

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents Vol-1

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Volume 99-6

TABLE OF CONTENTS	1
<u>IDAPA 07 - DIVISION OF BUILDING SAFETY</u>	
07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION Docket No. 07-0313-9803 Notice Of Final Rule	7
<u>IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT</u>	
11.13.01 - THE MOTOR CARRIER RULES Docket No. 11-1301-9901 Notice Of Temporary And Proposed Rule	8
<u>IDAPA 15 - OFFICE OF THE GOVERNOR</u>	
15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION Docket Nos. 15-0401-9900 And 28-0101-9900 Relating To The Idaho Personnel Commission And The Establishment Of A Division Of Human Resources And Personnel Commission In The Office Of The Governor And The Transfer Of Administrative Rules Notice Of Legislative Action.....	17
<u>IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE</u>	
16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO Docket No. 16-0101-9802 Notice Of Pending Rule And Amendments To Temporary Rule.....	19
Docket No. 16-0101-9903 Notice Of Negotiated Rulemaking	60
SUBJECTS AFFECTED INDEX	61
BULLETIN SUMMARY OF PROPOSED RULEMAKING	
CUMULATIVE RULE-MAKING INDEX	
SUBJECT INDEX	

Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all administrative rule-making documents in Idaho. The Bulletin publishes the official text notice and full text of such actions.

The state of Idaho administrative rule-making process comprises five distinct activities; Proposed, Negotiated, Temporary, Pending, and Final rule-making. In the majority of cases, the process begins with proposed rule-making and ends with final rule-making.

State agencies are required to provide public notice of rule-making activity and invite public input. The public receives notice of a rule-making activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Legal Notice. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 97-1 refers to the first Bulletin issued in calendar year 1997, Bulletin 96-1 refers to the first Bulletin issued in calendar year 1996, etc. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 1 refers to January; Volume No. 2 refers to February; and so forth. Example: The Bulletin published in January of 1998 is cited as Volume 98-1. The December 1997 Bulletin is cited as Volume 97-12.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are **not** printed in the Administrative Code and are published only in the Bulletin.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Index of Administrative Rule-Making**, printed in each Bulletin.*

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls and Twin Falls, the Lewiston City Library, East Bonner County Library, Eastern Idaho Technical College Library, Ricks College Library, and Northwest Nazarene College Library.

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0004, telephone (208) 334-3577.

The Administrative Bulletin is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

The Administrative Code, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.

Individual Rule Chapters and Individual Rule-Making Dockets, are specific portions of the Bulletin and Administrative Code produced on demand.

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

<http://www.state.id.us> - from Idaho Home Page select State Agencies, then the Department of Administration link, then Administrative Rules.

EDITOR'S NOTE: All rules are subject to frequent change. Users should reference all current issues of the Administrative Bulletin for negotiated, temporary, proposed, pending, and final changes to all rules, or call the Office of the Administrative Rules at (208) 334-3577.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

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

IDAPA 16.07.01.010.01.a.ii.

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

"**IDAPA 16**" refers to the Idaho Department of Health and Welfare.

"**07.**" refers to Title 07, Division of Veterans Services within the Department.

"**01.**" refers to Chapter 01 of Title 07, "Rules Governing Eligibility For Admission into the Veterans Home for Domiciliary Care."

"**010.**" refers to Major Section 010, "Definitions."

"**01.**" refers to Subsection 010.01.

"**a.**" refers to Subsection 010.01.a.

"**ii.**" refers to Subsection 010.01.a.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rule-making actions (documents) are assigned a "DOCKET NUMBER." The "Docket Number" is a series of numbers separated by a hyphen "-", (16-0701-9601). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

"DOCKET NO. 16-0701-9601"

"16-" denotes the agency's IDAPA number; in this case the Department of Health and Welfare.

"0701-" refers to the TITLE AND CHAPTER numbers of the agency rule being changed; in this case the Division of Veteran's Services (TITLE 07), Rules Governing Eligibility For Admission into the Veterans Home for Domiciliary Care (Chapter 01).

"9601" denotes the year and sequential order of the docket received during the year; in this case the first rule-making action in calendar year 1996.

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

"(BREAK IN CONTINUITY OF SECTIONS)"

A typical citation to a rule or a Section or Subsection of a rule that are found with the text of a rule appear as follows:

"IDAPA 16.07.01.200"

"16." denotes the IDAPA number of the agency.

"07.01." denotes the TITLE and Chapter number of the agency rule.

"200" reference the main section number of the rule that is being amended or added.

Citations made within a rule to another rule should also include the name of the Department and the Title of the rule being referenced, as well as the IDAPA number.

BULLETIN PUBLICATION SCHEDULE FOR 1998

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date
98-1	January, 1998	November 19, 1997	January 7, 1998
98-2	February, 1998	December 24, 1997	February 4, 1998
98-3	March, 1998	January 21, 1998	March 4, 1998
98-4	April, 1998	February 25, 1998	April 1, 1998
98-5	May, 1998	March 25, 1998	May 6, 1998
98-6	June, 1998	April 22, 1998	June 3, 1998
98-7	July, 1998	May 20, 1998	July 1, 1998
98-8	August, 1998	June 24, 1998	August 5, 1998
98-9	September, 1998	July 22, 1998	September 2, 1998
98-10	October, 1998	August 26, 1998	October 7, 1998
98-11	November, 1998	September 23, 1998	November 4, 1998
98-12	December, 1998	October 21, 1998	December 2, 1998

BULLETIN PUBLICATION SCHEDULE FOR 1999

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date
99-1	January, 1999	November 18, 1998	January 6, 1999
99-2	February, 1999	December 23, 1998	February 3, 1999
99-3	March, 1999	January 20, 1999	March 3, 1999
99-4	April, 1999	February 24, 1999	April 7, 1999
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99-9	September, 1999	July 21, 1999	September 1, 1999
99-10	October, 1999	August 25, 1999	October 6, 1999
99-11	November, 1999	September 22, 1999	November 3, 1999
99-12	December, 1999	October 20, 1999	December 1, 1999

ALPHABETICAL INDEX OF AGENCY IDAPA AND ADMINISTRATIVE CODE VOLUME NUMBERS

IDAPA	AGENCY
01	Accountancy, Board of - Administrative Code Volume 1
38	Administration, Department of - Administrative Code Volume 8
02	Agriculture, Idaho Department of - Administrative Code Volume 1
40	Arts, Idaho Commission on the - Administrative Code Volume 8
03	Athletic Commission - Administrative Code Volume 1
04	Attorney General, Office of the - Administrative Code Volume 1
53	Barley Commission, Idaho - Administrative Code Volume 8
51	Beef Council, Idaho - Administrative Code Volume 8
07	Building Safety, Division of - Administrative Code Volume 2
43	Canola and Rapeseed Commission, Idaho - Administrative Code Volume 8
48	Commerce, Idaho Department of - Administrative Code Volume 8
44	Controller, Office of the State - Administrative Code Volume 8
19	Dentistry, Board of - Administrative Code Volume 6
08	Education, Board of - Administrative Code Volume 1
12	Finance, Department of - Administrative Code Volume 2
13	Fish and Game, Department of - Administrative Code Volume 2
14	Geologists, Professional, Board of Registration, - Administrative Code Volume 2
15	Governor, Office of the - Administrative Code Volume 2
16	Health and Welfare, Department of - Administrative Code Volumes 3, 4, 5
45	Human Rights Commission - Administrative Code Volume 8
17	Industrial Commission - Administrative Code Volume 5
18	Insurance, Department of - Administrative Code Volume 6
05	Juvenile Corrections, Department of - Administrative Code Volume 1
09	Labor, Idaho Department of - Administrative Code Volume 2
20	Lands, Department of - Administrative Code Volume 6
11	Law Enforcement, Department of - Administrative Code Volume 2
30	Library, Idaho State - Administrative Code Volume 7
52	Lottery Commission, Idaho State - Administrative Code Volume 8
22	Medicine, Board of - Administrative Code Volume 6
23	Nursing, Board of - Administrative Code Volume 6
24	Occupational Licenses, Board of - Administrative Code Volume 6
25	Outfitters and Guides Licensing Board - Administrative Code Volume 7
50	Pardons and Parole, Commission for - Administrative Code Volume 8
26	Parks and Recreation, Department of - Administrative Code Volume 7
59	PERSI - Public Employees Retirement System of Idaho - Administrative Code Vol. 8
28	Personnel Commission - Administrative Code Volume 7
27	Pharmacy, Board of - Administrative Code Volume 7
29	Potato Commission, Idaho - Administrative Code Volume 7
10	Professional Engineers & Land Surveyors, Board of - Administrative Code Volume 2
32	Public Works Contractors State Licenses Board - Administrative Code Volume 7
31	Public Utilities Commission - Administrative Code Volume 7
41	Public Health Districts - Administrative Code Volume 8
33	Real Estate Commission - Administrative Code Volume 7
34	Secretary of State - Administrative Code Volume 7
49	Shorthand Reporters, Board of Certified, - Administrative Code Volume 8
36	Tax Appeals, Idaho Board of - Administrative Code Volume 8
35	Tax Commission, State - Administrative Code Volume 7
39	Transportation, Department of - Administrative Code Volume 8
54	Treasurer, Office of the State - Administrative Code Volume 8
46	Veterinary Medical Examiners, Board of - Administrative Code Volume 8
55	Vocational Education, Division of - Administrative Code Volume 8
47	Vocational Rehabilitation, Division of - Administrative Code Volume 8
37	Water Resources, Department of - Administrative Code Volumes 8
42	Wheat Commission, Idaho - Administrative Code Volume 8

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION
DOCKET NO. 07-0313-9803
NOTICE OF FINAL RULE

AUTHORITY: This rule was promulgated in compliance with Section 44-2504, Idaho Code, Rehabilitation form and checklist -- Administrative fee -- Rules.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule:

Pursuant to SCR 135, the 1999 Legislature has rejected proposed Subsection 07.03.13.013 of Docket No. 07-0313-9803. If you wish to review the proposed rule text, refer to the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, page 37.

The Subsection that was rejected by SCR 135 and the text will not be effective.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Programs Manager, Division of Building Safety, 277 N. 6th Street, Suite 100, P.O. Box 83720, Boise, Idaho 83720-6001, (208) 334-3896.

DATED this 28th day of April, 1999.

Connie J Mumm
Division of Building Safety
277 N. 6th Street, Suite 100
P.O. Box 83720
Boise, ID 83720-0048
(208) 334-3950/fax (208) 334-2683

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT

11.13.01 - THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-2901(A), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 16, 1999.

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

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rule:

Regulatory authority over motor carriers operating within the state of Idaho was transferred on March 26, 1999, via House Bill 335, as Amended (1999 Session Laws Chapter 383) from the Public Utilities Commission to the Department of Law Enforcement and the Idaho Transportation Department. In order to facilitate the transfer of regulatory functions, the Department of Law Enforcement has transferred certain rules of the Idaho Public Utilities Commission relating to motor carriers, and has taken the opportunity to clarify certain other rules.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule complies with deadlines in amendments to governing law.

FEE SUMMARY: There is no fee or charge imposed by this rule.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule is complying with amendments to governing law and is merely transferring duties between agencies.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sandra DeKlotz at (208) 884-7200.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 20th day of April, 1999.

Margaret P. White
Law Enforcement Unit
Attorney General's Office
P.O. Box 700
Meridian, Idaho 83680-0700
Telephone: (208) 884-7050
Fax: (208) 884-7090

IDAPA 11
TITLE 13
Chapter 01

11.13.01 - THE MOTOR CARRIER RULES

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to the authority granted to the Idaho Department of Law Enforcement pursuant to Section 67-2901A, Idaho Code. (7-1-99)T

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 11.13.01, "The Motor Carrier Rules". (7-1-99)T

02. Scope. These rules apply to intrastate motor carriers under the jurisdiction of the Idaho Department of Law Enforcement and, when provided in the rule, to interstate or foreign carriers providing transportation of persons or property over highways of the state of Idaho by motor vehicles in the furtherance of their business or for hire. These rules should be construed in connection with applicable state laws, not preempted by federal laws, both of which govern the interpretation of these rules. (7-1-99)T

002. WRITTEN INTERPRETATIONS--AGENCY GUIDELINES.

The Idaho Department of Law Enforcement Safety Program Manager is authorized to make and give informal interpretations of the terms and definitions found in the Idaho Code, this Department's rules applicable to motor carriers and other filings relating to motor carriers maintained by the Department pursuant to law. In addition, written interpretations to these rules are available and maintained in the files of the Safety Program Manager. The Safety Program Manager may be contacted in writing at the Idaho Department of Law Enforcement, PO Box 700, Meridian, Idaho 83680-0700, or may be reached by telephone at (208) 884-7220. For future rulemakings written interpretations in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking decision adopting these rules are published in the issues of the Idaho Administrative Bulletin proposing or adopting the rules. The Department reserves to itself the authority to issue formal declaratory orders construing these items. (7-1-99)T

003. ADMINISTRATIVE APPEALS.

All administrative appeals under the Motor Carrier Rules are conducted under IDAPA 04.11.01 et seq, "Idaho Rules of Administrative Procedure of the Attorney General". (7-1-99)T

004. PUBLIC RECORD ACT COMPLIANCE.

All materials in motor carrier files, except those that are investigatory records under Section 9-340(22), Idaho Code, are public records available for inspection, examination and copying. Investigatory records are not public records, but may be examined or disclosed by the object of the investigation pursuant to Section 9-335, Idaho Code. (7-1-99)T

005. DEFINITIONS.

Whenever any term used in these rules is defined or referred to in the Idaho Code, that term takes its statutory definition in these rules. (7-1-99)T

01. Commercial Motor Vehicle (CMV). Means a motor vehicle that has any of the following three (3) characteristics: (7-1-99)T

a. A gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), or gross combination weight rating (GCWR) of four thousand five hundred thirty-seven kilograms (4,537 kg.), which is equal to ten thousand one pounds (10,001 lbs.), or more. (7-1-99)T

b. Regardless of weight, designed or used to transport sixteen (16) or more passengers, including a driver. (7-1-99)T

c. Regardless of weight, used in transportation of hazardous materials and is required to be placarded under the HMRs (49 CFR Part 172, Subpart F). (7-1-99)T

02. Department. Means the Idaho Department of Law Enforcement. (7-1-99)T

03. Highway. Means the public roads, highways, and streets of the State. (7-1-99)T

04. Interstate Carrier. Means any person who or which owns or operates any motor vehicle in the state of Idaho or on the highways of the state of Idaho, in commerce between the States, or between the States and a foreign Nation, used or maintained for the transportation of persons or property. (7-1-99)T

05. Motor Carrier. Means an individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire. (7-1-99)T

06. Motor Vehicle. Means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highway in the transportation of passengers and/or property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails. (7-1-99)T

07. Person. Means any individual, firm, copartnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof. (7-1-99)T

08. Transportation. Includes all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contact, express or implied, together with all services, facilities and property furnished, operated or controlled by any such carrier or carriers and used in the transportation of passengers and/or property in commerce in the state of Idaho. (7-1-99)T

006. CITATION.

The official citation of these rules is IDAPA 11.13.01.000 et seq. For example, this rule is cited as IDAPA 11.13.01.006. (7-1-99)T

007. FORMS.

The Department of Law Enforcement Safety Program Manager is authorized to produce and distribute forms and reports to carry out these rules. (7-1-99)T

008. (RESERVED).

009. CODE OF FEDERAL REGULATIONS, FEDERAL REGISTER.

The Code of Federal Regulations (CFR) is referred to in Sections 012, 018 and 019. Federal Regulations are adopted by reference in Sections 018 and 019. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho Department of Law Enforcement and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (7-1-99)T

010. RELIEF FROM REGULATIONS.

The Department may issue a declaration of emergency relieving intrastate carriers from the requirements of 49 CFR Parts 390 through 399 adopted by reference in Section 019 following the declaration of an emergency. The maximum duration of the declaration of emergency, the particular rules in 49 CFR Parts 390 through 399 from which the carrier is relieved from complying, and all other aspects relief from regulation shall be the same as provided in those Federal regulations. (7-1-99)T

011. (RESERVED).

012. SAFETY FITNESS PROCEDURES.

01. Purpose And Scope. (7-1-99)T

a. The purpose of Section 012 is to establish procedures to determine the safety fitness of motor carriers, assign safety ratings, take remedial action when required and prohibit motor carriers receiving a safety rating of "unsatisfactory" from operating a commercial motor vehicle: (7-1-99)T

i. To provide transportation of hazardous materials for which vehicle placarding is required in accordance with 49 CFR Part 172, subpart F; or (7-1-99)T

ii. To transport more than fifteen (15) passengers, including the driver. (7-1-99)T

b. All provisions of Section 012 apply to all motor carriers subject to the requirement of this subchapter. (7-1-99)T

02. Definitions. The following definitions apply to Section 012. (7-1-99)T

a. Applicable safety regulations or requirements. Means 49 CFR subtitle, chapter III. subchapter B- Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I. subchapter C- Hazardous Materials Regulations. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho Department of Law Enforcement and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (7-1-99)T

b. Preventable accident on the part of a motor carrier. Means an accident that: (7-1-99)T

i. Involved a commercial motor vehicle, and (7-1-99)T

ii. Could have been averted but for an act, or failure to act, by the motor carrier or the driver. (7-1-99)T

c. Reviews. For the purposes of Section 012: (7-1-99)T

i. Compliance review. Means an onsite examination of motor carrier operations, which may be at the carrier's place of business, including driver's hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and such other related safety and transportation records to determine safety fitness. (7-1-99)T

(1) A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by motor carriers, or to investigate complaints or other evidence of safety violations. (7-1-99)T

(2) A compliance review may result in the initiation of an enforcement action. (7-1-99)T

ii. Safety management controls. Means the systems, policies programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations which ensure the safe movement of products and passengers through the transportation system, and to reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage. (7-1-99)T

d. Safety ratings. Means, for the purposes of this Section 012: (7-1-99)T

i. Satisfactory safety rating. Means that a motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standard prescribed in Subsection 012.03 of this rule. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor

carrier. (7-1-99)T

ii. Conditional safety rating. Means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in Subsection 012.03 of this rule. (7-1-99)T

iii. Unsatisfactory safety rating. Means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard which has resulted in occurrences listed in Subsection 012.03 of this rule. (7-1-99)T

iv. Unrated carrier. Means that a safety rating has not been assigned to the motor carrier. (7-1-99)T

03. Safety Fitness Standard. The satisfactory safety rating is based on the degree of compliance with the safety fitness standard for motor carriers. To meet the safety fitness standard, the motor carrier shall demonstrate that it has adequate safety management controls in place, which function effectively to ensure acceptable compliance with applicable safety requirements to reduce the risk associated with: (7-1-99)T

a. Commercial driver's license standards violations. (7-1-99)T

b. Inadequate levels of financial responsibility. (7-1-99)T

c. The use of unqualified drivers. (7-1-99)T

d. Improper use and driving of motor vehicles. (7-1-99)T

e. Unsafe vehicles operating on the highways. (7-1-99)T

f. Failure to maintain accident register and copies of accident reports. (7-1-99)T

g. The use of fatigued drivers. (7-1-99)T

h. Inadequate inspection, repair, and maintenance of vehicles. (7-1-99)T

i. Transportation of hazardous materials, driving and parking rule violations. (7-1-99)T

j. Violation of hazardous materials regulations. (7-1-99)T

k. Motor vehicle accidents and hazardous materials incidents. (7-1-99)T

04. Factors To Be Considered In Determining A Safety Rating. The factors to be considered in determining the safety fitness and assigning a safety rating include information from safety reviews, compliance reviews and any other data. The factors may include all or some of the following: (7-1-99)T

a. Adequacy of safety management controls. The adequacy of controls may be questioned if their degree of formalization or automation is found to be substantially below the norm for similar carriers. Violations, accidents or incidents substantially above the norm for similar carriers will be strong evidence that management controls are either inadequate or not functioning properly. (7-1-99)T

b. Frequency and severity of regulatory violations. (7-1-99)T

c. Frequency and severity of driver/vehicle regulatory violations identified in roadside inspections. (7-1-99)T

d. Number and frequency of out-of-service driver/vehicle violations. (7-1-99)T

e. Increase or decrease in similar types of regulatory violations discovered during safety or compliance reviews. (7-1-99)T

f. Frequency of accidents; hazardous materials incidents; accident rate per million miles; preventable accident rate per million miles; and other accident indicators; and whether these accident and incident indicators have improved or deteriorated over time. (7-1-99)T

g. The number and severity of violations of state safety rules, regulations, standards, and orders applicable to commercial motor vehicles and motor carrier safety that are compatible with Federal rules, regulations, standards and orders. (7-1-99)T

05. Determination Of Safety Fitness. Following a compliance review of a motor carrier operation, the Department of Law Enforcement Safety Program Manager, using the factors prescribed in Subsection 012.04 of this rule, shall determine whether the present operations of the motor carrier are consistent with the safety fitness standards set forth in Subsection 012.03 of this rule. (7-1-99)T

06. Notification Of A Safety Fitness Rating. Following a compliance review, the Department of Law Enforcement Safety Program Manager will determine the safety fitness of a motor carrier and notify the motor carrier and the Department in writing. Notification will include a list of those items for which immediate corrective actions must be taken. (7-1-99)T

07. Motor Carrier Certification. Upon notification of violations cited in the compliance review and recommendations made to correct violations a motor carrier shall certify to the Department of Law Enforcement Safety Program Manager, within thirty (30) days, whether all corrective actions identified by the safety review have been taken. Certification required by this subsection must be made to the Department of Law Enforcement Safety Program Manager. Failure to certify or falsely certifying under Section 012 of this Chapter will be considered a reporting violation under Section 67-2901B(3), Idaho Code. (7-1-99)T

013. -- 017. (RESERVED).

018. TRANSPORTATION OF HAZARDOUS MATERIALS, SUBSTANCES, AND WASTES.

01. Adoption Of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Department of Law Enforcement while operating in Idaho that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must comply with 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 applicable to motor carriers and their shippers, and the laws and rules of the state of Idaho. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho Department of Law Enforcement and the Idaho State Law Library. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, removes that exemption and subjects intrastate carriers to the same requirements. The Department asserts its authority under this Rule, IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-670 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (7-1-99)T

02. Obligation Of Familiarity With Rules. All interstate and foreign carriers and all intrastate carriers subject to this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must obtain copies of these federal regulations and make them available to their drivers and other personnel handling hazardous materials, substances or wastes and must familiarize their drivers and other personnel handling hazardous materials, substances or wastes with any regulation pertaining to the particular material, substance or waste that is transported. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho Department of Law Enforcement and the Idaho State Law Library. Failure to be familiar with these federal regulations adopted by reference is a violation of Section 018 of this Chapter for any carrier transporting such cargoes. The federal regulations adopted by reference in this Section 018 have the following subject matter:

- (7-1-99)T
- a. Part 107. Hazardous Materials Program Procedures. (7-1-99)T
- b. Part 171. General Information, Regulations and Definitions. (7-1-99)T
- c. Part 172. Hazardous Materials Tables and Hazardous Materials Communications Regulations. (7-1-99)T
- d. Part 173. Shippers-General Requirements for Shipments and Packaging. (7-1-99)T
- e. Parts 174-176. (Not adopted regulations for railroads, aircraft and vessels). (7-199)T
- f. Part 177. Carriage by Public Highway. (7-1-99)T
- g. Part 178. Shipping Container Specifications. (7-1-99)T
- h. Part 179. (Not adopted regulations for rail tanker cars). (7-1-99)T
- i. Part 180. Continuing Qualification and Maintenance of Packaging. (7-1-99)T

03. Recognition Of Federal Waivers. Whenever a carrier has applied to a federal agency and been granted a waiver of the packaging requirements of the federal regulations adopted in Subsection 018.01, the federal waiver will also be recognized under these rules. The Department will not administer a program to duplicate consideration or approval of federal waivers on the state level. (7-1-99)T

04. Hazardous Materials. As used in this Section 018, means a substance or material, including a hazardous substance, listed by the U.S. Department of Transportation in the "Hazardous Materials Table" (49 CFR 172.101), which has been determined to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce. Hazardous materials listed include: (7-1-99)T

- a. Radioactive materials; (7-1-99)T
- b. Explosives, poisons; (7-1-99)T
- c. Flammable liquids; (7-1-99)T
- d. Flammable solids or flammable gases; (7-1-99)T
- e. Combustible liquids; (7-1-99)T
- f. Compressed gases; (7-1-99)T
- g. Blasting agents; (7-1-99)T
- h. Oxidizers; (7-1-99)T
- i. Corrosives; (7-1-99)T
- j. Severely irritating materials; or (7-1-99)T
- k. Materials with combinations of these properties. (7-1-99)T

05. Hazardous Substances. As used in this Section 018, means a material, its mixtures or solutions, that is listed in the Appendix to 49 CFR 172.101 and that is in a quantity in one (1) package that equals or exceeds the reportable quantity (RQ) listed in the Appendix to 49 CFR 172.101. (7-1-99)T

06. Hazardous Waste. As used in this Section 018, means any material that is subject to the Hazardous Waste Manifest requirements of the U.S. Environmental Protection Agency. See 40 CFR Part 262. (7-1-99)T

07. Version Of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 018 are those contained in the compilations of 40 CFR Part 262 published in the Code of Federal Regulations volume dated July 1, 1998, and as subsequently recompiled, and those contained in the compilations of 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 published in the Code of Federal Regulations volume dated October 1, 1998, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho Department of Law Enforcement and the Idaho State Law Library. (7-1-99)T

019. CARRIER SAFETY REQUIREMENTS.

01. Adoption Of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 382, 383, 385, 388 and 390 through 399 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Department of Law Enforcement while operating in Idaho that transport passengers or property must comply with 49 CFR Parts 382, 383, 385, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Department of Law Enforcement may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under this Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (7-1-99)T

02. Obligation Of Familiarity With Rules. All interstate and foreign carriers and all intrastate carriers subject to these Rules at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: (7-1-99)T

- a. Part 382. Controlled Substance and Alcohol Use and Testing. (7-1-99)T
- b. Part 383. Commercial Driver's License Standards; Requirements and Penalties. (7-1-99)T
- c. Part 385. Safety Fitness Standards. (7-1-99)T
- d. Part 388. Cooperative Agreements with States. (7-1-99)T
- e. Part 390. Federal Motor Carrier Safety Regulations: General. (7-1-99)T
- f. Part 391. Qualifications of Drivers. (7-1-99)T
- g. Part 392. Driving of Motor Vehicles. (7-1-99)T
- h. Part 393. Parts and Accessories Necessary for Safe Operation. (7-1-99)T
- i. Part 395. Hours of Service of Drivers. (7-1-99)T
- j. Part 396. Inspection, Repair and Maintenance. (7-1-99)T
- k. Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (7-1-99)T

l. Part 398. Transportation of Migrant Workers. (7-1-99)T

m. Part 399. Employee Safety and Health Standards. (7-1-99)T

03. Recognition Of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (7-1-99)T

04. Version Of Federal Regulations Adopted. The federal regulations adopted by reference in this Subsection 019 are those contained in the compilation of 49 CFR Parts 382, 383, 385, 388 and 390 through 399 published in the Code of Federal Regulations volumes dated October 1, 1998, and as subsequently recompiled. (7-1-99)T

020. -- 029. (RESERVED).

030. INTERSTATE AND FOREIGN COMMERCE.

Applicability of Rules. The following rules apply to motor carriers when engaged in interstate or foreign commerce in Idaho: (7-1-99)T

01. IDAPA 11.13.01, "The Motor Carrier Rules," Section 018. Transportation Of Hazardous Materials, Substances, And Wastes. (7-1-99)T

02. IDAPA 11.13.01, "The Motor Carrier Rules," Section 019. Motor Carrier Safety Requirements. (7-1-99)T

031. OBEDIENCE AND COMPLIANCE WITH RULES AND REGULATIONS, FORCE OF LAW.

01. Proof Of Compliance Required. Whenever requested by an employee of this Department whose duties include enforcement of any of these rules and regulations, all motor carriers and their agents or employees are required to demonstrate proof of compliance with these rules at IDAPA 11.13.01, "The Motor Carrier Rules". (7-1-99)T

02. Sanctions. The failure of any motor carrier to obey and comply with these rules at IDAPA 11.13.01, "The Motor Carrier Rules," is just and sufficient cause for imposition of the sanctions authorized by Title 67, Chapter 29, Idaho Code. (7-1-99)T

03. Force Of Law. These rules at IDAPA 11.13.01, "The Motor Carrier Rules," have the force and effect of law and violations of them may be subject to punishment as a misdemeanor, as provided by Section 67-2901A of the Idaho Code. (7-1-99)T

032. -- 999. (RESERVED).

OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
IDAHO DEPARTMENT OF ADMINISTRATION

THE OFFICE OF THE GOVERNOR
IDAHO PERSONNEL COMMISSION

DOCKET NO. 15-0401-9900 AND 28-0101-9900

NOTICE OF LEGISLATIVE ACTION

RELATING TO THE IDAHO PERSONNEL COMMISSION AND THE ESTABLISHMENT OF A
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION IN THE OFFICE OF
THE GOVERNOR AND THE TRANSFER OF ADMINISTRATIVE RULES

EFFECTIVE DATE: The effective date of this action is July 1, 1999.

AUTHORITY: In compliance with Sections 67-5203 and 67-5220, Idaho Code, notice is hereby given by the Office of the Administrative Rules Coordinator that the Fifty-fifth Legislature in the First Regular Session - 1999, passed Senate Bill 1228 relating to the Idaho Personnel Commission and the establishment of a Division of Human Resources in the Office of the Governor and the transfer of administrative rules from the Idaho Personnel Commission to the Division of Human Resources in the Office of the Governor. This docket has been assigned two docket numbers to reflect the changes made in the transfer of rules and for tracking this rulemaking action in the Cumulative Rulemaking Index.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the notice and the legislative action:

Senate Bill 1228 amends existing law to move the Personnel Commission into the office of the Governor; to provide that the administrative head of the entity shall be appointed by the Governor; to name the branch the Division of Human Resources; and to provide that the Personnel Commission shall exist for appeals purposes for classified state employees.

This notice, in accordance with Section 67-5203, Idaho Code, complies with the Legislative intent of Senate Bill 1228 by transferring the authority of the effected chapter of rules from the Idaho Personnel Commission to the Division of Human Resources in the Office of the Governor. IDAPA 28.01.01, "Rules of the Idaho Personnel Commission," will now become IDAPA 15.04.01, "Rules of the Division of Human Resources and Personnel Commission". No substantive changes to the rules will be made. Pursuant to Section 67-5204, Idaho Code, all other changes will be incorporated into and published in the July 1, 1999, edition of the Idaho Administrative Code.

All of the changes are technical in nature, either required by Senate Bill 1228 (1999) or prior legislative changes. The rules have been renamed "Rules of the Division of Human Resources and Personnel Commission" and they have been moved from IDAPA 28.01.01 to IDAPA 15.04.01.

* Rule Section 000 is amended to reflect that Senate Bill 1228 requires the governor to appoint the administrator.

* Rule Section 007 is amended to reflect that a prior law change requires the governor to appoint the chairman of the commission.

* Rule Section 008 has been deleted and reserved to reflect that Senate Bill 1228 removes the necessity of monthly commission meetings, but the commission will meet to handle its quasi-judicial functions.

* Rule Section 009 is amended to reflect that Senate Bill 1228 assigns certain legal duties to the administrator and requires that administrative support be provided to the commission in order to perform its quasi-judicial functions.

* Rule Section 021 is amended to remove language which was also removed in Senate Bill 1228.

* Rule Sections 065, 070.01, and 071 are amended to reflect that Senate Bill 1228 requires the administrator to make the final decision on these classification and compensation matters.

* Rule Section 067 is amended to reflect that the "State Auditor" is now called the "State Controller".

* Rule Sections 080 and 084.01 are amended to reflect that the "Department of Employment" is now called the "Department of Labor".

* Rule Sections 140 and 152.02.a. are amended to reflect a prior law change from a "grievance" procedure to a "problem-solving" procedure.

* Rule Section 201.02 is amended to reflect that the division is now part of the executive office of the governor, and the governor has the legal authority, pursuant to Section 67-1401, Idaho Code, to call upon legal services from the attorney general or his own counsel.

All other amendments involve changing the "state personnel director" title to "administrator", adding the new agency name, "Division of Human Resources and Personnel Commission," and correcting outdated citations to the Idaho Code. The actual text of the amendments is available through the Office of the Rules Coordinator.

ASSISTANCE ON QUESTIONS: For assistance on questions concerning this notice, contact Dennis Stevenson or Karen Gustafson at (208) 332-1820.

DATED this 15th day of April, 1999.

Rick Thompson
Administrative Rules Coordinator
Department of Administration
P.O. Box 83720
Boise, ID 83720-0011
PHONE: (208) 334-3577
FAX: (208) 334-2395

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO
DOCKET NO. 16-0101-9802

NOTICE OF PENDING RULE AND AMENDMENTS TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective April 23, 1999. This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 2000 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fifth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that the Board has adopted a pending rule and amended a temporary rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code. In addition, this rulemaking is required under 40 CFR Part 51, "Requirements for Adoption and Submittal of Implementation Plans".

DESCRIPTIVE SUMMARY: In November 1998, the Board adopted a temporary rule to address U.S. Environmental Protection Agency (EPA) comments on Idaho's Implementation Plan submittals from the past four years, to allow the use of mobile source offsets, to review alternatives to the process weight rule, and to add a section on emergency situations and permitting revisions. An emergency section was not added. Additional changes to the rules were made as a result of negotiations. It was understood by the rulemaking participants that EPA continued to have concerns with several rules and that these issues would be resolved in the public comment process. In January 1999, the Department of Health and Welfare, Division of Environmental Quality (DEQ) proposed final adoption of the November 1998 temporary rule. A detailed summary of the reasons for the proposed rule change is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 99-1, January 6, 1999, pages 77 through 179.

DEQ received comments from the public concerning the proposed rule. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public, is included in the rulemaking record maintained by DEQ, 1410 N. Hilton, Boise, ID 83706.

DEQ revised IDAPA 16.01.01 Sections 006, 008, 122, 131, 157, 209, 220, 221, 222, 223, 322, 380, 381, 401, 613, 625, 626, 681, 700, 725, 786, 824, and 847 in compliance with Section 67-5227, Idaho Code, before presenting the rule to the Board for adoption. The remaining sections have been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 99-1, January 6, 1999, pages 77 through 179 and, therefore, have not been republished with this Notice.

Upon DEQ's recommendation, the Board adopted the pending rule because the rule responds to the needs of the regulated community while protecting the public health and environment. Rather than keep the temporary rule in place while the pending rule awaits legislative review, the Board amended the temporary rule with the same revisions which have been made to the proposed rule.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact Sue Richards at (208)373-0502.

Dated this 22nd day of April, 1999.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255

IDAPA 16
TITLE 01
Chapter 01

RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The complete original text was published in the Idaho Administrative Bulletin, Volume 99-1, January 6, 1999, pages 77 through 179.

This rule has been adopted as Final by the Agency and is now pending review by the 2000 Idaho State Legislature for final adoption.

THE FOLLOWING IS TEXT OF DOCKET NO. 16-0101-9802

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. (11-13-98)T

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

03. Actual Emissions. The actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following: (11-13-98)T

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. (11-13-98)T

b. The Department may presume that the source-specific allowable emissions for the unit are equivalent to actual emissions of the unit. (11-13-98)T

c. For any emissions unit (other than an electric utility steam generating unit as specified below) which has not yet begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. (11-13-98)T

d. For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the Department, on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating

that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ten (10) years may be required by the Department if it determines such a period to be more representative of normal source post-change operations. (11-13-98)T

04. Air Pollutant/Air Contaminant. Any substance, including but not limited to, dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon or particulate matter or any combination thereof. (11-13-98)T

05. Air Pollution. The presence in the outdoor atmosphere of any air pollutant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. (11-13-98)T

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

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

08. Allowable Emissions. The allowable emissions rate of a stationary source or facility calculated using the maximum rated capacity of the source or facility (unless the source or facility is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following: (~~11-13-98~~)T(4-23-99)T

a. The applicable standards set forth in 40 CFR part 60 and 61; (11-13-98)T

b. Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or (11-13-98)T

c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date. (11-13-98)T

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

10. Ambient Air Quality Violation. Any ambient concentration of any regulated air pollutant that causes or contributes to an exceedance of a national ambient air quality standard as determined by 40 CFR Part 50. (11-13-98)T

11. Atmospheric Stagnation Advisory. An air pollution alert declared by the Department when regulated air pollutant impacts have been observed and/or meteorological conditions are conducive to additional regulated air pollutant buildup. (11-13-98)T

12. 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 regulated air pollutant or air pollutants. (11-13-98)T

13. Baseline (Area, Concentration, Date). See Section 579. (5-1-94)

14. Best Available Control Technology (BACT). An emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each pollutant subject to regulation under the Clean Air Act which would be emitted from any proposed major facility or major modification which the Department, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such ~~source~~ proposed major facility or major modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any regulated air pollutant which would exceed the emission allowed by any applicable standard under 40 CFR Parts 60 and 61. If the Department determines that technological or economic

limitations on the application of measurement methodology to a particular emission unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(11-13-98)T(4-23-99)T

15. **Board.** Idaho Board of Health and Welfare. (5-1-94)
16. **Breakdown.** An unplanned failure of any equipment or emissions unit which may cause excess emissions. (11-13-98)T
17. **BTU.** British thermal unit. (5-1-94)
18. **Clean Air Act.** The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)
19. **Collection Efficiency.** The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. (5-1-94)
20. **Commence Construction Or Modification.** In general, this means initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. (11-13-98)T
21. **Complete.** A determination made by the Department that all information needed to process a permit application has been submitted for review. (5-1-94)
22. **Construction.** Fabrication, erection, installation, or modification of a stationary source or facility. (5-1-94)
23. **Control Equipment.** Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)
24. **Controlled Emission.** An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. (5-1-94)
25. **Criteria Air Pollutant.** Any of the following: PM-10; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. (11-13-98)T
26. **Department.** The Department of Health and Welfare. (5-1-94)
27. **Designated Facility.** Any of the following facilities: (5-1-94)
 - a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (5-1-94)
 - b. Coal cleaning plants (thermal dryers); (5-1-94)
 - c. Kraft pulp mills; (5-1-94)
 - d. Portland cement plants; (5-1-94)
 - e. Primary zinc smelters; (5-1-94)
 - f. Iron and steel mill plants; (5-1-94)

- g. Primary aluminum ore reduction plants; (5-1-94)
- h. Primary copper smelters; (5-1-94)
- i. Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; (5-1-94)
- j. Hydrofluoric, sulfuric, and nitric acid plants; (5-1-94)
- k. Petroleum refineries; (5-1-94)
- l. Lime plants; (5-1-94)
- m. Phosphate rock processing plants; (5-1-94)
- n. Coke oven batteries; (5-1-94)
- o. Sulfur recovery plants; (5-1-94)
- p. Carbon black plants (furnace process); (5-1-94)
- q. Primary lead smelters; (5-1-94)
- r. Fuel conversion plants; (5-1-94)
- s. Sintering plants; (5-1-94)
- t. Secondary metal production facilities; (5-1-94)
- u. Chemical process plants; (5-1-94)
- v. Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; (5-1-94)
- w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (5-1-94)
- x. Taconite ore processing facilities; (5-1-94)
- y. Glass fiber processing plants; and (5-1-94)
- z. Charcoal production facilities. (5-1-94)
- 28. Director.** The Director of the Department of Health and Welfare or his designee. (5-1-94)
- 29. Effective Dose Equivalent.** The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. (5-1-94)
- 30. Emission.** Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. (5-1-94)
- 31. 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. (11-13-98)T

32. Emissions Unit. An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term "unit" for the purposes of 42 U.S.C. Sections 7651 through 7651o. (5-1-94)

33. EPA. The United States Environmental Protection Agency and its Administrator or designee. (5-1-94)

34. Environmental Remediation Source. A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and shall have an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition shall be construed so as to actually limit remediation projects to five (5) years or less of total operation. (5-1-95)

35. Excess Emissions. Emissions of any regulated air pollutant exceeding an applicable emissions standard established for any facility, source or emissions unit by statute, regulation, rule, permit, or order. ~~(11-13-98)T~~(4-23-99)T

36. Existing Stationary Source Or Facility. Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. (5-1-94)

37. Facility. All of the pollutant-emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual. (11-13-98)T

38. Federal Class I Area. Any federal land that is classified or reclassified "Class I" pursuant to Section 580. (5-1-94)

39. Federal Land Manager. The Secretary of the federal department with authority over any federal lands in the United States. (5-1-94)

40. Fire Hazard. The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands. (5-1-94)

41. Fuel-Burning Equipment. Any furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. (5-1-94)

42. Fugitive Dust. Fugitive emissions composed of particulate matter. (5-1-94)

43. Fugitive Emissions. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (5-1-94)

44. Garbage. Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (5-1-94)

45. Grain Elevator. Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)

46. Grain Storage Elevator. Any grain elevator located at any wheat flour mill, wet corn mill, dry

corn mill (human consumption), rice mill, or soybean extraction plant which has a permanent grain storage capacity of thirty five thousand two hundred (35,200) cubic meters (ca. 1 million bushels). (5-1-94)

47. Grain Terminal Elevator. Any grain elevator which has a permanent storage capacity of more than eighty-eight thousand one hundred (88,100) cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. (5-1-94)

48. Hazardous Air Pollutant (HAP). Any air pollutant listed in or pursuant to Section 112(b) of the Clean Air Act. (11-13-98)T

49. Hazardous Waste. Any waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may: (5-1-94)

a. Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or (5-1-94)

b. Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or by-product material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa). (5-1-94)

50. Hot-Mix Asphalt Plant. Those facilities conveying proportioned quantities or batch loading of cold aggregate to a drier, and heating, drying, screening, classifying, measuring and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use. (5-1-94)

51. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. (5-1-94)

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

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

54. Lowest Achievable Emission Rate (LAER). For any source, the more stringent rate of emissions based on the following: (11-13-98)T

a. The most stringent emissions limitation which is contained in any State Implementation Plan for such class or category of ~~stationary source facility~~, unless the owner or operator of the proposed ~~stationary source facility~~ demonstrates that such limitations are not achievable; or ~~(11-13-98)T~~(4-23-99)T

b. The most stringent emissions limitation which is achieved in practice by such class or category of ~~stationary sources facilities~~. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the ~~stationary source facility~~. In no event shall the application of the term permit a proposed new or modified ~~stationary source facility~~ to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance. ~~(11-13-98)T~~(4-23-99)T

55. Major Facility. (5-1-94)

a. A major facility is either: (11-13-98)T

- i. Any facility which emits, or has the potential to emit, one hundred (100) tons per year or more of any regulated air pollutant; or (11-13-98)T
- ii. Any physical change that would occur at a facility not qualifying under Subsection 006.55.a.i. as a major facility, if the change would constitute a new major facility by itself. (11-13-98)T
- b. A major facility that is major for volatile organic compounds shall be considered major for ozone. (11-13-98)T
- c. The fugitive emissions of a facility shall not be included in determining for any of the purposes of this Section whether it is a major facility, unless the source is a designated facility or the source belongs to a stationary source category which, as of August 7, 1980, is being regulated under Sections 111 or 112 of the Clean Air Act. (11-13-98)T

56. Major Modification. (5-1-94)

- a. Any physical change or change in the method of operation of a major facility that would result in a significant net emissions increase of any regulated air pollutant. (11-13-98)T
- b. Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone. (11-13-98)T
- c. A physical change or change in the method of operation shall not include: (11-13-98)T
 - i. Routine maintenance, repair, and replacement; (11-13-98)T
 - ii. Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act; (11-13-98)T
 - iii. Use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act; (11-13-98)T
 - iv. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste; (11-13-98)T
 - v. Use of an alternative fuel or raw material by a ~~stationary source facility~~ stationary source facility which the ~~source facility~~ source facility was capable of accommodating before December 21, 1976 for ~~sources facilities~~ sources facilities located in nonattainment areas or before January 6, 1975 for ~~sources facilities~~ sources facilities located in attainment or unclassified areas, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976 for ~~sources facilities~~ sources facilities located in nonattainment areas or before January 6, 1975 for ~~sources facilities~~ sources facilities located in attainment or unclassified areas or under any permit issued by the Department or EPA; (~~11-13-98~~)T(~~4-23-99~~)T
 - vi. An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 12, 1976 for ~~sources facilities~~ sources facilities located in nonattainment areas or before January 6, 1975 for ~~sources facilities~~ sources facilities located in attainment or unclassified areas. (~~11-13-98~~)T(~~4-23-99~~)T
 - vii. Any change in ownership at a ~~stationary source facility~~; (~~11-13-98~~)T(~~4-23-99~~)T
 - viii. The addition, replacement, or use of a pollution control project at an existing electric utility steam generating unit, unless the Department determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except when the Department has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that ~~source facility~~ source facility in the most recent air quality impact analysis in the area conducted for the purpose of Title I, if any, and the Department determines that the increase will cause or contribute to a violation of any national

ambient air quality standard or prevention of significant deterioration (PSD) increment, or visibility limitation;
(11-13-98)†(4-23-99)T

ix. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with the State Implementation Plan for the state in which the project is located, and other requirements necessary to maintain the national ambient air quality standard during the project and after it is terminated. (11-13-98)T

57. Member Of The Public. For purposes of Subsection 006.92.a.xxi., a person located at any off-site point where there is a residence, school, business or office. (11-13-98)T

58. Modification. Any physical change in, or change in the method of operation of, a stationary source or facility which increases the amount of any regulated air pollutant emitted by such stationary source or facility or which results in the emission of any regulated air pollutant not previously emitted except that routine maintenance, repair and replacement shall not be considered physical changes, and the following shall not be considered a change in the method of operation: (11-13-98)T

a. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

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

c. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material and use of such fuel or raw material is not specifically prohibited in a permit. (11-13-98)T

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

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

61. New Stationary Source Or Facility. (5-1-94)

a. Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or (5-1-94)

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

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

ii. After the facility has been in a nonoperating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. (5-1-94)

62. Nonattainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary

- ambient air quality standard for the pollutant. (5-1-94)
- 63. Noncondensibles.** Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)
- 64. Odor.** The sensation resulting from stimulation of the human sense of smell. (5-1-94)
- 65. Opacity.** A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent. (5-1-94)
- 66. Open Burning.** The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney. (5-1-94)
- 67. Operating Permit.** A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461. (11-13-98)T
- 68. Particulate Matter.** Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)
- 69. Particulate Matter Emissions.** All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method ~~specified in the Procedures Manual for Air Pollution Control in accordance with Section 157.~~ (7-1-97)(4-23-99)T
- 70. Permit to Construct.** A permit issued by the Director pursuant to Sections 200 through 223. (11-13-98)T
- 71. Person.** Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)
- 72. PM-10.** All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. (5-1-94)
- 73. PM-10 Emissions.** All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method ~~specified in the Procedures Manual for Air Pollution Control in accordance with Section 157.~~ (11-13-98)T(4-23-99)T
- 74. Potential To Emit/Potential Emissions.** The maximum capacity of a facility to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility to emit an air pollutant, provided the limitation or its effect on emissions is state or federally enforceable, shall be treated as part of its design. Limitations may include, but are not limited to, air pollution control equipment, restrictions on hours of operation and restrictions on the type or amount of material combusted, stored or processed. This definition does not alter or affect the term "capacity factor" as defined in 42 U.S.C. Sections 7651 through 7651o. (11-13-98)T
- 75. Portable Equipment.** Equipment which is designed to be dismantled and transported from one (1) job site to another job site. (5-1-94)
- 76. PPM (parts per million).** Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)
- 77. Prescribed Fire Management Burning.** The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread

required to accomplish planned objectives, including: (5-1-94)

- a. Fire hazard reduction; (5-1-94)
- b. The control of pests, insects, or diseases; (5-1-94)
- c. The promotion of range forage improvements; (5-1-94)
- d. The perpetuation of natural ecosystems; (5-1-94)
- e. The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; (5-1-94)
- f. The preparation of planting and seeding sites for forest regeneration; and (5-1-94)
- g. Other accepted natural resource management purposes. (5-1-94)

78. Primary Ambient Air Quality Standard. That ambient air quality which, allowing an adequate margin of safety, is requisite to protect the public health. (5-1-94)

79. Process Or Process Equipment. Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. (5-1-94)

80. Process Weight. The total weight of all materials introduced into any source operation which may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. (5-1-94)

81. Process Weight Rate. The rate established as follows: (5-1-94)

a. For continuous or long-run steady-state source operations, the ~~maximum design 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; ~~(11-13-98)T(4-23-99)T~~

b. For cyclical or batch source operations, the ~~maximum design total~~ process weight for a period that covers a complete cycle of operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. ~~(11-13-98)T(4-23-99)T~~

82. Quantifiable. The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (11-13-98)T

83. Radionuclide. A type of atom which spontaneously undergoes radioactive decay. (5-1-94)

84. Regulated Air Pollutant. The following air pollutants: (11-13-98)T

- a. Nitrogen oxides or any volatile organic compounds. (11-13-98)T
- b. Any pollutant for which a national ambient air quality standard has been promulgated. (11-13-98)T
- c. Any pollutant that is subject to any standard promulgated under 42 U.S.C. Section 7411. (11-13-98)T
- d. Any Class I or II substance subject to a standard promulgated under or established under 42 U.S.C.

Sections 7671a(a) or 7671a(b). (11-13-98)T

e. Any air pollutant subject to a standard promulgated under 42 U.S.C. Section 7412 or other requirements established under 42 U.S.C. Section 7412, including 42 U.S.C. Section 7412(g), (j), and (r), including the following: (11-13-98)T

i. Any air pollutant subject to requirements under 42 U.S.C. Section 7412(j). If the EPA fails to promulgate a standard by the date established pursuant to 42 U.S.C. Section 7412(e), any air pollutant for which a subject source would be major shall be considered to be regulated on the date eighteen (18) months after the applicable date established pursuant to 42 U.S.C. Section 7412(e); and (11-13-98)T

ii. Any air pollutant for which the requirements of 42 U.S.C. Section 7412(g)(2) have been met, but only with respect to the individual source subject to 42 U.S.C. Section 7412(g)(2) requirement. (11-13-98)T

f. Any air pollutant listed in Sections 585, 586, or subject to regulation pursuant to Section 161. Unless otherwise listed in Subsections 006.84.a. through 006.84.e., these pollutants do not constitute regulated air pollutants for purposes of Sections 300 through 386 and 526 through 538. (11-13-98)T

85. Replicable. Any SIP procedures for applying emission trading shall be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. (11-13-98)T

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

a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (5-1-94)

i. The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars); or (11-13-98)T

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

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

c. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Section 123, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). (11-13-98)T

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

i. The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and (5-1-94)

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

87. Safety Measure. Any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. (11-13-98)T

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

(5-1-94)

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

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

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

92. Significant. A rate of regulated air pollutant emissions that would equal or exceed any of the following: (11-13-98)T

- a. Air pollutant emissions and rate: (5-1-94)
- i. Carbon monoxide, one hundred (100) tons per year; (5-1-94)
- ii. Nitrogen oxides, forty (40) tons per year; (5-1-94)
- iii. Sulfur dioxide, forty (40) tons per year; (5-1-94)
- iv. Particulate matter, twenty-five (25) tons per year; (5-1-94)
- v. Ozone, forty (40) tons per year of volatile organic compounds as a measure of ozone; (5-1-94)
- vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)
- vii. Asbestos, seven-thousandths (0.007) of a ton per year; (5-1-94)
- viii. Beryllium, four ten-thousandths (0.0004) of a ton per year; (5-1-94)
- ix. Mercury, one-tenth (0.1) of a ton per year; (5-1-94)
- x. Vinyl chloride, one (1) ton per year; (5-1-94)
- xi. Fluorides, three (3) tons per year; (5-1-94)
- xii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)
- xiii. Hydrogen sulfide (H₂S), ten (10) tons per year; (5-1-94)
- xiv. Total reduced sulfur (including H₂S), ten (10) tons per year; (5-1-94)
- xv. Reduced sulfur compounds (including H₂S), ten (10) tons per year; (5-1-94)
- xvi. PM-10, fifteen (15) tons per year; (5-1-94)
- xvii. Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-five ten-millionths (0.0000035) tons per year; (5-1-94)
- xviii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; (5-1-94)

xix. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; (5-1-94)

xx. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year; (11-13-98)T

xxi. Radionuclides, a quantity of emissions, from source categories regulated by 40 CFR Part 61, Subpart H, that have been determined in accordance with 40 CFR Part 61, Appendix D and by Department approved methods, that would cause any member of the public to receive an annual effective dose equivalent of at least one tenth (0.1) mrem per year, if total facility-wide emissions contribute an effective dose equivalent of less than three (3) mrem per year; or any radionuclide emission rate, if total facility-wide radionuclide emissions contribute an effective dose equivalent of greater than or equal to three (3) mrem per year. (5-1-95)

b. In reference to a net emissions increase or the potential of a source or facility to emit a regulated air pollutant not listed in Subsection 006.92.a. above and not a toxic air pollutant, any emission rate; or (11-13-98)T

c. For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted regulated air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (11-13-98)T

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

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

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

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

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

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

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

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

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

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

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

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

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

95. Smoke. Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)

96. Smoke Management Plan. A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)

97. Smoke Management Program. A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke

- sensitive areas. (5-1-94)
- 98. Source.** A stationary source. (5-1-94)
- 99. Source Operation.** The last operation preceding the emission of air pollutants, when this operation: (5-1-94)
- a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and (5-1-94)
- b. Is not an air cleaning device. (5-1-94)
- 100. Stack.** Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. (5-1-94)
- 101. Standard Conditions.** Except as specified in Subsection 576.02 for ambient air quality standards, a dry gas temperature of twenty degrees Celsius (20C) sixty-eight degrees Fahrenheit (68F) and a gas pressure of seven hundred sixty (760) millimeters of mercury (14.7 pounds per square inch) absolute. (11-13-98)T
- 102. Startup.** The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. (5-1-94)
- 103. Stationary Source.** Any facility, building, structure, emissions unit, or installation which emits or may emit any air pollutant. (~~11-13-98~~)T(4-23-99)T
- 104. Tier I Source.** Any of the following: (5-1-94)
- a. Any source located at any major facility as defined in Section 008; (11-13-98)T
- 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; (5-1-94)
- 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, 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); (5-1-94)
- d. Any Phase II source; and (5-1-94)
- e. Any source in a source category designated by the Department. (5-1-94)
- 105. Total Suspended Particulates.** Particulate matter as measured by the method described in 40 CFR 50 Appendix B. (11-13-98)T
- 106. Toxic Air Pollutant.** An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. (5-1-94)
- 107. Toxic Air Pollutant Carcinogenic Increments.** Those ambient air quality increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one (1) microgram per cubic meter (1 ug/m³) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. (5-1-94)
- 108. Toxic Air Pollutant Non-Carcinogenic Increments.** Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. (5-1-94)
- 109. Toxic Substance.** Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. (5-1-94)

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

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

112. Unclassifiable Area. An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. (5-1-94)

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

114. Upset. An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. (11-13-98)T

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

116. Wood Stove Curtailment Advisory. An air pollution alert issued through local authorities and/or the Department to limit wood stove emissions during air pollution episodes. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Affected States. All States: (5-1-94)

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)

b. That are within fifty (50) miles of the Tier I source. (5-1-94)

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. (5-1-94)

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): (5-1-94)

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. (5-1-94)

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. (11-13-98)T

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)

- e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)
- 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 of these rules; (3-23-98)
- g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)
- 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 (5-1-94)
- i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)
- 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 324. (5-1-94)

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. (5-1-94)

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. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is 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. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (11-13-98)T

07. 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. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit 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 shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit 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 shall not be aggregated with emissions from other

- similar emission units within the facility. (5-1-94)
- b. For non-attainment areas: (3-23-98)
- i. The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)
- ii. The facility is located in 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. (5-1-94)
- iii. The facility is located in 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. (5-1-94)
- iv. The facility is located in 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 shall not be 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. (3-23-98)
- c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant listed in Subsections 006.84.a. through 006.84.e. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (11-13-98)T
- i. Designated facilities. (3-23-98)
- ii. All other source categories regulated, ~~as of August 7, 1980,~~ by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 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. ~~(11-13-98)T~~(4-23-99)T
- 11. Part 70.** Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 1998, are hereby incorporated by reference. (3-19-99)
- 12. Permit Revision.** Any permit modification, administrative amendment or reopening. (3-19-99)
- 13. Phase II Source.** A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)
- 14. Phase II Unit.** A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)
- 15. Proposed Permit.** The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)
- 16. Section 502(b)(10) Changes.** Changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. (3-19-99)
- 17. Tier I Operating Permit.** Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 386. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

122. INFORMATION ORDERS BY THE DEPARTMENT.

The Department may issue information orders as follows: (5-1-94)

01. Purpose. For the purpose of: (5-1-94)

a. Developing or assisting in the development of any implementation plan, any standard of performance, any emission standard or any rule; (5-1-94)

b. Determining whether any person is in violation of any standard of performance, any emission standard, any implementation plan or any rule; or (5-1-94)

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. (5-1-94)

02. Persons. The Department may issue an information order to any person who: (5-1-94)

a. Owns or operates any emission source; (5-1-94)

b. Manufactures emission control equipment; (5-1-94)

c. The Department believes may have information necessary to meet the intent of these rules; or (5-1-94)

d. Is subject to any requirement of these rules. (5-1-94)

03. Requirements. The information order may require the person to perform the following on a one-time, periodic or continuous basis: (5-1-94)

a. Establish, maintain and submit records; (5-1-94)

b. Make reports; (5-1-94)

c. Install, use, and maintain monitoring equipment, and use audit procedures, or methods; (5-1-94)

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 shall prescribe; (5-1-94)

e. Keep records on control equipment parameters, production variables or other indirect data when the Department determines that direct monitoring of emissions is impractical; (5-1-94)

f. Submit compliance certifications including: (5-1-94)

i. Identification of the applicable requirement that is the basis of the certification; (5-1-94)

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 (11-13-98)T

iii. The status of compliance with each applicable requirement, based on the method or means designated in Subsection 122.03.f.ii. The certification shall identify each ~~excursion or exceedance~~ deviation and take it into account in the compliance certification. The certification shall 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 (11-13-98)T(4-23-99)T

- g. Provide such other information as the Department may require. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

131. EXCESS EMISSIONS.

01. Applicability. The owner or operator of a facility or emissions unit generating excess emissions shall 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 shall also comply with the applicable provisions of Subsections 133.02, 133.03, 134.04, and 134.05. (11-13-98)T

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 shall consider the sufficiency of the information submitted and the following criteria to determine if an enforcement action to impose penalties is warranted: ~~(11-13-98)T~~(4-23-99)T

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; (11-13-98)T

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; (11-13-98)T

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 (11-13-98)T

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. (11-13-98)T

03. Effect Of Determination. Any decision by the Department under Subsection 131.02 shall not excuse the owner or operator from compliance with the relevant emission standard and shall 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 shall not preclude the Department from taking an enforcement action for future or other excess emission events. The affirmative defense for emergencies under Section 332 of these Rules may be applied in addition to the provisions of Sections 130 through 136. (11-13-98)T

(BREAK IN CONTINUITY OF SECTIONS)

157. TEST METHODS AND PROCEDURES.

The purpose of this Section is to establish 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: (11-13-98)T

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 shall be conducted in accordance with the requirements of Section 157. (11-13-98)T

a. Prior to conducting any emission test, owners or operators are strongly encouraged to submit to the Department in writing, at least thirty (30) days in advance, the following for approval: (11-13-98)T

i. The type of method to be used; (11-13-98)T

ii. Any extenuating or unusual circumstances regarding the proposed test; and (11-13-98)T

- iii. The proposed schedule for conducting and reporting the test. (11-13-98)T
- 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. (11-13-98)T
- 02. Test Requirements.** Tests shall be conducted in accordance with the following requirements. (11-13-98)T
- 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 should 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 which are changeable or which could reasonably be expected to be encountered during the operation of the facility and which would result in the highest pollutant emissions from the facility. (11-13-98)T
- 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. (11-13-98)T
- c. ~~Most EPA test~~ The Department will accept the methods approved for the applicable pollutants, source type and operating conditions are 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. EPA modifies these methods from time to time. (11-13-98)T(4-23-99)T
- d. ~~EPA test methods may allow the owner or operator to make minor changes in the reference method that "have prior approval of the Administrator". The Department will accept those minor changes which have received written approval of the U.S. EPA Administrator so long as the Department determines they are appropriate for the specific application. The following requirements apply to owners or operators requesting minor changes in the test method.~~ As stated in Subsection 157.01 above, without prior Department approval, other changes may result in rejection of the test results by the Department. (11-13-98)T(4-23-99)T
- i. For federal emission standards codified at 40 CFR Parts 60, 61, and 63, the Department will accept those minor changes which have received written approval of the U.S. EPA Administrator so long as the Department determines they are appropriate for the specific application. (4-23-99)T
- 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. (4-23-99)T
- e. An owner or operator proposing to use an alternative test method not considered a minor change in Subsection 157.02.d. above, must: (4-23-99)T
- i. ~~d~~ Demonstrate to the Department by comparative testing or sufficient analysis, that the alternative method is comparable and equivalent to the EPA reference designated test method. (4-23-99)T
- ii. Submit the R ~~requests~~ for approval to use an alternative test method shall be submitted to the Department at least thirty (30) days in advance of a scheduled test. (4-23-99)T
- 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. (4-23-99)T
- iv. Obtain verification that any P ~~prior~~ approval of an alternative test method by the Department may not satisfy this requirement 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. (11-13-98)T(4-23-99)T
- 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.

(11-13-98)T

03. Observation Of Tests By Department Staff. The owner or operator shall 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.

(11-13-98)T

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 shall be submitted to the Department within thirty (30) days of the completion of the test. The written report shall:

(11-13-98)T

a. 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.

(11-13-98)T

b. Include all data required to be noted or recorded in any referenced test method.

(11-13-98)T

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:~~

~~(11-13-98)T~~ (4-23-99)T

a. Failure to adhere to the approved/required method;

(11-13-98)T

b. Using a method inappropriate for the source type or operating conditions;

(11-13-98)T

c. An incomplete written report;

(11-13-98)T

d. Computational or data entry errors;

(11-13-98)T

e. Clearly unreasonable results;

(11-13-98)T

f. Failure to comply with the certification requirements of Section 123 of these rules; or

(11-13-98)T

g. Failure of the source to conform to operational requirements in orders, permits, or consent decrees at the time of the test.

(11-13-98)T

(BREAK IN CONTINUITY OF SECTIONS)

209. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for permits to construct.

(5-1-94)

a. Within thirty (30) days after receipt of the application for a permit to construct, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing.

(5-1-94)

b. Within sixty (60) days after the application is determined to be complete the Department shall:

(5-1-94)

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.

(11-13-98)T

ii. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 209.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

iii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment will be provided on all applications requiring a permit to construct. ~~Public comment shall be provided on an application for any new major facility or major modification, any new facility or modification which would cause a significant contribution to existing ambient concentrations or affect any Class I area, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516, any application which uses an interpollutant trade pursuant to Subsection 210.17, any application which the Director determines an opportunity for public comment should be provided, and any application upon which the applicant so requests.~~ (11-13-98)T(4-23-99)T

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall 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. (5-1-94)

ii. The availability of such materials shall 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. (5-1-94)

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)

iv. There shall 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. (5-1-94)

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 Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)

vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)

d. A copy of each permit will be sent to the U.S. Environmental Protection Agency. (5-1-94)

02. Additional Procedures For Specified Sources. (5-1-94)

a. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant, except for those new major facilities and major modifications exempted under Subsection 205.04. (11-13-98)T

i. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the degree of increment consumption that is expected from the new major facility or major modification; and (5-1-94)

ii. The public notice issued pursuant to Subsection 209.01.c.ii. shall 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. (3-23-98)

b. For any new major facility or major modification which would affect a federal Class I area or an

integral vista of a mandatory federal Class I area. (5-1-94)

i. If the Department is notified of the intent to apply for a permit to construct, it shall notify the appropriate Federal Land Manager within thirty (30) days; (5-1-94)

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, shall 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; (5-1-94)

iii. Notice of every action related to the consideration of the permit shall be sent to the Administrator of the U.S. Environmental Protection Agency; (5-1-94)

iv. The public notice issued pursuant to Subsection 209.01.c.ii. shall 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. (3-23-98)

v. The notice of public hearing, if required, shall 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. (5-1-94)

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 Director 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. (11-13-98)T

03. Establishing A Good Engineering Stack Height. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. 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 223. 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., shall only apply if the permit revision results in an increase in emissions authorized by the permit or if deemed appropriate by the Director. (11-13-98)T

05. Permit To Construct Procedures For Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

a. Submit only the information required by Sections 200 through 219 for a permit to construct, in which case: (3-23-98)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. 5-1-94)

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-23-98)

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. ~~(3-23-98)~~(4-23-99)T

iv. Unless a different time is prescribed by these rules, the applicable requirements contained in a

permit to construct will be incorporated into the Tier I operating permit during renewal (Section 269). 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, shall file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. (3-19-99)

v. The application or minor or significant permit modification request shall be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. (3-19-99)

vi. The final Tier I operating permit action shall incorporate the relevant terms and conditions from the permit to construct; or (11-13-98)T

b. Submit all information required by Sections 200 through 219 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: (11-13-98)T(4-23-99)T

i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)

ii. The Department shall prepare a proposed permit to construct or denial in accordance with Sections 200 through 219 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. (11-13-98)T

iii. The Department shall 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. (11-13-98)T

iv. Except as otherwise provided by these rules, the Department shall 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. (11-13-98)T

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 shall be sent for review in accordance with Section 366. (11-13-98)T

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 (11-13-98)T(4-23-99)T

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: (11-13-98)T

i. Completeness of the application shall be determined within thirty (30) days. (11-13-98)T

ii. The Department shall 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. (11-13-98)T

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. (11-13-98)T

iv. The Department shall 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. (11-13-98)T

v. Except as otherwise provided by these rules, the Department shall 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. (11-13-98)T

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. (11-13-98)T

(BREAK IN CONTINUITY OF SECTIONS)

220. GENERAL EXEMPTION CRITERIA FOR PERMIT TO CONSTRUCT EXEMPTIONS.

01. General Exemption Criteria. Sections 220 through 223 may be used by owners or operators to exempt certain sources from the requirement to obtain a permit to construct. Nothing in these sections shall preclude an owner or operator from choosing to obtain a permit to construct. For purposes of Sections 220 through 223, the term source means the equipment or activity being exempted. 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, 222, or 223: (11-13-98)T

a. The maximum capacity of a source to emit an air pollutant under its physical and operational design without consideration of limitations on emission such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed would not: (4-23-99)T

~~ai. Less than one hundred (100) tons. Uncontrolled potential emissions of the source shall not Equal or exceed one hundred (100) tons per year of any regulated air pollutant.~~ (11-13-98)T(4-23-99)T

~~bii. No significant increases. Uncontrolled potential emissions of the source shall not eCause 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.~~ (11-13-98)T(4-23-99)T

~~eiii. Compliance with NAAQS. Uncontrolled potential emissions of the source shall not eCause or significantly contribute to a violation of an ambient air quality standard, based upon the applicable air quality models, data bases, and other requirements of 40 CFR Part 51, Appendix W (Guideline on Air Quality Models). No further demonstration under this subsection is required for those sources listed at Subsection 222.02.~~ (11-13-98)T(4-23-99)T

~~db. Combination. The source shall is not be part of a proposed new major facility or part of a proposed major modification.~~ (11-13-98)T(4-23-99)T

02. Record Retention. Unless the source is subject to and the owner or operator complies with Section 385, the owner or operator of the source, except for those sources listed in Subsections 222.02.a. through 222.02.g., shall maintain documentation on site which shall identify the exemption determined to apply to the source and verify that the source qualifies for the identified exemption. The records and documentation shall be kept for a period of time not less than five (5) years from the date the exemption determination has been made or for the life of the source for which the exemption has been determined to apply, which ever is greater, or until such time as a permit to construct or an operating permit is issued which covers the operation of the source. The owner or operator shall submit the documentation to the Department upon request. (11-13-98)T

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: (11-13-98)T

01. Below Regulatory Concern. ~~The source shall have controlled actual emissions that are~~ 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 shall be less than ten percent (10%) of the significant emission rates set out in the definition of significant at Section 006. ~~(11-13-98)T(4-23-99)T~~

02. Radionuclides. The source shall have ~~uncontrolled~~ potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. ~~(11-13-98)T(4-23-99)T~~

03. Toxic Air Pollutants. The source shall comply with Section 223. (11-13-98)T

222. CATEGORY II EXEMPTION.

No permit to construct is required for the following sources. (11-13-98)T

01. Exempt Source. A source that satisfies the criteria set forth in Section 220 and that is specified below: (11-13-98)T

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

i. Comply with Section 223. (11-13-98)T

ii. Have ~~uncontrolled~~ potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. ~~(11-13-98)T(4-23-99)T~~

b. Environmental characterization activities including emplacement and operation of field instruments, drilling of sampling and monitoring wells, sampling activities, and ~~any other~~ environmental characterization activities ~~specifically exempted by the Director.~~ ~~(11-13-98)T(4-23-99)T~~

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

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

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

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

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

d. Stationary internal combustion engines used exclusively for emergency purposes which are operated less than two hundred (200) hours per year and are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. (11-13-98)T

e. A pilot plant that uses a slip stream from an existing process stream not to exceed ten percent (10%) of that existing process stream or which satisfies the following: (11-13-98)T

i. The source shall comply with Section 223. For carcinogen emissions, the owner or operator may utilize a short term adjustment factor of ten (10) by multiplying either the acceptable ambient concentration or the

screening emissions level, but not both, by ten (10). (11-13-98)T

ii. The source shall have uncontrolled potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (11-13-98)T

iii. The exemption for a pilot plant shall terminate one (1) year after the commencement of operations and shall not be renewed. (11-13-98)T

02. Other Exempt Sources. A source that satisfies the criteria set forth in Section 220 and that is specified below: (11-13-98)T

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

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

c. Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquified petroleum gas exclusively with a capacity of less than fifty (50) million btu's per hour input. (5-1-94)

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

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

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

g. Retail gasoline, natural gas, propane gas, liquified petroleum gas, distillate fuel oils and diesel fuel sales. (5-1-94)

h. Used Oil Fired Space Heaters which comply with all the following requirements: (7-1-97)

i. The used oil fired space heater burns only used oil that the owner or operator generates on site, that is derived from households, such as used oil generated by individuals maintaining their personal vehicles, or on-specification used oil that is derived from commercial generators provided that the generator, transporter and owner or operator burning the oil for energy recovery comply fully with IDAPA 16.01.05.015, "Rules and Standards for Hazardous Waste"; (7-1-97)

(1) For the purposes of Subsection 222.02.h., "used oil" refers to any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities. (11-13-98)T

(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. (11-13-98)T

ii. Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals; (7-1-97)

iii. The used oil fired space heater is designed to have a maximum capacity of not more than one half (0.5) million BTU per hour; (11-13-98)T

iv. The combustion gases from the used oil fired space heater are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer of the heater and installed to minimize down wash and maximize dispersion; and (7-1-97)

v. The used oil fired space heater is of modern commercial design and manufacture, except that a

homemade used oil fired space heater may be used if, prior to the operation of the homemade unit, the owner or operator submits documentation to the Department demonstrating, to the satisfaction of the Department, that emissions from the homemade unit are no greater than those from modern commercially available units. (7-1-97)

¶03. Any Other Source Specifically Exempted By The Department. A list of those sources unconditionally exempted by the Department will be maintained by the Department and made available upon written request. All sources exempted by the Department shall: ~~(11-13-98)T~~(4-23-99)T

a. Be analyzed by the Department and determined to meet the requirements of Subsections 220.01.a.i. and 220.01.a.ii. (4-23-99)T

b. Be analyzed by the Department and determined not to cause or significantly contribute to a violation of any ambient air quality standard. (4-23-99)T

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

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

~~(11-13-98)T~~(4-23-99)T

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. (11-13-98)T

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

(11-13-98)T

a. The uncontrolled emission rate (refer to Section 210) for all toxic air pollutants shall be less than or equal to all applicable screening emission levels listed in Sections 585 and 586; or (11-13-98)T

b. The uncontrolled ambient concentration (refer to Section 210) for all toxic air pollutants at the point of compliance shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586. (11-13-98)T

03. Level II Exemption. To obtain a Level II exemption, the source shall satisfy the following criteria:

(11-13-98)T

a. The uncontrolled ambient concentration at the point of compliance (refer to Section 210) for all toxic air pollutants emitted by the source shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586; and (11-13-98)T

b. If the owner or operator installs and operates control equipment that is not otherwise required to qualify for an exemption and the controlled emission rate (refer to Section 210) of the source for all toxic air pollutants is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. (11-13-98)T

04. Level III Exemption. To obtain a Level III exemption, the source shall satisfy the following criteria: (11-13-98)T

a. The uncontrolled ambient concentration at the point of compliance (refer to Section 210) for all toxic air pollutants emitted by the source shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586; and (11-13-98)T

b. The controlled emission rate (refer to Section 210) for all toxic air pollutants emitted by the source shall be less than or equal to all applicable screening emission levels listed in Sections 585 and 586. (11-13-98)T

05. Annual Report For Toxic Air Pollutant Exemption. Commencing on May 1, 1996, and annually

thereafter, the owner or operator of a source claiming a Level I, II, or III exemption shall submit a certified report for the previous calendar year to the Department for each Level I, II, or III exemption determination. The report shall be labeled "Toxic Air Pollutant Exemption Report" and shall state the date construction has or will commence and shall include copies of all exemption determinations completed by the owner or operator for each Level I, II, and III exemption. (11-13-98)T

(BREAK IN CONTINUITY OF SECTIONS)

322. STANDARD CONTENTS OF TIER I OPERATING PERMITS.

All Tier I operating permits shall contain and the Department shall have the authority to impose, implement and enforce, the following elements for all permitted operating scenarios and emissions trading scenarios. Fugitive emissions shall be included in the Tier I operating permit in the same manner as stack emissions. (3-23-98)

01. Emission Limitations And Standards. All Tier I operating permits shall 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. (3-19-99)

02. Authority For And Form Of Terms And Conditions. All Tier I operating permits shall 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. (5-1-94)

03. Terms Or Conditions For Applicable Requirements. All Tier I operating permits shall 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. (3-23-98)

04. Alternative Operating Scenarios. All Tier I operating permits shall 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. (5-1-94)

05. Trading Scenarios. (5-1-94)

a. All Tier I operating permits shall 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 which ensure that any emission trade is quantifiable, accountable, enforceable and based on replicable procedures. (3-23-98)

b. The Tier I operating permit shall state that no permit revision shall be required under approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in the permit. (11-13-98)T

c. The Tier I operating permit shall, 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. (3-23-98)

06. Monitoring. All Tier I operating permits shall contain the following with respect to monitoring: (5-1-94)

a. Sufficient monitoring to ensure compliance with all of the terms and conditions of the Tier I operating permit; (5-1-94)

b. All emissions monitoring and analysis procedures or test methods required under the applicable requirements; (5-1-94)

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 (5-1-94)

d. Requirements that the Department determines are necessary, concerning the use, maintenance and installation of monitoring equipment or methods. (5-1-94)

07. Recordkeeping. All Tier I operating permits shall incorporate by reference all applicable requirements regarding recordkeeping and require all of the following: (5-1-94)

a. Sufficient recordkeeping to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)

b. Recording of monitoring information including but not limited to the following: (5-1-94)

i. The date, place (as defined in the Tier I operating permit) and time of sampling or measurements; (5-1-94)

ii. The date(s) analyses were performed; (5-1-94)

iii. The company or entity that performed the analyses; (5-1-94)

iv. The analytical techniques or methods used; (5-1-94)

v. The results of such analyses; and (5-1-94)

vi. The operating conditions existing at the time of sampling or measurement. (5-1-94)

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. (5-1-94)

08. Reporting. All Tier I operating permits shall incorporate by reference all applicable requirements regarding reporting and require all of the following: (5-1-94)

a. Sufficient reporting to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)

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 shall be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report shall be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports shall describe the probable cause of such deviations and any corrective actions or preventative measures taken. (3-23-98)

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. (11-13-98)T

09. Testing. All Tier I operating permits shall contain terms and conditions requiring sufficient testing to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)

10. Compliance Schedule And Progress Reports. All Tier I operating permits shall contain terms and conditions regarding the compliance plan submitted in the application in accordance with Subsection 314.10 including all of the following: (11-13-98)T

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: (11-13-98)T

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. (11-13-98)T

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. (5-1-94)

iii. A requirement that any progress report shall 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. (5-1-94)

iv. All terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. (5-1-94)

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. (5-1-94)

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 shall include such compliance schedule. (11-13-98)T

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 shall include a statement that the permittee shall meet, on a timely basis, all such applicable requirements. (11-13-98)T

11. Periodic Compliance Certifications. Each Tier I operating permit shall require submittal of compliance certifications during the term of the permit for each emissions unit to the Department and the EPA as follows: (5-1-94)

a. Compliance certifications for all emissions units shall be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. (5-1-94)

b. The compliance certification for each emissions unit shall address all of 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. (5-1-94)

c. The compliance certification shall be in an itemized format providing the following information: (5-1-94)

i. The identification of each term or condition of the Tier I operating permit that is the basis of the certification; (11-13-98)T

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, and whether such methods or other means provide continuous or intermittent data. Such methods and other means shall include, at a minimum, the methods and means required by the Tier I operating permit. If necessary, the owner or operator shall identify any other material information that must be included in the certification to comply with Section 113(c)(2) of the Clean Air

Act which prohibits knowingly making a false certification or omitting material information; (11-13-98)T

iii. The status of compliance with the terms and conditions of the Tier I operating permit for the period covered by certification, based on the method or means designated in Subsection 322.11.c.ii. above. The certification shall identify each ~~excursion or exceedance~~ deviation and take it into account in the compliance certification. The certification shall 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 ~~(11-13-98)T~~(4-23-99)T

iv. Such information as the Department may require to determine the compliance status of the emissions unit. (11-13-98)T

d. All original compliance certifications shall be submitted to the Department and a copy of all compliance certifications shall be submitted to the EPA; (5-1-94)

12. Permit Conditions Regarding Acid Rain Allowances. (5-1-94)

a. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds. (5-1-94)

b. No limit shall be placed on the number of allowances held by the source and no permit revisions shall be 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. (3-23-98)

c. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement. (5-1-94)

d. Any such allowance shall be accounted for according to the procedures established in 40 CFR Part 72 and 40 CFR Part 73. (5-1-94)

13. Permit Duration. Each Tier I operating permit shall state that it is effective for a fixed term of five (5) years; except that during the first four (4) years after EPA approval of the Tier I operating permit program, the permit may be issued with an initial term of three (3) years to five (5) years unless the Tier I source is also a Phase II source. (5-1-94)

14. Other Specific Requirements. Any terms or conditions determined by the Department to be necessary for approval of the Tier I operating permit. (5-1-94)

15. General Requirements. Each Tier I operating permit shall contain provisions stating the following: (5-1-94)

a. The permittee shall 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. (5-1-94)

b. It shall not be 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. (5-1-94)

c. This permit may be revised, revoked, reopened and reissued, or terminated for cause. (5-1-94)

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. (5-1-94)

e. This permit does not convey any property rights of any sort, or any exclusive privilege. (5-1-94)

f. The permittee shall 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. (11-13-98)T

g. Upon request, the permittee shall furnish to the Department copies of records required to be kept by this permit. (5-1-94)

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 shall not be affected thereby. (5-1-94)

i. The permittee shall comply with Sections 380 through 386 as applicable. (3-19-99)

j. Unless specifically identified as a "State Only" provision, all terms and conditions in the this permit, including any terms and conditions designed to limit a source's potential to emit, are enforceable: (5-1-94)

i. By the Department in accordance with State law; and (5-1-94)

ii. By the United States or any other person in accordance with Federal law. (5-1-94)

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. (3-23-98)

l. Upon presentation of credentials, the permittee shall allow the Department or an authorized representative of the Department to do the following: (5-1-94)

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; (5-1-94)

ii. Have access to and copy, at reasonable times, any records that are kept under the conditions of this permit; (5-1-94)

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 (5-1-94)

iv. Sample or monitor at reasonable times substances or parameters for the purpose of determining or ensuring compliance with this permit or applicable requirements. (5-1-94)

m. Nothing in this permit shall alter or affect the following: (5-1-94)

i. Any administrative authority or judicial remedy available to prevent or terminate emergencies or imminent and substantial dangers; (5-1-94)

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; (5-1-94)

iii. The applicable requirements of the acid rain program, consistent with 42 U.S.C. Section 7651g(a); (5-1-94)

iv. The owner or operator's duty to provide information. (5-1-94)

n. The owner or operator of a Tier I source shall pay registration fees to the Department in accordance with Sections 525 through 538, which are hereby incorporated by reference. (5-1-94)

o. All documents submitted to the Department shall be certified in accordance with Section 123 and comply with Section 124. (5-1-94)

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 shall remain in effect until the renewal permit has been issued or denied. (5-1-94)

q. The permittee shall 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 shall be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report shall be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports shall describe the probable cause of such deviations and any corrective actions or preventative measures taken. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

380. CHANGES TO TIER I OPERATING PERMITS.

01. Applicability. Sections 380 through 386 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 223. (11-13-98)T

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. (~~11-13-98~~)T(4-23-99)T

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). (3-19-99)

04. Reopening. Section 386 establishes procedures for reopening the permit for cause by the Department, EPA, or the permittee. (3-19-99)

05. Acid Rain. Changes regulated under Title IV of the Clean Air Act, 42 U.S.C. Sections 7651 through 7651o, shall be governed by regulations promulgated under Title IV of the Act. (3-19-99)

381. ADMINISTRATIVE PERMIT AMENDMENTS.

01. Criteria. An administrative permit amendment is a permit revision that: (3-19-99)

a. Corrects typographical errors; (3-19-99)

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; (3-19-99)

c. Requires more frequent monitoring or reporting by the permittee; (3-19-99)

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; (3-19-99)

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 (11-13-98)T

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. (3-19-99)

02. Administrative Permit Amendment Application Procedures. (3-19-99)

shall: a. If initiated by the permittee, the permittee shall submit a request to the Department. The request (3-19-99)

i. State at the beginning of the request that it is a "REQUEST FOR ADMINISTRATIVE PERMIT AMENDMENT". (3-19-99)

incorporated; ii. Describe the proposed administrative permit amendment including any permit to construct to be (3-19-99)

iii. State the date on which the proposed administrative amendment will occur at the facility; (3-19-99)

change; and iv. Identify any Tier I operating permit term or condition that is no longer applicable as a result of the (3-19-99)

v. Identify any applicable requirement that would apply to the Tier I source as a result of the change. (3-19-99)

b. If initiated by the Department, the Department shall 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. (3-19-99)

c. The Department shall, 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 shall submit a copy of the revised permit, or an addendum, to the EPA and send the original to the permittee. (11-13-98)T

03. Implementation Procedures. (3-19-99)

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. (3-19-99)

b. If the permittee obtains a permit to construct under Subsection 209.05.b.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. ~~(3-19-99)~~(4-23-99)T

04. Permit Shield. Upon final action by the Department, the permit shield described in Section 325 shall extend only to administrative permit amendments identified in Subsection 381.01.e. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

401. TIER II OPERATING PERMIT.

01. Optional Tier II Operating Permits. The owner or operator of any stationary source or facility which is 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 386 may apply to the Department for an operating permit to: (11-13-98)T

a. Authorize the use of alternative emission limits (bubbles) pursuant to Section 440; (5-1-94)

- b. Authorize the use of an emission offset pursuant to Sections 204 or 206; (5-1-94)
- c. 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; (11-13-98)T
- d. Authorize the use of ~~an emission reduction~~ a potential to emit limitation to exempt the facility from Tier I permitting requirements. (~~5-1-94~~)(4-23-99)T
- e. Bank an emission reduction credit pursuant to Section 461; (5-1-94)

02. Required Tier II Operating Permits. A Tier II operating permit is required for any stationary source or facility which is not subject to Sections 300 through 386 with a permit to construct which establishes any emission standard different from those in these rules. (3-19-99)

03. Tier II Operating Permits Required By The Department. The Director may require or revise a Tier II operating permit for any stationary source or facility whenever the Department determines that: (5-1-94)

- a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (11-13-98)T
- b. Specific emission standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (5-1-94)

04. Multiple Tier II Operating Permits. Subject to approval by EPA, the Director may issue one (1) or more Tier II operating permits to a facility which allow any specific stationary source or emissions unit within that facility a future compliance date of up to three (3) years beyond the compliance date of any provision of these rules, provided the Director has reasonable cause to believe such a future compliance date is warranted. (11-13-98)T

(BREAK IN CONTINUITY OF SECTIONS)

613. ORCHARD FIRES.

The use of heating devices to protect orchard crops from frost damage and the use of open outdoor fires to dispose of orchard clippings are allowable forms of open burning when the provisions of Section 613 are met: (5-1-94)

01. Open-Pot Heaters. The use of stackless open-pot heaters is prohibited. (5-1-94)

02. Heating Device Opacity. No orchard heating device with visible emissions exceeding forty percent (40%) opacity at normal operating conditions shall be used. Opacity shall be determined by the procedures contained in ~~the Department's "Evaluation of Visible Emissions Manual"~~ Section 625. (~~5-1-94~~)(4-23-99)T

03. Heating Device Emissions. All heaters purchased after September 21, 1970, shall emit no more than one (1.0) gram per minute of solid carbonaceous matter at normal operating conditions as certified by the manufacturer. At the time of purchase, the seller shall certify in writing to the purchaser that all new equipment is in compliance with Section 614. (5-1-94)

04. Orchard Clippings. The open burning of orchard clippings shall be conducted on the property where the clippings were generated. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

625. VISIBLE EMISSIONS.

A person shall 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 ~~procedures contained in the Procedures Manual for Air Pollution Control, Section II (Evaluation of Visible Emissions Manual)~~ this section. ~~(5-1-94)(4-23-99)T~~

01. Exemptions. The provisions of this ~~S~~section ~~625~~ shall not apply to: ~~(5-1-94)(4-23-99)T~~

- a. Kraft Process Lime Kilns, if operating prior to January 24, 1969; or (5-1-94)
- b. Carbon Monoxide Flare Pits on Elemental Phosphorous Furnaces, if operating prior to January 24, 1969; or (5-1-94)
- c. Liquid Phosphorous Loading Operations, if operating prior to January 24, 1969; or (5-1-94)
- d. Wigwam Burners; or (5-1-94)
- e. Kraft Process Recovery Furnaces. (5-1-94)
- f. Calcining Operations Utilizing an Electrostatic Precipitator to Control Emissions, if operating prior to January 24, 1969. (5-1-94)

02. Standards For Exempted Sources. Except as provided in Section 626, for sources exempted from the provisions of this ~~S~~section ~~625~~, a person shall not discharge into the atmosphere from any point of emission, for any air pollutant for ~~which the average opacity over any six (6) minute period as calculated in 40 CFR Part 60, Appendix A, Reference Method 9 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.~~ (11-13-98)T(4-23-99)T

03. Exception. The provisions of this ~~S~~section ~~625~~ shall 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. ~~(5-1-94)(4-23-99)T~~

04. Test Methods And Procedures. The appropriate test method under this section shall be EPA Method 9 (contained in 40 CFR Part 60) with the method of calculating opacity exceedances altered as follows: (11-13-98)T

a. Opacity evaluations shall be conducted using forms available from the Department or similar forms approved by the Department. (11-13-98)T

b. Opacity shall 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 ~~Department's Guidance Manual for Visible Emissions Observation Procedures Manual for Air Pollution Control, Section II (Evaluation of Visible Emissions Manual), September 1986.~~ (11-13-98)T(4-23-99)T

c. Sources subject to New Source Performance Standards must calculate opacity as detailed above and as specified in 40 CFR Part 60. (11-13-98)T

626. GENERAL RESTRICTIONS ON VISIBLE EMISSIONS FROM WIGWAM BURNERS.

Except for a period of one (1) hour following start up a person shall not discharge into the atmosphere from any wigwam burner any air pollutant 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 the ~~procedures contained in the Procedures Manual for Air Pollution Control, Section II (Evaluation of Visible Emissions Manual)~~ Section 625. ~~(5-1-94)(4-23-99)T~~

(BREAK IN CONTINUITY OF SECTIONS)

681. TEST METHODS AND PROCEDURES.

The appropriate test method under Sections 675 through 680 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent method approved by the Department in accordance with Subsection 157.02.d. Test methods and procedures shall also comply with Section 157. (11-13-98)T(4-23-99)T

(BREAK IN CONTINUITY OF SECTIONS)

700. PARTICULATE MATTER--PROCESS WEIGHT LIMITATIONS.

01. Particulate Matter Emission Limitations. The purpose of Sections 700 through 703 is to establish particulate matter emission limitations for process equipment. (11-13-98)T

02. Minimum Allowable Emission. Notwithstanding the provisions of Sections 701 and 702, no source shall be required to meet an emission limit of less than one (1) pound per hour. (11-13-98)T

03. Averaging Period. For the purposes of Sections 701 through 703, emissions shall be averaged according to the following, whichever is the lesser period of time: (11-13-98)T

a. One (1) complete cycle of operation; or (11-13-98)T

b. One (1) hour of operation representing worst-case conditions for the emissions of particulate matter. (11-13-98)T

04. Test Methods And Procedures. The appropriate test method under Sections 700 through 703 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved by the Department in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. (11-13-98)T(4-23-99)T

~~**05. General Exemptions.** The provisions of Sections 700 through 703 shall not apply to: (11-13-98)T~~

~~a. Any process subject to particulate emission standards under Sections 786, 821, 822, or 823. (11-13-98)T~~

~~b. Any process subject to a more restrictive particulate emission limitation established in a Tier I operating permit, a Tier II operating permit, or a permit to construct. (11-13-98)T~~

~~c. Any process subject to a more restrictive particulate emission standard under 40 CFR Parts 60 and 61. (11-13-98)T~~

~~d. Any process subject to a HAP standard under 40 CFR Parts 61 and 63, where a particulate matter standard is used as a surrogate for HAP. (11-13-98)T~~

~~e. Any process or source for which the Department has made a non-applicability determination in a permit that these limitations do not apply. (11-13-98)T~~

(BREAK IN CONTINUITY OF SECTIONS)

725. RULES FOR SULFUR CONTENT OF FUELS.

The purpose of Sections 725 through 729 is to prevent excessive ground level concentrations of sulfur dioxide from

fuel burning sources in Idaho. ~~The reference test method for measuring~~ fuel sulfur content shall be determined using 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 shall comply with Section 157. ~~(11-13-98)T(4-23-99)T~~

(BREAK IN CONTINUITY OF SECTIONS)

786. EMISSION LIMITS.

01. General Restrictions. No person shall allow, suffer, cause or permit any incinerator to discharge more than two-tenths (0.2) pounds of particulates per one hundred (100) pounds of refuse burned. (11-13-98)T

02. Averaging Period. For the purposes of Section 786, emissions shall be averaged according to the following, whichever is the lesser period of time: (11-13-98)T

a. One (1) complete cycle of operation; or (11-13-98)T

b. One (1) hour of operation representing worst-case conditions for the emissions of particulate matter. (11-13-98)T

03. Test Methods And Procedures. The appropriate test method under Sections 785 through 788 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved by the Department in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. ~~(11-13-98)T(4-23-99)T~~

(BREAK IN CONTINUITY OF SECTIONS)

824. MONITORING AND REPORTING.

01. Continuous Monitoring Requirements. Every kraft mill in the State shall install equipment for the continuous monitoring of TRS. (5-1-94)

a. The monitoring equipment shall be capable of determining compliance with these standards and shall be capable of continuous sampling and recording of the concentrations of TRS contaminants during a time interval not greater than thirty (30) minutes. (5-1-94)

b. The sources monitored shall include, but are not limited to, the recovery furnace stacks and the lime kiln stacks. (5-1-94)

02. Particulate Sampling. Each mill shall sample the recovery furnace, lime kiln, and smelt tank for particulate emissions on a regularly scheduled basis in accordance with its sampling program as approved by the Department. The appropriate test method under Sections 821 through 823 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent method approved by the Department in accordance with Subsection 157.02.d. Test methods and procedures shall also comply with Section 157. ~~(11-13-98)T(4-23-99)T~~

03. Monitoring Program And Time Schedule Submittal. Each mill shall submit within sixty (60) days after the original effective date of Sections 815 through 826 a detailed monitoring program and time schedule for approval by the Department. The equipment shall be ordered within thirty (30) days after the monitoring program has been approved in writing by the Department. The equipment shall be placed in effective operation in accordance with the approved program within ninety (90) days after delivery. (5-1-94)

04. Quarterly Reporting Requirements. Unless otherwise authorized by the Department, data shall

be reported by each mill at the end of each calendar quarter, as follows: (11-13-98)T

a. Daily average emission of TRS gases expressed in parts per million on a dry gas basis for each source included in the approved monitoring program. (5-1-94)

b. The number of hours each day that the emission of TRS gases from each recovery furnace stack exceeds emission standards and the maximum concentration of TRS measured each day. (5-1-94)

c. Emission of TRS gases in pounds of sulfur per equivalent air-dried ton of pulp processed in the kraft cycle on a quarterly basis for each source included in the approved monitoring program. (11-13-98)T

d. Emission of particulates in pounds per equivalent air-dried ton of pulp produced in the kraft cycle based upon sampling conducted in accordance with the approved monitoring program. (5-1-94)

e. Average daily equivalent kraft pulp production in air-dried tons. (5-1-94)

f. Other emission data as specified in the approved monitoring program. (5-1-94)

05. Semi-Annual Reporting Requirements. Unless otherwise authorized by the Department, excess emissions data for emissions units covered by Section 820 shall be reported by each mill at the end of each semi-annual calendar period, as follows: (11-13-98)T

a. Excess emissions for the semi-annual report required by Subsection 824.05 shall be defined as periods during which noncondensibles are not treated as required by Section 820. Periods of excess emissions reported under Subsection 824.05 shall not be a violation under Section 820 provided that the time of excess emissions (excluding periods of startup, shutdown, or malfunction) divided by the total process operating time in a semi-annual period does not exceed one percent (1%). (11-13-98)T

b. The total duration of excess emissions during the reporting period (recorded in hours). (11-13-98)T

c. The total duration of excess emissions expressed as a percent of the total source operating time during that reporting period, and (11-13-98)T

d. A breakdown of the total duration of excess emissions during the reporting period into those that are due to startup/shutdown, control equipment problems, process problems, other known causes, and other unknown causes. (11-13-98)T

06. Miscellaneous Reports. Each kraft mill shall furnish, upon request of the Department, such other pertinent data as the Department may require to evaluate the mill's emission control program. Each mill shall immediately report abnormal mill operations which result in increased emissions of air pollutants, following procedures set forth in the approved monitoring program. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

847. MONITORING AND TESTING.

The appropriate test method under Sections 845 through 848 shall be EPA Method 8 contained in 40 CFR Part 60 or such comparable and equivalent methods approved by the Department in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. (11-13-98)T(4-23-99)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO
DOCKET NO. 16-0101-9903

NOTICE OF NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation in an informal, negotiated rulemaking process prior to the initiation of formal rulemaking procedures by the agency. The negotiated rulemaking action is authorized by Section 39-105, Idaho Code. The formal rulemaking action is authorized by Sections 39-105 and 39-107, Idaho Code.

MEETING SCHEDULE: Persons interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting:

June 10, 1999, 10:30 am to 12 noon
Division of Environmental Quality, Conference Room B
1410 N. Hilton, Boise, Idaho

The meeting site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the meeting. For arrangements, contact the undersigned at (208)373-0418.

DESCRIPTIVE SUMMARY: In April 1998, the Board of Health and Welfare (Board) adopted revisions to the Rules for the Control of Air Pollution in Idaho under Docket No. 16-0101-9802 to address U.S. Environmental Protection Agency comments on Idaho's Implementation Plan submittals from the past four years and to address other issues including the process weight rate rule, Tier I permit revisions, and mobile source offsets. Additional changes to the rules were made as a result of negotiations and in response to public comment.

This rulemaking has been undertaken in response to a request to negotiate further revisions to the Rules for the Control of Air Pollution in Idaho. The rules will be developed by Idaho Department of Health and Welfare, Division of Environmental Quality (DEQ) in conjunction with a negotiating committee. The principle rule at issue is the process weight rule (Sections 700 through 703). The interests likely to be significantly affected are industrial sources with particulate matter emissions and the public at large.

The goal of the negotiated rulemaking process will be to develop by consensus the text of a recommended rule. If a consensus is reached, a draft of the rule, incorporating the consensus and any other appropriate information, recommendations, or materials, will be transmitted to DEQ for consideration and use in the formal rulemaking process. If a consensus is unable to be achieved on particular issues, the negotiated rulemaking process may result in a report specifying those areas on which consensus was and was not reached, together with arguments for and against positions advocated by various participants. At the conclusion of the negotiated rulemaking process, DEQ intends to present a rule to the Board for temporary adoption and, at the same time, commence formal rulemaking with the publication of a proposed rule, using and taking into consideration the results of the negotiated rulemaking process. DEQ intends to present the rule to the Board for temporary adoption in the fall of 1999.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Sue Richards at (208) 373-0502 or srichard@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposal to initiate negotiated rulemaking. All written comments must be received by the undersigned on or before June 23, 1999.

Dated this 29th day of April, 1999.

Paula Junae Saul
Environmental Quality Section, Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
Fax No. (208)373-0481 / psaul@deq.state.id.us

Subjects Affected Index

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT

11.13.01 - THE MOTOR CARRIER RULES

Docket No. 11-1301-9901

000. Legal Authority.....	9
001. Title And Scope.....	9
002. Written Interpretations--Agency Guidelines.....	9
003. Administrative Appeals.....	9
004. Public Record Act Compliance.....	9
005. Definitions.....	9
006. Citation.....	10
007. Forms.....	10
008. (Reserved).....	10
009. Code Of Federal Regulations, Federal Register.....	10
010. Relief From Regulations.....	10
011. (Reserved).....	10
012. Safety Fitness Procedures.....	11
013. -- 017. (Reserved).....	13
018. Transportation Of Hazardous Materials, Substances, And Wastes.....	13
019. Carrier Safety Requirements.....	15
020. -- 029. (Reserved).....	16
030. Interstate And Foreign Commerce.....	16
031. Obedience And Compliance With Rules And Regulations, Force Of Law.....	16
032. -- 999. (Reserved).....	16

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

Docket No. 16-0101-9802

006. General Definitions.....	20
008. Definitions For The Purposes Of Sections 300 Through 386.....	34
122. Information Orders By The Department.....	37
131. Excess Emissions.....	38
157. Test Methods And Procedures.....	38
209. Procedure For Issuing Permits.....	40
220. General Exemption Criteria For Permit To Construct Exemptions.....	44
221. Category I Exemption.....	44
222. Category II Exemption.....	45
223. Exemption Criteria And Reporting Requirements For Toxic Air Pollutant Emissions.....	47
322. Standard Contents Of Tier I Operating Permits.....	48
380. Changes To Tier I Operating Permits.....	53
381. Administrative Permit Amendments.....	53
401. Tier II Operating Permit.....	54
613. Orchard Fires.....	55
625. Visible Emissions.....	56
626. General Restrictions On Visible Emissions From Wigwam Burners.....	56
681. Test Methods And Procedures.....	57
700. Particulate Matter--Process Weight Limitations.....	57
725. Rules For Sulfur Content Of Fuels.....	57
786. Emission Limits.....	58
824. Monitoring And Reporting.....	58
847. Monitoring And Testing.....	59

Bulletin Summary of Proposed Rulemaking

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

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

IDAPA 11 – DEPARTMENT OF LAW ENFORCEMENT P.O. Box 700, Meridian, Idaho 83680-0700

Docket No. **11-0301-9901**, The Motor Carrier Rules. Rules transferred from PUC to Law Enforcement meeting statutory requirement; minor clarifications made. Comment By: 6/23/99.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE P. O. Box 83720, Boise, ID 83720-0036

Docket No. **16-0102-9704**, Water Quality Standards and Wastewater Treatment Facilities. Adds new aquatic life beneficial uses and criteria; revises recreation beneficial uses and criteria; describes the waters of the state; and modifies outdated text; modifications are part of the triennial review of Idaho's Water Quality Standards. Comment By: 8/2/99.

Docket No. **16-0301-9901**, Rules Governing Eligibility for Medicaid for Families and Children. Changes eligibility requirements; adds policy to provide Medicaid to a family trying to sell excess real or personal property; revises treatment of lump sum income, which is counted as income in the month received; adds policy on treatment of earned income from self-employment, Transitional Medicaid reporting requirements, notification requirements, income tests, reasons to end benefits, and eligibility requirements for a Low Income Pregnant Woman seeking coverage for pregnancy-related services and postpartum Medicaid. Comment By: 6/23/99.

Docket No. **16-0305-9902**, Rules Governing Aid to the Aged, Blind, and Disabled. Adds that pension funds owned by a child's ineligible parent cannot be deemed to the child; adds exclusion from resources for a real estate contract owned by a nursing home participant if the contract produces income; adds that child support payments must be turned in to the Department and that failure to do so is non-cooperation; adds a new income limit for Home and Community Based Services for an individual who needs the type of care provided in a nursing home. Decreases the lower age limit for eligibility from 21 to 18. Revises a life expectancy test used to determine if an irrevocable annuity is an asset transfer without adequate consideration. Comment By: 6/23/99.

Docket No. **16-0308-9901**, Rules Governing Temporary Assistance for Families in Idaho. Public Law 104-193 allows training, counseling and mentoring services (Transitional Services) for work-related activities for applicants who lose TAFI eligibility due to excess income or requests closure due to employment; adjusts TAFI Work Incentive Table to reflect the 1999 Federal Poverty Guidelines. Comment By: 6/23/99.

Docket No. **16-0310-9901**, Rules Governing Medicaid Provider Reimbursement. Provides for timely review of a cost report and a timely interim and then final settlement to either the provider or the Department; reinstates the provisions for interim reimbursement after cost reports are submitted; and reinstates the time line by which the State has to accomplish final cost settlement with Federally Qualified Health Centers. Comment By: 6/23/99.

Docket No. **16-0608-9901**, Rules and Minimum Standards for DUI Evaluators. Addresses the need to provide sentencing judges, DUI education providers, Department of Health and Welfare approved treatment facilities, and DUI offenders increased quality, uniformity, and consistency in alcohol and drug assessments; increases the

minimum qualification standards for DUI evaluators; implements peer review and quality improvement standards; and establishes an Advisory Board to work with the Department on monitoring issues. Comment By: 6/23/99.

**IDAPA 35 - STATE TAX COMMISSION
P.O. Box 36, Boise, ID 83722**

Docket No. **35-0103-9901**, Property Tax Administrative Rules. Clarifies that taxing districts do not invalidate the levy of the taxing district solely by failing to notify county clerks of budget hearing date and location by April 30. Comment By: 6/23/99.

**IDAPA 39 – DEPARTMENT OF TRANSPORTATION
P.O. Box 7129, Boise ID 83707-1129**

Docket No. **39-0280-9901**, Rules Governing Motor Carrier Financial Responsibility. House Bill 335aa, amends existing law to transfer regulatory authority over motor carriers operating within the state of Idaho from the Idaho Public Utilities Commission to the Idaho Transportation Department and the Department of Law Enforcement. Comment By: 6/23/99.

Docket No. **39-0308-9901**, Rules Governing Prequalifications of Variable Load Suspension Axles and Other Auxiliary Axles. Allows Port of Entry inspectors to weigh prequalified variable load suspension axles if they have reason to believe that the axle is overweight or is not carrying sufficient weight for the group of axles. Comment By: 6/23/99.

Docket No. **39-0309-9901**, Rules Governing Overlegal Permits -General Conditions and Requirements. Modifies permit requirements to eliminate need for permit when only crossing over state highway. Comment By: 6/23/99.

Docket No. **39-0310-9901**, Rules Governing When An Overlegal Permit Is Required. Modifies permit requirements to allow a wrecker to tow a non-disabled vehicle to the point of disablement, to replace the disabled vehicle. Comment By: 6/23/99.

Docket No. **39-0311-9901**, Rules Governing Overlegal Permittee Responsibility and Travel Restrictions. Modifies hazardous travel restrictions to apply consistently to all vehicles and removing carrier option to apply restriction; increases maximum length allowed on Interstate for 24-hour travel to 120 feet. Comment By: 6/23/99.

Docket No. **39-0312-9901**, Rules Governing Safety Requirements of Overlegal Permits. Reorganizes and provides technical corrections to text of rule; changes terminology; revises and standardizes certain operating requirements and requirements for flagging, lighting and signing to make them uniform with requirements of other states. Comment By: 6/23/99.

Docket No. **39-0313-9901**, Rules Governing Overweight Permits. Clarifies that vehicles hauling or towing non-reducible loads are not required to register for the maximum legal weight to be eligible for an overweight permit; that current procedures for the issuance of overlegal permits in excess of routine weight allowances which may require an analysis taking up to 24 working hours; and all permitted non-reducible vehicles and/or loads pay the same fee whether registered or not. Comment By: 6/23/99.

Docket No. **39-0316-9901**, Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads. Eliminates obsolete permit type; clarifies that 9-foot wide trailers may haul non-reducible loads smaller than 9-feet wide on a regular basis. Private carriers, moving from one farm to another, must be permitted. Comment By: 6/23/99.

Docket No. **39-0317-9901**, Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers. Reduces insurance requirement to \$300,000 for someone transporting their own manufactured home; and deletes lighting requirement for daylight hours and adds lighting requirements for movements after dark. Comment By: 6/23/99.

Docket No. **39-0318-9901**, Rules Governing Overlegal Permits for Relocation of Buildings or Houses. Reduces

insurance requirement \$300,000 for someone relocating their own building; and clarifies that utility companies must be contacted by permittee when load exceeds 17 feet high. Comment By: 6/23/99.

Docket No. **39-0319-9901**, Rules Governing Annual Overlegal Permits. Specifies that annual permits cannot exceed a gross weight of 200,000 lbs and that a vehicle configuration cannot operate on less axles than the number of axles stated on the permit but can have more axles; and specifies that carriers can operate at lesser weights, but not greater weights than that listed on the permit. Comment By: 6/23/99.

Docket No. **39-0322-9901**, Rules Governing Overlegal Permits for Extra-Length Vehicle Combinations. Increases overall length on blue routes for extra-length vehicles to 90 feet, without exceeding the off-track requirement of 5.5 feet; eliminates need and cost to issue an additional permit; and clarifies operating requirements during hazardous conditions. Comment By: 6/23/99.

Docket No. **39-0324-9901**, Rules Governing Self-Propelled Snowplows. Changes size of warning flags to 12"x12" minimum; makes all flagging requirements for permitted vehicles uniform; and makes requirements more uniform between the western states. Comment By: 6/23/99.

Please refer to the Idaho Administrative Bulletin, **June 2, 1999, Volume 99-6** for notices and text of all rulemakings, public hearing schedules, governor's executives orders, and agency contact names.

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VOLUME 1 - IDAPA 01 THROUGH 15

VOLUME 2 - IDAPA 16 THROUGH 19

VOLUME 3 - IDAPA 20 THROUGH 59

Subject Index

- A**
- Accountable 20
 - Acid Rain 53
 - Act 20
 - Actual Emissions 20
 - Additional Procedures For Specified Sources 41
 - Administrative Appeals 9
 - Administrative Permit Amendment Application Procedures 54
 - Administrative Permit Amendments 53
 - Adoption Of Federal Regulations, 49 CFR Parts 107, 171, 173, 177, 178, And 180 13
 - Adoption Of Federal Regulations, 49 CFR Parts 382, 383, 385, 388, 390, And 399 15
 - Affected States 34
 - Air Pollutant/Air Contaminant 21
 - Air Pollution 21
 - Air Quality 21
 - Air Quality Criterion 21
 - Allowable Emissions 21
 - Allowance, Phase II Source 34
 - Alternative Operating Scenarios, Tier I Operating Permits 48
 - Ambient Air 21
 - Ambient Air Quality Violation 21
 - Annual Report For Toxic Air Pollutant Exemption 47
 - Any Other Source Specifically Exempted By The Department 47
 - Applicability, Changes To Tier I Operating Permits 53
 - Applicability, Excess Emissions 38
 - Applicable Requirement, Emissions Units In A Tier I Source 34
 - Atmospheric Stagnation Advisory 21
 - Attainment Area 21
 - Authority For And Form Of Terms And Conditions 48
 - Averaging Period, Incinerator 58
 - Averaging Period, Particulate Matter 57
- B**
- BTU 22
 - Baseline 21
 - Below Regulatory Concern 45
 - Below Regulatory Concern (BRC) Exemption 47
- C**
- Best Available Control Technology (BACT) 21
 - Board 22
 - Breakdown 22
 - Carrier Safety Requirements 15
 - Category I Exemption 44
 - Category II Exemption 45
 - Changes Requiring Notice 53
 - Changes Requiring Permit Revisions 53
 - Changes To Tier I Operating Permits 53
 - Citation 10
 - Clean Air Act 22
 - Code Of Federal Regulations, Federal Register 10
 - Collection Efficiency 22
 - Commence Construction Or Modification 22
 - Commercial Motor Vehicle (CMV) 9
 - Complete Determination 22
 - Compliance Schedule And Progress Reports 50
 - Construction 22
 - Continuous Monitoring Requirements 58
 - Control Equipment 22
 - Controlled Emission 22
 - Criteria Air Pollutant 22
 - Criteria, Administrative Permit Amendments 53
- D**
- Definitions 9
 - Definitions For The Purposes Of Sections 300 Through 387 34
 - Definitions, Section 012 11
 - Department 10, 22
 - Designated Facility 22
 - Designated Representative 35
 - Determination Of Safety Fitness 13
 - Director 23
 - Draft Permit 35
- E**
- EPA 24
 - Effect Of Determination 38
 - Effective Dose Equivalent 23
 - Emergency, Tier I Source 35
 - Emission 23
 - Emission Limitations And Standards 48
- F**
- Emission Limits, Incinerators 58
 - Emission Standard 23
 - Emissions Unit 24
 - Enforcement Action Criteria 38
 - Environmental Remediation Source 24
 - Establishing A Good Engineering Stack Height 42
 - Exception, Visible Emissions 56
 - Excess Emissions 24, 38
 - Exempt Source 45
 - Exemption Criteria And Reporting Requirements For Toxic Air Pollutant Emissions 47
 - Exemptions, Visible Emissions 56
 - Existing Stationary Source Or Facility 24
- G**
- Facility, Building, Structure, Or Installation 24
 - Factors To Be Considered In Determining A Safety Rating 12
 - Federal Class I Area 24
 - Federal Land Manager 24
 - Final Permit 35
 - Fire Hazard 24
 - Force Of Law 16
 - Forms 10
 - Fuel-Burning Equipment 24
 - Fugitive Dust 24
 - Fugitive Emissions 24
 - Garbage 24
 - General Definitions 20
 - General Exemption Criteria 44
 - General Exemption Criteria For Permit To Construct Exemptions 44
 - General Permit, Tier I 35
 - General Procedures, Permits To Construct 40
 - General Requirements, Source Test 38
 - General Requirements, Tier I Operating Permit 51
 - General Restrictions On Visible Emissions From Wigwam Burners 56
 - General Restrictions, Incinerators 58
 - Grain Elevator 24
 - Grain Storage Elevator 24
 - Grain Terminal Elevator 25

H
Hazardous Air Pollutant (HAP) 25
Hazardous Materials 14
Hazardous Substances 14
Hazardous Waste 15, 25
Heating Device Emissions 55
Heating Device Opacity 55
Highway 10
Hot-Mix Asphalt Plant 25

I
Implementation Procedures, Administrative Permit Amendment 54
Incinerator 25
Indian Governing Body 25
Information Orders By The Department 37
Insignificant Activity 35
Interstate And Foreign Commerce 16
Interstate Carrier 10

K
Kraft Pulping 25

L
Legal Authority 9
Level I Exemption 47
Level II Exemption 47
Level III Exemption 47
Lowest Achievable Emission Rate (LAER) 25

M
Major Facility 25, 35
Major Modification 26
Member Of The Public 27
Minimum Allowable Emission 57
Miscellaneous Reports 59
Modification, Stationary Source Or Facility 27
Monitoring 27
Monitoring And Reporting 58
Monitoring And Testing 59
Monitoring Program And Time Schedule Submittal 58
Monitoring, Tier I Operating Permits 48
Motor Carrier 10
Motor Carrier Certification 13
Motor Vehicle 10
Multiple Chamber Incinerator 27
Multiple Tier II Operating Permits 55

N
New Stationary Source Or Facility 27
Nonattainment Area 27
Noncondensibles 28
Notification Of A Safety Fitness Rating 13

O
Obedience And Compliance With Rules And Regulations, Force Of Law 16
Obligation Of Familiarity With Rules, Section 018 13
Obligation Of Familiarity With Rules, Section 019 15
Observation Of Tests By Department Staff 40
Odor 28
Opacity 28
Open Burning 28
Open-Pot Heaters, Orchard Fires 55
Operating Permit 28
Optional Tier II Operating Permits 54
Orchard Clippings, Orchard Fires 55
Orchard Fires 55
Other Exempt Sources 46
Other Specific Requirements 51

P
PM-10 28
PM-10 Emissions 28
PPM (Parts Per Million) 28
Part 70, Unless Specified Otherwise, 40 CFR Part 70 Incorporated By Reference 36
Particulate Matter 28
Particulate Matter Emission Limitations 57
Particulate Matter Emissions 28
Particulate Matter--Process Weight Limitations 57
Particulate Sampling 58
Periodic Compliance Certifications 50
Permit Conditions Regarding Acid Rain Allowances 51
Permit Duration 51
Permit Revision 36
Permit Shield, Administration Permit Amendments 54
Permit To Construct 28
Permit To Construct Procedures For Tier I Sources 42

Person 10, 28
Persons, Information Orders May Be Issued 37
Phase II Source 36
Phase II Unit 36
Portable Equipment 28
Potential To Emit/Potential Emissions 28
Prescribed Fire Management Burning 28
Primary Ambient Air Quality Standard 29
Procedure For Issuing Permits, Permit To Construct 40
Process Or Process Equipment 29
Process Weight 29
Process Weight Rate 29
Proof Of Compliance Required 16
Proposed Permit 36
Public Record Act Compliance 9
Purpose And Scope 11
Purpose, Information Orders 37

Q
Quantifiable 29
Quarterly Reporting Requirements 58

R
Radionuclide 29
Radionuclides 45
Recognition Of Federal Waivers, Adopted In Subsection 018.01 14
Recognition Of Federal Waivers, Adopted In Subsection 019.01 16
Record Retention 44
Recordkeeping 49
Regulated Air Pollutant 29
Relief From Regulations 10
Reopening, Permit For Cause 53
Replicable 30
Reporting Requirements 40
Reporting, Tier I Operating Permits 49
Required Tier II Operating Permits 55
Requirements, Information Orders 37
Responsible Official 30
Revisions Of Permits To Construct 42
Rules For Sulfur Content Of Fuels 57

S
Safety Fitness Procedures 11

- Safety Fitness Standard 12
Safety Measure 30
Salvage Operation 30
Sanctions 16
Scheduled Maintenance 31
Secondary Ambient Air Quality Standard 31
Section 502(B)(10) Changes 36
Semi-Annual Reporting Requirements 59
Shutdown 31
Significant 31
Significant Contribution 32
Small Fire 32
Smoke 32
Smoke Management Plan 32
Smoke Management Program 32
Source 33
Source Operation 33
Stack 33
Standard Conditions 33
Standard Contents Of Tier I Operating Permits 48
Standards For Exempted Sources 56
Startup 33
Stationary Source 33
- T**
- TRS (Total Reduced Sulfur) 34
Terms Or Conditions For Applicable Requirements 48
Test Methods And Procedures 38, 57
Test Methods And Procedures, Incinerators 58
Test Methods And Procedures, Particulate Matter-Process Weight Limitations 57
Test Methods And Procedures, Visible Emissions 56
Test Requirements 39
Test Results Review Criteria 40
Testing, Tier I Operating Permits 49
Tier I Operating Permit 36
Tier I Source 33
Tier II Operating Permit 54
Tier II Operating Permits Required By The Department 55
Title And Scope 9
Total Suspended Particulates 33
Toxic Air Pollutant 33
Toxic Air Pollutant Carcinogenic Increments 33
Toxic Air Pollutant Non-Carcinogenic Increments 33
Toxic Air Pollutants, Category I Exemption 45
Toxic Substance 33
Trade Waste 34
Trading Scenarios 48
Transportation 10
Transportation Of Hazardous Materials, Substances And Wastes 13
- U**
- Unclassifiable Area 34
Uncontrolled Emission 34
Upset 34
- V**
- Version Of Federal Regulations Adopted, 49 CFR Parts 107, 171, 172, 173, 177, 178, And 180 15
Version Of Federal Regulations Adopted, 49 CFR Parts 382, 383, 385, 388 And 390 Through 399 16
Visible Emissions 56
- W**
- Wigwam Burner 34
Wood Stove Curtailment Advisory 34
Written Interpretations--Agency Guidelines 9