, and maximum throughput capacity. (3-28-23)

**b.** For all screen decks, the registrant shall supply manufacturer name, physical size of screen, number of decks, serial number, and date of manufacture. (3-28-23)

**c.** For all electrical generators, the registrant shall supply manufacturer name, rated output, and fuel. (3-28-23)

**798. ELECTRICAL GENERATORS.**

The following requirements apply to all electrical generators used to provide electrical power to any nonmetallic mineral processing plant. The requirements apply to each site of operations. (3-28-23)

**01. Fuel Type.** Only ASTM (American Society of Testing and Materials) Grade 1 or 2 fuel oil may be used. The sulfur content of the fuel used must not exceed the percentages of sulfur given in Section 725. (3-28-23)

**02. Generator Operating Requirements.** For the purposes of Sections 790 through 799, the following apply to all electrical generators.

Rated Output Capacities (kW)	Allowable Operating Hours (hr/day)		Allowable Operating Hours (hr/yr)	
	Attainment Unclassifiable Areas	PM-10 Nonattainment Areas	Attainment Unclassifiable Areas	PM-10 Nonattainment Areas
0 - 454	24	8	8760	2880
455 - 1000	24	24	8760	8760
1001 - 2000	24	24	5200	5200

kW = kilowatts  
 hr/day = hours per day  
 hr/yr = hours per year

(3-28-23)

**03. Generator Opacity Limit.** Visible emissions from any generator stack, vent, or other functionally equivalent opening must not exceed twenty percent (20%) opacity for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period. Opacity must be determined using the test methods and procedures contained in Section 625. (3-28-23)

**04. Monitoring and Recordkeeping Requirements.** (3-28-23)

**a.** The owner or operator must monitor and record the following information. (3-28-23)

**i.** The rated output capacity, in kilowatts (kW), of the electrical generator(s) used; (3-28-23)

**ii.** Operating hours on a monthly and annual basis so compliance can be continuously determined for the previous twelve (12) month period; and (3-28-23)

**iii.** Vendor receipts of the fuel oil purchased clearly identifying the ASTM Grade. (3-28-23)

**b.** Records of monitoring and recordkeeping requirements for current operations must be maintained at the site of operations for the duration of operations at that location and must be available to Department representatives upon request. Records for previous sites of operation must be kept for the most recent two (2) year period at a location where they can be reasonably accessed and be made available to the Department upon request. (3-28-23)

**799. NONMETALLIC MINERAL PROCESSING PLANT FUGITIVE DUST BEST MANAGEMENT PRACTICE.**

The owner or operator of a nonmetallic mineral processing plant must use the Best Management Practices (BMP) contained in Section 799 to control the emissions of fugitive dust. Fugitive dust emissions must be reasonably controlled as required by Sections 650 and 651. It is the responsibility of the owner or operator to reasonably control fugitive emissions at each site of operations but only for the duration of operations at each site under the control of the owner or operator. (3-28-23)

**01. Generally Applicable Requirements.** All reasonable precautions must be taken to prevent particulate matter from becoming airborne. (3-28-23)

**a.** The owner or operator of a nonmetallic mineral processing plant must at all times be observant of all sources of fugitive dust emissions and monitor control strategies at least once per day when operating. The following events will trigger initiation of the prescribed control strategy or control strategies to control the fugitive dust emissions. (3-28-23)

**i.** When fugitive dust emissions are observed at any time to be exceeding any control strategy trigger specified in Subsections 799.02 through 799.06, that event triggers initiation of the prescribed control strategy or control strategies to control the fugitive dust emissions. (3-28-23)

**ii.** Citizen complaints of failure to reasonably control fugitive dust must be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy must be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-28-23)

**b.** A progressive control strategy must be used to reasonably control the emissions of fugitive dust. Progressive control strategy means that if the initial control strategy or strategies chosen do not adequately control fugitive dust emissions, the owner or operator must employ successive control strategies as listed until fugitive dust control is achieved. Fugitive dust control must be applied on a frequency such that visible emissions do not exceed any emission standard specified in Sections 790 through 799. (3-28-23)

**c.** The owner or operator must maintain a record of each event where a control strategy is triggered.

The trigger must be recorded with a summary of the control strategy employed. If the trigger is a citizen complaint, the owner or operator must record the complaint, an evaluation of whether the complaint has merit, and a summary of the corrective action taken. The record must be maintained on forms provided by the Department or other forms that contain similar information. Records for current operations must be maintained at the site of operations for the duration of operations at that location and must be available to Department representatives upon request. Records for previous sites of operation must be kept for the most recent two (2) year period at a location where they can be reasonably accessed and must be made available to the Department upon request. (3-28-23)

**02. Requirements for Paved Public Roadways.** (3-28-23)

**a. Definitions.** (3-28-23)

i. A paved public roadway means a roadway accessible to the general public having a surface of asphalt or concrete. (3-28-23)

ii. Track-out means the deposition of mud, dirt, or similar debris onto the surface of a paved public roadway from the tires and/or undercarriage of any vehicle associated with the operation of a nonmetallic mineral processing plant. (3-28-23)

**b. Control strategy triggers that require initiation of a strategy or strategies to control fugitive dust emissions from track-out include, but are not limited to:** (3-28-23)

i. Visible deposition of mud, dirt, or similar debris on the surface of a paved public roadway. (3-28-23)

ii. Visible fugitive emissions from vehicle traffic on an affected paved public roadway that approach twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. (3-28-23)

**c. The following are control strategies for track-out.** (3-28-23)

i. Prompt removal of mud, dirt, or similar debris from the affected surface of a paved public roadway. (3-28-23)

ii. Water flush, and/or water flush and vacuum sweep, the affected surface of the paved public roadway. Runoff must be controlled so it does not saturate the surface of the adjacent unpaved haul road such that track-out is enhanced. If runoff is not, or cannot be controlled, gravel must be applied to the surface of the adjacent unpaved haul road over an area sufficient to control track-out. (3-28-23)

iii. Apply gravel to the surface of the adjacent unpaved haul road. The area of application must be sufficient to control track-out. (3-28-23)

iv. Apply an environmentally safe chemical soil stabilizer or chemical dust suppressant to the surface of the adjacent unpaved haul road. The area of application must be sufficient to control track-out. (3-28-23)

v. Other control strategy or strategies as approved by the Department. (3-28-23)

**03. Requirements for Unpaved Haul Roads.** (3-28-23)

**a. Unpaved haul roads are defined as any unsurfaced roadway within the physical boundary of a nonmetallic mineral processing facility that is used as a haul road, access road, or similar.** (3-28-23)

**b. Control strategy triggers that require initiation of a strategy or strategies to control fugitive dust emissions from unpaved haul roads include, but are not limited to visible fugitive emissions from vehicle traffic on unpaved haul roads that approach twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period.** (3-28-23)

- c.** The following are control strategies for fugitive dust emissions from unpaved haul roads. (3-28-23)
- i.** Limit vehicle traffic on unpaved haul roads. (3-28-23)
  - ii.** Limit vehicle speeds on unpaved haul roads. If a speed limit is imposed, signs must be posted along the haul road route and clearly indicate the speed limit. Signs must be placed so they are visible to vehicles entering and leaving the site of operations. (3-28-23)
  - iii.** Apply water to the surface of the unpaved haul road. Runoff must be controlled so it does not saturate the surface of the unpaved haul road such that it causes track-out. If runoff is not, or cannot be controlled, gravel must be applied to the surface of the unpaved haul road over an area sufficient to control track-out. (3-28-23)
  - iv.** Apply gravel to the surface of the unpaved haul road. (3-28-23)
  - v.** Apply an environmentally safe chemical soil stabilizer or chemical dust suppressant to the surface of the unpaved haul road. (3-28-23)
  - vi.** Other control strategy or strategies as approved by the Department. (3-28-23)
- 04. Requirements for Transfer Points, Screening Operations, and Stacks and Vents.** (3-28-23)
- a.** In addition to the requirements of 40 CFR Part 60, Subpart OOO, incorporated by reference in Section 107, for applicable facilities, the following control strategy triggers require initiation of a strategy or strategies to control fugitive dust emissions from transfer points, belt conveyors, bucket elevators, screening operations, conveying systems, capture systems, and building vents. (3-28-23)
- i.** Opacity greater than twenty percent (20%) from any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation. (3-28-23)
  - ii.** For any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation located within a building, opacity greater than twenty percent (20%) from any building vent. (3-28-23)
  - iii.** Opacity greater than twenty percent (20%) from any capture system stack. (3-28-23)
- b.** The following are control strategies for transfer points, belt conveyors, bucket elevators, screening operations, conveying systems, capture systems, and building vents. Controls must be applied on a frequency such that visible fugitive emissions do not exceed any applicable opacity limit. (3-28-23)
- i.** Limit drop heights of materials such that there is a homogeneous flow of material. (3-28-23)
  - ii.** Install, operate, and maintain water spray bars to control fugitive dust emissions at transfer points on belt conveyors, conveying systems, bucket elevators, and screening operations as necessary. (3-28-23)
  - iii.** Other control strategy or strategies as approved by the Department. (3-28-23)
- 05. Requirements for Crushers and Grinding Mills.** (3-28-23)
- a.** Control strategy triggers that require initiation of a strategy or strategies to control fugitive dust emissions from any crusher, grinding mill, building vent, or capture system stack include the requirements of 40 CFR Part 60, Subpart OOO, for applicable facilities and the following. (3-28-23)
- i.** Opacity greater than twenty percent (20%) from any crusher or grinding mill at which capture system is not used. (3-28-23)
  - ii.** For any crusher or grinding mill located within a building, opacity greater than twenty percent (20%) from any building vent. (3-28-23)

- iii. Opacity greater than twenty percent (20%) from any capture system stack. (3-28-23)
- b.** The following are control strategies for any crusher, grinding mill, building vent, or capture system stack. Controls must be applied on a frequency such that visible fugitive emissions do not exceed any applicable opacity limit. (3-28-23)
  - i. Limit drop heights of materials such that there is a homogeneous flow of material. (3-28-23)
  - ii. Install, operate, and maintain water spray bars to control fugitive dust emissions at crusher drop points as necessary. (3-28-23)
  - iii. Other control strategy or strategies as approved by the Department. (3-28-23)
- 06. Requirements for Stockpiles.** (3-28-23)
  - a.** Control strategy triggers that require immediate initiation of a strategy or strategies to control fugitive dust emissions from stockpiles include, but are not limited to visible fugitive emissions from wind erosion of any stockpile that approaches twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. (3-28-23)
  - b.** The following are control strategies for stockpiles. (3-28-23)
    - i. Limit the height of the stockpiles. (3-28-23)
    - ii. Limit the disturbance of the stockpiles. (3-28-23)
    - iii. Apply water onto the surface of the stockpile. (3-28-23)
    - iv. Other control strategy or strategies as approved by the Department. (3-28-23)
- 800. REGISTRATION FEE FOR PERMIT BY RULE.**  
A registration fee of two hundred fifty dollars (\$250) must be submitted to the Department with each permit by rule registration. (3-28-23)
- 801. PAYMENT OF FEES FOR PERMITS BY RULE REGISTRATION.**  
The permit by rule registration fee must be paid in its entirety at the time the required registration form is submitted to the Department. Information for making payments is available at <http://www.deq.idaho.gov>. (3-28-23)
- 802. RECEIPT AND USAGE OF FEES.**  
Permit by rule registration fee receipts will be deposited by the Department into a stationary source permit account. Monies from this account will be used solely toward technical, legal and administrative support of the Department's Permit to Construct and Tier II permit programs and will not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. Fees payable under Section 800 will be retained by the Department regardless of whether a permit by rule registration is accepted by the Department in response to a registration request. (3-28-23)
- 803. -- 814. (RESERVED)**
- 815. RULES FOR CONTROL OF KRAFT PULP MILLS.**  
Sections 815 through 818 establish emission standards for recovery furnaces and notification and reporting requirements for low volume high concentration (LVHC) and high volume low concentration (HVLC) gas venting at kraft pulp mills. (3-28-23)
- 816. RECOVERY FURNACE TRS STANDARD.**  
The average daily emissions of total reduced sulfur (TRS) from each recovery furnace must not exceed fifteen (15) ppm expressed as hydrogen sulfide on a dry basis. Recovery furnaces at kraft pulp mills subject to 40 CFR Part 60 TRS standards are exempt from the requirements of Section 816. (3-28-23)

**817. RECOVERY FURNACE TRS MONITORING AND RECORDKEEPING.**

Owners and operators of each recovery furnace subject to the TRS emission standard in Section 816 must maintain and operate equipment to continuously monitor and record the daily average TRS concentrations. (3-28-23)

**818. KRAFT PULP MILL LVHC AND HVLC GAS VENTING NOTIFICATION AND REPORTING.**

Section 818 is applicable to kraft pulp mill LVHC and HVLC gas venting from sources required to be controlled pursuant to 40 CFR Part 63, Subpart S. For purposes of Sections 130 through 136, an excess emission is defined as a continuous uncontrolled gas venting in excess of five (5) minutes. Excess emissions notification and reporting must be conducted pursuant to the requirements contained in Sections 130 through 136 and the permit issued to the kraft pulp mill. (3-28-23)

**819. -- 834. (RESERVED)**

**835. RULES FOR CONTROL OF RENDERING PLANTS.**

No person may allow, cause, or permit: (3-28-23)

**01. Cookers.** The operation or use of any device, machine, equipment, or other contrivance to cook inedible animal or marine matter unless all gases, vapors, and gas entrained effluents from these processes are passed through condensers to remove all steam and other condensable materials. All noncondensibles, defined as gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified, passing through the condensers must then be incinerated at one thousand two hundred degrees Fahrenheit (1,200) for a minimum of three-tenths (0.3) seconds, or treated in an equally effective manner. (3-28-23)

**02. Expellers.** The installation or operation of an expeller unless it is properly hooded and all exhaust gases are ducted to odor control equipment. (3-28-23)

**03. Plant Air.** The installation or operation of a rendering plant unless plant ventilation air is collected and ducted to odor control equipment except if it can be demonstrated that without ducting plant ventilation air to the odor control equipment no noticeable odors from the plant can be detected at the property line. (3-28-23)

**836. -- 999. (RESERVED)**