

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

March 3, 2004 -- Volume 04-3

TABLE OF CONTENTS	1
PREFACE	2
IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY	
Docket No. 58-0000-0402	
Notice of Final Decision on The Goose Creek TMDL	11
Docket No. 58-0000-0403	
Notice of Final Decision on The Raft River TMDL	12
58.01.01 - Rules For The Control Of Air Pollution In Idaho	
Docket No. 58-0101-0302	
Notice of Rulemaking - Pending Rule and Temporary Rule	13
Docket No. 58-0101-0304	
Notice of Rulemaking - Temporary Rule	20
Docket No. 58-0101-0401	
Notice of Rulemaking - Negotiated Rule	42
58.01.02 - Water Quality Standards And Wastewater Treatment Requirements	
Docket No. 58-0102-0303	
Pending Rule and Amendment to Temporary Rule	43
SUBJECTS AFFECTED INDEX	52
LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS	53
ABRIDGED EDITION OF THE CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES	54
SUBJECT INDEX	72

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 monthly compilation of all administrative rulemaking documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of a rulemaking 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 Rulemaking Notice published in the Bulletin. 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 rulemaking activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletins are cited by year and volume number. For example, Bulletin 02-1 refers to the first Bulletin issued in calendar year 2002, 03-1 refers to the first Bulletin issued in calendar year 2003. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No.02-1 refers to January 2002; Volume No. 02-2 refers to February 2002; and so forth. Example: The Bulletin published in January of 2003 is cited as Volume 03-1, the December 2002 Bulletin is cited as Volume 02-12, etc.

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 adopted and 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 Rulemaking**, printed in each Bulletin.*

TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process, governed by the Administrative Procedure Act, comprises five distinct activities; Negotiated, Proposed, Temporary, Pending, and Final rulemaking. Not all rulemakings include all five. At a minimum a rulemaking includes proposed, pending, and final rulemaking. Many rules are adopted as temporary rules when meeting required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested parties and the agency seek a consensus on the

content of the rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a Notice of Intent to Promulgate a Rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.

PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency in which the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a notice of proposed rulemaking in the Bulletin. The notice of proposed rulemaking must include:

- a) the specific statutory authority for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation; and*
- g) the deadline for public (written) comments on the proposed rule.*

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule docket. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.

TEMPORARY RULEMAKING

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

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

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

A temporary rule expires at the conclusion of the next succeeding regular session of the legislature unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

State law requires that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as that of the proposed rule, the rulemaking can be done concurrently as a temporary/proposed rule. Combining the rulemaking allows for a single publication of the text.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rulemaking that is being vacated, the agency, in most instances, should rescind the temporary rule.

PENDING RULEMAKING

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

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

- a) the reasons for adopting the rule;*
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) the date the pending rule will become final and effective; and*
- d) an identification of any portion of the rule imposing or increasing a fee or charge.*

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

FINAL RULEMAKING

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

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that the agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A Notice of Final Rule must be published in the Idaho Administrative Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule that has been reviewed by the legislature and has not been rejected, amended, or modified will become final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule which is final and effective may be applied retroactively, as provided in the rule.

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, BYU Idaho 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 83720-0306, telephone (208) 332-1820.

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 Rulemaking Dockets*, are specific portions of the Bulletin and Administrative Code produced on demand.

Internet Access - The Administrative Code and Administrative Bulletin, individual chapters and dockets, are available on the Internet at the following address: <http://www2.state.id.us/adm/adminrules/>

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) 332-1820 or FAX (208) 332-1896.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the *Idaho Administrative Bulletin* are organized by a numbering 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 38.05.01.060.02.c.ii.

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

"IDAPA 38." refers to the Idaho Department of Administration.

"05." refers to Title 05 which is the Department of Administration's Division of Purchasing.

"01." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing".

"060." refers to Major Section 060, "Content of the Invitation to Bid".

"02." refers to Subsection 060.02.

"c." refers to Paragraph 060.02.c.

"ii." refers to Subparagraph 060.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER". The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0101). 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. 38-0501-0301"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

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

"0301" denotes the year and sequential order of the docket submitted and published during the year; in this case the first rulemaking action of the chapter published in calendar year 2003.

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)"

INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection that is part of the same rule, a typical internal citation may appear as follows:

"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."

It may also be cited to include the IDAPA, Title, and Chapter number also, as follows:

"...in accordance with IDAPA 38.05.01.201."

"38" denotes the IDAPA number of the agency.

"05" denotes the TITLE number of the agency rule.

"01" denotes the Chapter number of the agency rule.

"201" references the main Section number of the rule that is being cited.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, 'Rules Governing Capitol Mall Parking.'"

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2004

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
04-1	January, 2004	*November 19, 2003	January 7, 2004	January 28, 2004
04-2	February, 2004	January 7, 2004	February 4, 2004	February 25, 2004
04-3	March, 2004	February 4, 2004	March 3, 2004	March 24, 2004
04-4	April, 2004	March 3, 2004	April 7, 2004	April 25, 2004
04-5	May, 2004	March 31, 2004	May 5, 2004	May 26, 2004
04-6	June, 2004	May 5, 2004	June 2, 2004	June 22, 2004
04-7	July, 2004	June 2, 2004	July 7, 2004	July 28, 2004
04-8	August, 2004	June 30, 2004	August 4, 2004	August 25, 2004
04-9	September, 2004	July 28, 2004	September 1, 2004	September 22, 2004
04-10	October, 2004	**August 25, 2004	October 6, 2004	October 27, 2004
04-11	November, 2004	October 6, 2004	November 3, 2004	November 24, 2004
04-12	December, 2004	November 3, 2004	December 1, 2004	December 22, 2004

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2005

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
05-1	January, 2005	*November 17, 2004	January 5, 2005	January 26, 2005
05-2	February, 2005	December 31, 2004	February 2, 2005	February 23, 2005
05-3	March, 2005	February 4, 2005	March 2, 2005	March 23, 2005
05-4	April, 2005	March 4, 2005	April 6, 2005	April 27, 2005
05-5	May, 2005	April 1, 2005	May 4, 2005	May 25, 2005
05-6	June, 2005	April 29, 2005	June 1, 2005	June 22, 2005
05-7	July, 2005	June 3, 2005	July 6, 2005	July 27, 2005
05-8	August, 2005	July 1, 2005	August 3, 2005	August 24, 2005
05-9	September, 2005	July 29, 2005	September 7, 2005	September 28, 2005
05-10	October, 2005	**August 24, 2005	October 5, 2005	October 26, 2005
05-11	November, 2005	September 30, 2005	November 2, 2005	November 23, 2005
05-12	December, 2005	October 28, 2005	December 7, 2005	December 28, 2005

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

*****Last day to submit proposed rules in order to complete rulemaking for review by legislature.***

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS AND THE 2002 ADMINISTRATIVE CODE VOLUME NUMBERS		
IDAPA 01	ACCOUNTANCY , Board of	VOLUME 1
IDAPA 38	ADMINISTRATION , Department of	VOLUME 8
IDAPA 44	ADMINISTRATIVE RULES COORDINATOR , Office of the	VOLUME 8
IDAPA 02	AGRICULTURE , Idaho Department of	VOLUME 1
IDAPA 40	ARTS , Idaho Commission on the	VOLUME 8
IDAPA 03	ATHLETIC COMMISSION	VOLUME 1
IDAPA 04	ATTORNEY GENERAL , Office of the	VOLUME 1
IDAPA 53	BARLEY COMMISSION , Idaho	VOLUME 9
IDAPA 51	BEEF COUNCIL , Idaho	VOLUME 9
IDAPA 07	BUILDING SAFETY , Division of Electrical Board Plumbing Board Building Code Advisory Board Public Works Contractors License Board	VOLUME 1
IDAPA 43	CANOLA AND RAPESEED COMMISSION , Idaho	VOLUME 8
IDAPA 48	COMMERCE , Idaho Department of	VOLUME 8
IDAPA 06	CORRECTION , Board of	VOLUME 1
IDAPA 19	DENTISTRY , Board of	VOLUME 6
IDAPA 08	EDUCATION , Board of	VOLUME 2
IDAPA 10	ENGINEERS AND LAND SURVEYORS , Board of Professional	VOLUME 2
IDAPA 58	ENVIRONMENTAL QUALITY , Department of	VOLUME 9
IDAPA 12	FINANCE , Department of	VOLUME 2
IDAPA 13	FISH AND GAME , Department of	VOLUME 2
IDAPA 14	GEOLOGISTS , Board of Registration of Professional	VOLUME 2
IDAPA 15	GOVERNOR , Office of the Idaho Commission on Aging Idaho Commission for the Blind Idaho Forest Products Commission Division of Human Resources and Personnel Commission Idaho Liquor Dispensary Emergency Response Commission	VOLUME 3

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS AND THE 2002 ADMINISTRATIVE CODE VOLUME NUMBERS		
IDAPA 16	HEALTH AND WELFARE , Department of	VOLUMES 3, 4, & 5
IDAPA 45	HUMAN RIGHTS COMMISSION	VOLUME 8
IDAPA 30	IDAHO STATE LIBRARY	VOLUME 7
IDAPA 11	IDAHO STATE POLICE	VOLUME 2
IDAPA 17	INDUSTRIAL COMMISSION	VOLUME 5
IDAPA 18	INSURANCE , Department of	VOLUME 5
IDAPA 05	JUVENILE CORRECTIONS , Department of	VOLUME 1
IDAPA 09	LABOR , Idaho Department of	VOLUME 2
IDAPA 20	LANDS , Department of	VOLUME 6
IDAPA 52	LOTTERY COMMISSION , Idaho State	VOLUME 9
IDAPA 22	MEDICINE , Board of	VOLUME 6
IDAPA 23	NURSING , Board of	VOLUME 6
IDAPA 24	OCCUPATIONAL LICENSES , Board of Board of Architectural Examiners Board of Barber Examiners Board of Chiropractic Physicians Board of Cosmetology Board of Environmental Health Specialist Examiners Board of Hearing Aid Dealers and Fitters Board of Landscape Architects Board of Morticians Board of Examiners of Nursing Home Administrators Board of Optometry Board of Podiatry Board of Psychologist Examiners Board of Social Work Examiners Idaho Counselor Board Board of Dentistry Board of Acupuncture Real Estate Appraiser Board Board of Residential Care Facility Administrators	VOLUME 6
IDAPA 25	OUTFITTERS AND GUIDES LICENSING BOARD	VOLUME 6
IDAPA 50	PARDONS AND PAROLE , Commission for	VOLUME 9
IDAPA 26	PARKS AND RECREATION , Department of	VOLUME 6
IDAPA 59	PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO - PERSI	VOLUME 9
IDAPA 27	PHARMACY , Board of	VOLUME 6

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS AND THE 2002 ADMINISTRATIVE CODE VOLUME NUMBERS		
IDAPA 29	POTATO COMMISSION, Idaho	VOLUME 7
IDAPA 31	PUBLIC UTILITIES COMMISSION	VOLUME 7
IDAPA 41	PUBLIC HEALTH DISTRICTS	VOLUME 8
IDAPA 33	REAL ESTATE COMMISSION	VOLUME 7
IDAPA 56	RANGELAND RESOURCES COMMISSION, Idaho	VOLUME 9
IDAPA 34	SECRETARY OF STATE, Office of the	VOLUME 7
IDAPA 57	SEXUAL OFFENDER CLASSIFICATION BOARD	VOLUME 9
IDAPA 49	SHORTHAND REPORTERS, Board of Certified	VOLUME 8
IDAPA 36	TAX APPEALS, Idaho Board of	VOLUME 7
IDAPA 35	TAX COMMISSION, State	VOLUME 7
IDAPA 39	TRANSPORTATION, Department of	VOLUME 8
IDAPA 54	TREASURER, Office of the State	VOLUME 9
IDAPA 21	VETERANS SERVICES, Division of	
IDAPA 46	VETERINARY MEDICAL EXAMINERS, Board of	VOLUME 8
IDAPA 55	VOCATIONAL AND TECHNICAL EDUCATION, Division of	VOLUME 9
IDAPA 47	VOCATIONAL REHABILITATION, Division of	VOLUME 8
IDAPA 37	WATER RESOURCES, Department of	VOLUME 8
IDAPA 42	WHEAT COMMISSION, Idaho	VOLUME 8

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0402

NOTICE OF FINAL DECISION ON THE GOOSE CREEK TMDL

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

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

The area covered by the Goose Creek TMDL (Hydrologic Unit Code 17040211) addresses nine (9) water body segments on Idaho's 1998 Section 303(d) list within the Goose Creek subbasin and three (3) additional impaired water bodies in the Goose Creek subbasin not on Idaho's 1998 Section 303(d) list. DEQ has submitted this TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at http://www.deq.state.id.us/water/tmdls/goose_creek/goose_creek_final.htm or by contacting Marti Bridges, TMDL Program Manager, 208-373-0382, mbridges@deq.state.id.us.

Dated this 21st day of January, 2004.

Paula J. Gradwohl
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0403

NOTICE OF FINAL DECISION ON THE RAFT RIVER TMDL

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

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

The area covered by the Raft River TMDL (Hydrologic Unit Code 17040210) addresses six (6) water body segments on Idaho's 1998 Section 303(d) list within the Raft River subbasin and three (3) additional impaired water bodies in the Raft River subbasin not on Idaho's 1998 Section 303(d) list. DEQ has submitted this TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at http://www.deq.state.id.us/water/tmdls/raft_river/raft_river_final.htm or by contacting Marti Bridges, TMDL Program Manager, 208-373-0382, mbridges@deq.state.id.us.

Dated this 3rd day of February, 2004.

Paula J. Gradwohl
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0302

NOTICE OF RULEMAKING - PENDING RULE AND TEMPORARY RULE

EFFECTIVE DATE OF TEMPORARY RULE: The temporary rule was effective February 5, 2004.

EFFECTIVE DATE OF PENDING RULE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The rule will become final immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

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

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, January 7, 2004, Volume 04-1, pages 215 through 221. The agency received no public comments on the proposed rule, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is necessary to meet deadlines in federal law.

SECTION 39-107D, IDAHO CODE STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208)373-0440, mbauer@deq.state.id.us, or Pat Nair at (208)373-0447, pnair@deq.state.id.us.

DATED this 5th day of February, 2004.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58, TITLE 01, CHAPTER 01

RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-1, January 7, 2004, pages 215 through 221.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

Pursuant to Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin.

THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PENDING RULE

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. (4-5-00)

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. (4-5-00)

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: (4-5-00)

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: (4-5-00)

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. (4-5-00)

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. (4-5-00)

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. (4-5-00)

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; (4-5-00)

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(e)(2) of the Clean Air Act which prohibits knowingly making a false certification or omitting material information under Subsections 322.06, 322.07, and 322.08;~~ (4-5-00)(2-5-04)T

iii. The status of compliance with the terms and conditions of the Tier I operating permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in Subsection 322.11.c.ii. above. The certification shall identify each 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 (4-5-00)(2-5-04)T

iv. Such information as the Department may require to determine the compliance status of the emissions unit. (4-5-00)

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. (4-5-00)
- 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 387 through 399, which are hereby incorporated by reference. (7-1-02)
- 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)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0304

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule was effective February 5, 2004.

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

DESCRIPTIVE SUMMARY: The U.S. Environmental Protection Agency has revised regulations in 40 CFR Part 52, governing the New Source Review programs mandated by Title I of the Clean Air Act. The Department of Environmental Quality (DEQ) has initiated this rulemaking to incorporate these changes into the Rules for the Control of Air Pollution in Idaho. Incorporation of the revisions to 40 CFR Part 52 into the Rules for the Control of Air Pollution in Idaho will include changes in New Source Review applicability requirements for modifications to allow sources of air emissions greater regulatory certainty, flexibility and permit streamlining while ensuring protection of public health and the environment.

The Legislative Services Office has imposed a moratorium which prohibits agencies from initiating proposed rulemaking during the legislative session. DEQ intends to initiate proposed rulemaking by publishing this rule in the May 2004 issue of the Idaho Administrative Bulletin.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit. The rule is intended to increase energy efficiency and encourage emission reduction while offering facilities greater flexibility to improve and modernize their operations.

SECTION 39-107D, IDAHO CODE STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812 - 815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, November 5, 2003, Volume 03-11, page 89.

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 rulemaking, contact Martin Bauer at (208)373-0440, mbauer@deq.state.id.us, or Pat Nair at (208) 373-0447 or pnair@deq.state.id.us.

DATED this 5th day of February, 2004.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208) 373-0418
Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF RULE DOCKET NO. 58-0101-0304

006. GENERAL DEFINITIONS.

Subsections 006.01 through 006.54 have no changes

- ~~55. Major Facility. (5-1-94)~~
- ~~a. A major facility is either: (4-5-00)~~
- ~~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 (4-5-00)~~
- ~~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. (4-5-00)~~
- ~~b. A major facility that is major for volatile organic compounds shall be considered major for ozone. (4-5-00)~~
- ~~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. (4-5-00)~~
- ~~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. (4-5-00)~~
- ~~b. Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone. (4-5-00)~~
- ~~c. A physical change or change in the method of operation shall not include: (4-5-00)~~
- ~~i. Routine maintenance, repair, and replacement; (4-5-00)~~
- ~~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; (4-5-00)~~
- ~~iii. Use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act; (4-5-00)~~
- ~~iv. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste; (4-5-00)~~
- ~~v. Use of an alternative fuel or raw material by a facility which the facility was capable of accommodating before December 21, 1976 for facilities located in nonattainment areas or before January 6, 1975 for 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 facilities located in nonattainment areas or before January 6, 1975 for facilities located in attainment or unclassified areas or under any permit issued by the Department or EPA; (4-5-00)~~

~~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 facilities located in nonattainment areas or before January 6, 1975 for facilities located in attainment or unclassified areas.~~

~~(4-5-00)~~

~~vii. Any change in ownership at a facility;~~

~~(4-5-00)~~

~~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 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;~~

~~(4-5-00)~~

~~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.~~

~~(4-5-00)~~

575. 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.

(4-5-00)

586. 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:

(4-5-00)

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.

(4-5-00)

597. 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)

6058. 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)

6459. 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)

620. 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)

631. Noncondensibles. Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified.

(5-1-94)

642. Odor. The sensation resulting from stimulation of the human sense of smell.

(5-1-94)

653. 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)

664. 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)

675. Operating Permit. A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461.

(4-5-00)

686. Particulate Matter. Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions.

(5-1-94)

697. Particulate Matter Emissions. All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157.

(4-5-00)

7068. Permit to Construct. A permit issued by the Director pursuant to Sections 200 through 228.

(7-1-02)

7169. Person. Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity.

(5-1-94)

720. 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)

731. PM-10 Emissions. All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157.

(4-5-00)

742. 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. (4-5-00)

753. Portable Equipment. Equipment which is designed to be dismantled and transported from one (1) job site to another job site. (5-1-94)

764. PPM (parts per million). Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)

775. 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)

786. 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)

797. 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)

8078. 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)

8479. Process Weight Rate. The rate established as follows: (5-1-94)

a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; (4-5-00)

b. For cyclical or batch source operations, the total process weight for a period that covers a complete cycle of operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. (4-5-00)

820. Quantifiable. The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (4-5-00)

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

- 842. Regulated Air Pollutant.** The following air pollutants: (4-5-00)
- a.** Nitrogen oxides or any volatile organic compounds. (4-5-00)
 - b.** Any pollutant for which a national ambient air quality standard has been promulgated. (4-5-00)
 - c.** Any pollutant that is subject to any standard promulgated under 42 U.S.C. Section 7411. (4-5-00)
 - 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). (4-5-00)
 - 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: (4-5-00)
 - 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 (4-5-00)
 - 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. (4-5-00)
 - 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 399. (7-1-02)
- 853. Replicable.** Any SIP procedures for applying emission trading shall be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. (4-5-00)
- 864. Responsible Official.** One (1) of the following: (5-1-94)
- a.** For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (5-1-94)
 - i.** The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars); or (4-5-00)
 - ii.** The delegation of authority to such representative is approved in advance by the Department. (5-1-94)
 - b.** For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (5-1-94)
 - c.** For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Section 123, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). (4-5-00)
 - d.** For Phase II sources: (5-1-94)
 - i.** The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and (5-1-94)

- ii. The designated representative for any other purposes under 40 CFR Part 70. (5-1-94)
- 875. Safety Measure.** Any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. (4-5-00)
- 886. 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)
- 897. 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)
- 9088. 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)
- 9189. 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)
- 920. Significant.** A rate of regulated air pollutant emissions that would equal or exceed any of the following: (4-5-00)
- 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; (4-5-00)
- 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 (4-5-00)
- c.** For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted regulated air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (4-5-00)
- 931. 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)
- 942. 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)

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

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

975. 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)

986. Source. A stationary source. (5-1-94)

997. 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)

10098. 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)

10199. Standard Conditions. Except as specified in Subsection 576.02 for ambient air quality standards, a dry gas temperature of twenty degrees Celsius (20C) sixty-eight degrees Fahrenheit (68F) and a gas pressure of seven hundred sixty (760) millimeters of mercury (14.7 pounds per square inch) absolute. (4-5-00)

1020. 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)

1031. Stationary Source. Any building, structure, emissions unit, or installation which emits or may emit any air pollutant. (4-5-00)

1042. Tier I Source. Any of the following: (5-1-94)

a. Any source located at any major facility as defined in Section 008; (4-5-00)

b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60; (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)

1053. Total Suspended Particulates. Particulate matter as measured by the method described in 40 CFR 50 Appendix B. (4-5-00)

1064. 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)

1075. 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)

1086. 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)

1097. 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)

1108. 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)

1109. TRS (Total Reduced Sulfur). Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)

1120. 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)

1131. Uncontrolled Emission. An emission which has not been treated by control equipment. (5-1-94)

1142. Upset. An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. (4-5-00)

1153. 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)

1164. 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)

200. PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT.

The purposes of Sections 200 through 228 is to establish uniform procedures and requirements for the issuance of "Permits to Construct." As used throughout Sections 200 through 228 and 578 through 581, major facility shall be defined as major stationary source in 40 CFR 52.21(b), revised as of July 1, 2003, and supplemented by 67 Fed. Reg. 80,186 (December 31, 2002) (to be codified at 40 CFR 52.21(b)), and major modification shall be defined as in 40 CFR 52.21(b), revised as of July 1, 2003, and supplemented by 67 Fed. Reg. 80,186 (December 31, 2002) (to be codified at 40 CFR 52.21(b)). These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr. (7-1-02)(2-5-04)T

(BREAK IN CONTINUITY OF SECTIONS)

202. APPLICATION PROCEDURES.

Application for a permit to construct must be made using forms furnished by the Department, or by other means prescribed by the Department. The application shall be certified by the responsible official in accordance with Section 123 and shall be accompanied by all information necessary to perform any analysis or make any determination required under Sections 200 through 228. (7-1-02)

01. Required Information. Depending upon the proposed size and location of the new or modified stationary source or facility, the application for a permit to construct shall include all of the information required by one or more of the following provisions: (5-1-94)

- a.** For any new or modified stationary source or facility: (5-1-94)
 - i. Site information, plans, descriptions, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. (5-1-94)
 - ii. A schedule for construction of the stationary source, facility, or modification. (5-1-94)
- b.** For any new major facility or major modification in a nonattainment area which would be major for the nonattainment regulated air pollutant(s): (4-5-00)
 - i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the lowest achievable emission rate would be applied. (5-1-94)
 - ii. A description of the emission offsets proposed for the new major facility or major modification, including information on the stationary sources, mobile sources, or facilities providing the offsets, emission estimates, and other information necessary to determine that a net air quality benefit would result. (4-5-00)
 - iii. Certification that all other facilities in Idaho, owned or operated by (or under common ownership of) the proposed new major facility or major modification, are in compliance with all local, state or federal requirements or are on a schedule for compliance with such. (5-1-94)
 - iv. An analysis of alternative sites, sizes, production processes, and environmental control techniques which demonstrates that the benefits of the proposed major facility or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. (5-1-94)
 - v. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would impact (including the monitoring of visibility in any Class I area near the new major facility or major modification, if requested by the Department), ~~except for those new major facilities and major modifications exempted by Subsection 204.04.~~ (5-1-94)(2-5-04)T
- c.** 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.~~ (4-5-00)(2-5-04)T
 - i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the best available control technology would be applied. (5-1-94)
 - ii. An analysis of the effect on air quality by the new major facility or major modification, including meteorological and topographical data necessary to estimate such effects. (5-1-94)
 - iii. An analysis of the effect on air quality projected for the area as a result of general commercial, residential, industrial, and other growth associated with the new major facility or major modification. (5-1-94)
 - iv. A description of the nature, extent, and air quality effects of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the new major facility or major modification would affect. (5-1-94)
 - v. An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new major facility or major modification and general commercial, residential, industrial, and other growth associated

with establishment of the new major facility or major modification. The owner or operator need not provide an analysis of the impact on vegetation or soils having no significant commercial or recreational value. (5-1-94)

vi. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would affect. (5-1-94)

vii. An analysis of the existing ambient air quality in the area that the new major facility or major modification would affect for each regulated air pollutant that a new major facility would emit in significant amounts or for which a major modification would result in a significant net emissions increase. (4-5-00)

viii. Ambient analyses as specified in Subsections 202.01c.vii., 202.01c.ix., 202.01c.x., and 202.01c.xii., may not be required if the projected increases in ambient concentrations or existing ambient concentrations of a particular regulated air pollutant in any area that the new major facility or major modification would affect are less than the following amounts, or the regulated air pollutant is not listed herein: carbon monoxide - five hundred and seventy-five (575) micrograms per cubic meter, eight (8) hour average; nitrogen dioxide - fourteen (14) micrograms per cubic meter, annual average; PM-10 - ten (10) micrograms per cubic meter, twenty-four (24) hour average; sulfur dioxide - thirteen (13) micrograms per cubic meter, twenty-four (24) hour average; ozone - any net increase of one hundred (100) tons per year or more of volatile organic compounds, as a measure of ozone; lead - one-tenth (0.1) of a microgram per cubic meter, calendar quarterly average; mercury - twenty-five hundredths (0.25) of a microgram per cubic meter, twenty-four (24) hour average; beryllium - one-thousandth (0.001) of a microgram per cubic meter, twenty-four (24) hour average; fluorides - twenty-five hundredths (0.25) of a microgram per cubic meter, twenty-four (24) hour average; vinyl chloride - fifteen (15) micrograms per cubic meter, twenty-four (24) hour average; hydrogen sulfide - two-tenths (0.2) of a microgram per cubic meter, one (1) hour average. (4-5-00)

ix. For any regulated air pollutant which has an ambient air quality standard, the analysis shall include continuous air monitoring data, gathered over the year preceding the submittal of the application, unless the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year, but not less than four (4) months, which is adequate for determining whether the emissions of that regulated air pollutant would cause or contribute to a violation of the ambient air quality standard or any prevention of significant deterioration (PSD) increment. (4-5-00)

x. For any regulated air pollutant which does not have an ambient air quality standard, the analysis shall contain such air quality monitoring data that the Department determines is necessary to assess ambient air quality for that air pollutant in any area that the emissions of that air pollutant would affect. (4-5-00)

xi. If requested by the Department, monitoring of visibility in any Class I area the proposed new major facility or major modification would affect. (5-1-94)

xii. Operation of monitoring stations shall meet the requirements of Appendix B to 40 CFR Part 58 or such other requirements as extensive as those set forth in Appendix B as may be approved by the Department. (5-1-94)

02. Estimates Of Ambient Concentrations. All estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51, Appendix W (Guideline on Air Quality Models). (4-5-00)

a. Where an air quality model specified in the "Guideline on Air Quality Models", is inappropriate, the model may be modified or another model substituted, subject to written approval of the Administrator of the U.S. Environmental Protection Agency and public comment pursuant to Subsection 209.01.c.; provided that modifications and substitutions of models used for toxic air pollutants will be reviewed by the Department. (4-5-00)

b. Methods like those outlined in the U.S. Environmental Protection Agency's "Interim Procedures for Evaluating Air Quality Models (Revised)" (September 1984) should be used to determine the comparability of air quality models. (5-1-94)

03. Additional Information. Any additional information, plans, specifications, evidence or documents

that the Department may require to make the determinations required under Sections 200 through 225 shall be furnished upon request. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

204. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN NONATTAINMENT AREAS ~~AND IN THE FORMER PM-10 NORTHERN ADA COUNTY NONATTAINMENT AREA (AS DEFINED IN SECTION 582).~~

~~The provision specifically referencing the former PM-10 northern Ada County nonattainment area in Section 204 shall expire by its terms and without further action when the EPA designates the former nonattainment area as either attainment or nonattainment. No permit to construct shall be granted for a n~~New major facilities or major modifications ~~which is~~ proposed for location in a nonattainment area ~~or in the former PM-10 northern Ada County nonattainment area~~ and which would be major for the nonattainment regulated air pollutant(s) ~~unless the applicant shows to the satisfaction of the Department all of the following:~~ are considered nonattainment new source review (NSR) actions and are subject to the requirements in Section 204. Section 202 contains application requirements and Section 209 contains processing requirements for nonattainment NSR permitting actions. The intent of Section 204 is to incorporate the federal nonattainment NSR rule requirements. (~~3-30-01~~)(2-5-04)T

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 51.165, revised as of July 1, 2003, and supplemented by 68 Fed. Reg. 63,021 (November 7, 2003) (to be codified at 40 CFR 51.165), are hereby incorporated by reference. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 2003, and supplemented by 67 Fed. Reg. 80,186 (December 31, 2002) and 68 Fed. Reg. 63,021 (November 7, 2003) (to be codified at 40 CFR 52.21), are hereby incorporated by reference. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.

<u>40 CFR Reference</u>	<u>40 CFR Reference Title</u>
<u>40 CFR 51.165(a)(1)</u>	<u>Definitions</u>
<u>40 CFR 51.165(a)(2)(ii)(A) - (J)</u>	<u>Applicability Provisions</u>
<u>40 CFR 51.165(a)(6)(i) - (v)</u>	<u>Applicability Provisions</u>
<u>40 CFR 51.165(c)</u>	<u>Clean Unit Test for Emission Units that are Subject to LAER</u>
<u>40 CFR 51.165(d)</u>	<u>Clean Unit Provisions for Emission Units that Achieve an Emission Limitation Comparable to LAER</u>
<u>40 CFR 52.21(z)(1) - (3) and (6)</u>	<u>PCP Exclusion Procedural Requirements</u>
<u>40 CFR 52.21(aa)</u>	<u>Actual PALs</u>

(2-5-04)T

02. Additional Requirements. The applicant must demonstrate to the satisfaction of the Department the following: (2-5-04)T

~~01a.~~ LAER. Except as otherwise provided in Section 204, ~~the~~ new major facility or major modification would be operated at the lowest achievable emission rate (LAER) for the nonattainment regulated air pollutant, specifically: (~~4-5-00~~)(2-5-04)T

~~ai.~~ A new major facility would meet the lowest achievable emission rate at each new emissions unit which emits the nonattainment regulated air pollutant; and (4-5-00)

~~aii.~~ A major modification would meet the lowest achievable emission rate at each new or modified emissions unit which has a net emissions increase of the nonattainment regulated air pollutant. (4-5-00)

~~02b.~~ Required offsets. Allowable emissions from the new major facility or major modification are offset by reductions in actual emissions from stationary sources, facilities, and/or mobile sources in the nonattainment area so as to represent reasonable further progress. All offsetting emission reductions must satisfy the requirements for emission reduction credits (Section 460) and provide for a net air quality benefit which satisfies the requirements of Section 208. If the offsets are provided by other stationary sources or facilities, a permit to construct shall not be issued for the new major facility or major modification until the offsetting reductions are made enforceable through the issuance of operating permits. The new major facility or major modification may not commence operation, and an operating permit for the new major facility or major modification shall not be effective before the date the offsetting reductions are achieved. (4-5-00)

~~03c.~~ Compliance status. All other sources in the State owned or operated by the applicant, or by any entity controlling, controlled by or under common control with such person, are in compliance with all applicable emission limitations and standards or subject to an enforceable compliance schedule. (5-1-94)

~~04d.~~ Effect on visibility. The effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory federal Class I area, by the new major facility or major modification is consistent with making reasonable progress toward remedying existing and preventing future visibility impairment; ~~except that:~~ (5-1-94)

~~a.~~ *New major facilities, or major modifications to major facilities, which are not designated facilities and which do not emit or have the potential to emit two hundred fifty (250) tons per year, or more, of any regulated air pollutant are exempt.* (4-5-00)

~~b.~~ Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR Part 51.304(a), may be exempted from Section 204 by the Department. (5-1-94)(2-5-04)T

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 51.165 or 40 CFR 52.21 incorporated in Section 204, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (2-5-04)T

~~05. Definition Of "Nonattainment Regulated Air Pollutant(s)". For the purposes of Section 204, the term "nonattainment regulated air pollutant(s)" shall be defined to include the pollutant PM-10 in the former northern Ada County nonattainment area.~~ (3-30-01)

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

The prevention of significant deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas in attainment or in areas that are unclassifiable for any criteria air pollutant. Section 202 contains application requirements and Section 209 contains processing requirements for PSD permit actions. The intent of Section 205 is to incorporate the federal PSD rule requirements. (2-5-04)T

~~01. Requirements For Issuance Of Permit. No permit to construct shall be granted for a new major facility or major modification which is proposed for location in an attainment or unclassifiable area for any regulated air pollutant, unless the applicant shows to the satisfaction of the Department that: **Incorporated Federal Program Requirements.** Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 2003, and supplemented by 67 Fed. Reg. 80,186 (December 31, 2002) and 68 Fed. Reg. 63,021 (November 7, 2003) (to be codified at 40 CFR 52.21), are hereby incorporated by reference. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.~~

40 CFR Reference	40 CFR Reference Title
40 CFR 52.21(a)(2)	Applicability Procedures

<u>40 CFR Reference</u>	<u>40 CFR Reference Title</u>
<u>40 CFR 52.21(b)</u>	<u>Definitions</u>
<u>40 CFR 52.21(i)</u>	<u>Review of Major Stationary Sources and Major Modifications - Source Applicability and Exempting</u>
<u>40 CFR 52.21(j)</u>	<u>Control Technology Review</u>
<u>40 CFR 52.21(k)</u>	<u>Source Impact Analysis</u>
<u>40 CFR 52.21(r)</u>	<u>Source Obligation</u>
<u>40 CFR 52.21(v)</u>	<u>Innovative Control Technology</u>
<u>40 CFR 52.21(w)</u>	<u>Permit Rescission</u>
<u>40 CFR 52.21(x)</u>	<u>Clean Unit Test</u>
<u>40 CFR 52.21(y)</u>	<u>Clean Unit Provisions for Emissions Units that Achieve an Emission Limit Comparable to BACT</u>
<u>40 CFR 52.21(z)(1) - (3) and (6)</u>	<u>PCP Exclusion Procedural Requirements</u>
<u>40 CFR 52.21(aa)</u>	<u>Actual PALS</u>

(4-5-00)(2-5-04)T

~~a. The new major facility or major modification would use the best available control technology (BACT); (5-1-94)~~

~~i. For each regulated air pollutant for which a new major facility would have the potential to emit in excess of the significant rates as defined in Section 006; and (4-5-00)~~

~~ii. At each new or modified emissions unit which has a net emissions increase of each regulated air pollutant for which a major modification has a significant net emissions increase. (4-5-00)~~

~~b. The allowable emission increases from the new major facility or major modification, in conjunction with all other applicable emissions increases or reductions, including secondary emissions, would not: (5-1-94)~~

~~i. Cause or significantly contribute to violations of any ambient air quality standard; and (5-1-94)~~

~~ii. Cause or contribute to violations of any applicable prevention of significant deterioration (PSD) increment; (5-1-94)~~

~~e. The emission increases from the new major facility or major modification would not have an adverse impact on the air quality related values, including visibility, of any federal Class I area or Class I area designated by the Department, and any effect on visibility of any integral vista of a mandatory federal Class I area would be consistent with making reasonable progress toward remedying existing and preventing future visibility impairment. However, any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the required identification criteria, may be exempted by the Department. (4-5-00)~~

~~02. **Phased Construction Projects.** For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at least eighteen (18) months prior to commencement of each independent phase of the project. (5-1-94)~~

~~032. **Innovative Control Technology.** If requested by the owner or operator of the new major facility or major modification, the Department may, with the consent of the Governor of any other affected state, approve a system of innovative control technology. **Exception to Incorporation by Reference of 40 CFR 52.21.** Every use of the word Administrator in 40 CFR 52.21 means the Department except for the following: (5-1-94)(2-5-04)T~~

a. ~~A proposed system of innovative control technology may be approved if:~~ In 40 CFR 52.21(b)(17), the definition of federally enforceable, Administrator means the EPA Administrator. (5-1-94)(2-5-04)T

~~i. The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;~~ (5-1-94)

~~ii. The owner or operator agrees to achieve a level of continuous emissions control equivalent to that which would have been required for BACT by a date specified by the Department, but not later than four (4) years from the time of start-up or seven (7) years from permit issuance;~~ (5-1-94)

~~iii. The allowable emissions from the facility employing the system of innovative control technology satisfy all other applicable requirements;~~ (4-5-00)

~~iv. Prior to the date established pursuant to Subsection 205.03.a.ii., the new major facility or major modification would not cause or significantly contribute to any violation of an ambient air quality standard, impact any Class I area, or impact any area where a prevention of significant deterioration (PSD) increment is known to be violated.~~ (4-5-00)

b. ~~The Department shall withdraw its approval to employ a system of innovative control technology if:~~ In 40 CFR 52.21(l)(2), air quality models, Administrator means the EPA Administrator. (5-1-94)(2-5-04)T

~~i. The proposed system fails by the specified date to achieve the required continuous emission control;~~ (5-1-94)

~~ii. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or~~ (5-1-94)

~~iii. The Department decides that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.~~ (5-1-94)

c. ~~If the system of innovative control technology fails to meet the required level of continuous emission control or if approval for the system is withdrawn by the Department, the Department may allow the new major facility or major modification up to three (3) years from the date of withdrawal to meet the requirement for the application of BACT through the use of a demonstrated system of control.~~ In 40 CFR 52.21(b)(43), permit program approved by the Administrator, Administrator means the EPA Administrator. (5-1-94)(2-5-04)T

d. In 40 CFR 52.21(b)(48)(ii)(c), MACT standard that is proposed or promulgated by the Administrator, Administrator means the EPA Administrator. (2-5-04)T

e. In 40 CFR 52.21(b)(50)(i), regulated NSR pollutant as defined by Administrator, Administrator means the EPA Administrator. (2-5-04)T

f. In 40 CFR 52.21(y)(4)(i), Administrator for BACT, LAER and RACT clearinghouse means the EPA Administrator. (2-5-04)T

043. Exemptions Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 52.21 incorporated in Section 205, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (5-1-94)(2-5-04)T

~~**a.** New major facilities, or major modifications to major facilities, which are not designated facilities and which do not emit or have the potential to emit two hundred fifty (250) tons per year or more, of any regulated air pollutant are exempt from complying with the conditions of Subsections 205.01.a., 205.01.b.ii., and 205.01.c., for obtaining a permit to construct.~~ (4-5-00)

~~**b.** Temporary emissions (one (1) year or less in duration unless otherwise approved by the~~

~~Department) from a new major facility or major modification that would not impact a Class I area or area where an applicable prevention of significant deterioration (PSD) increment is known to be violated are exempt from complying with the conditions of Subsections 205.01.b. and 205.01.c. for obtaining a permit to construct. (4-5-00)~~

206. OPTIONAL OFFSETS FOR PERMITS TO CONSTRUCT.

The owner or operator of any proposed new or modified stationary source, new major facility, or major modification, which cannot meet the requirements of Subsections ~~202.01.c.vi., 203.02, 203.03, 204.04~~2.d., 205.01-b. (40 CFR 52.21(k)) ~~or 205.01.e., and 209.02.b.vi.,~~ may propose the use of an emission offset in order to meet those requirements and thereby obtain a permit to construct. Any proposed emission offset must satisfy the requirements for emission reduction credits, Section 460, and demonstrate, through appropriate dispersion modeling, that the offset will reduce ambient concentrations sufficiently to meet the requirements at all modeled receptors which could not otherwise have met the requirements. ~~(6-30-95)(2-5-04)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. (4-5-00)

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 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. (5-3-03)

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.~~ (4-5-00)(2-5-04)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. (4-5-00)

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 228. 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. (7-1-02)

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. (4-5-00)

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 (4-5-00)

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: (4-5-00)

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. (4-5-00)

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. (4-5-00)

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. (4-5-00)

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. (4-5-00)

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 (4-5-00)

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: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (4-5-00)

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. (4-5-00)

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. (4-5-00)

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. (4-5-00)

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. (4-5-00)

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. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

225. PERMIT TO CONSTRUCT PROCESSING FEE.

A permit to construct processing fee, calculated by the Department pursuant to the categories provided in the following table, shall be paid to the Department by the person receiving the permit. The applicable processing fee category shall be determined by adding together the amount of increases of regulated pollutant emissions and subtracting any decreases of regulated pollutant emissions as identified in the permit to construct. The fee calculation

shall not include fugitive emissions.

PERMIT TO CONSTRUCT CATEGORY	FEE
General permit, no facility-specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis. General permit facilities may include portable concrete batch plants, portable hot-mix asphalt plants and portable rock crushing plants.)	\$500
New source or modification to existing source with increase of emissions of less than one (1) ton per year	\$1,000
New source or modification to existing source with increase of emissions of one (1) to less than ten (10) tons per year	\$2,500
New source or modification to existing source with increase of emissions of ten (10) to less than one hundred (100) tons per year	\$5,000
Nonmajor New source or modification to existing source with increase of emissions of one hundred (100) tons per year or more exempt under Subsection 205.04	\$7,500
New major facility or major modification not exempt under Subsection 205.04.	\$10,000
Permit modifications where no engineering analysis is required	\$250
Application submittals for exemption applicability determinations, typographical errors, and name and ownership changes as described in Subsections 224.01, 224.02, 224.03	\$0.00

~~(7-1-02)~~(2-5-04)T

(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 399 may apply to the Department for an operating permit to: (7-1-02)

- 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 204.02.b. or 206; ~~(5-1-94)~~(2-5-04)T
- 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; (4-5-00)
- d. Authorize the use of a potential to emit limitation to exempt the facility from Tier I permitting requirements. (4-5-00)
- 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 399 with a permit to construct which establishes any emission standard different from those in these rules. (7-1-02)

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 (4-5-00)

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. (4-5-00)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0401

NOTICE OF RULEMAKING - NEGOTIATED RULE

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105 and 39-107, Idaho Code.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. Additional meetings will be scheduled as necessary. For information regarding additional meetings, contact Phyllis Heitman at (208) 373-0502 or pheitman@deq.state.id.us.

March 10, 2004, 9 a.m. to 12 noon
Department of Environmental Quality
Conference Room D
1410 N. Hilton, Boise, Idaho

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) is conducting a negotiated rulemaking. This negotiated rulemaking will review the structure and efficiency of the air quality permitting rules to modernize, update, and clarify appropriate portions. The new source review and prevention of significant deterioration equipment replacement rule revision may also be added. DEQ will also codify air permitting policies and guidance where appropriate. In addition, this rulemaking will correct any inaccurate cross-references or similar issues.

The text of the rule will be developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Both major and minor sources of air emissions may be interested in participating in this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to participate in this rulemaking.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning the negotiated rulemaking, contact Martin Bauer at (208)373-0440, mbauer@deq.state.id.us, or Pat Nair at (208) 373-0447, pnair@deq.state.id.us.

Dated this 27th day of January, 2004.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208) 373-0418
Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0303

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule were effective February 5, 2004. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Idaho Code Sections 67-5224 and 67-5226, notice is hereby given that the Board has adopted a pending rule and amended a previously adopted temporary rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to correct errors found in Section 210. Those areas that have been identified for correction include cross-reference citations, the domestic supply use criteria for chlordane in Subsection 210.01, and the conversion factor for cadmium in Subsection 210.02. In addition, this rulemaking will include the addition of omitted dissolved total conversion factors for chromium (VI) and mercury in Subsection 210.02.

In October 2003 the Board adopted the rule as a temporary rule. In December 2003, the Department of Environmental Quality (DEQ) published the temporary/proposed rule, inviting the public to comment on the rule. Idaho Administrative Bulletin, December 3, 2003, Volume 03-12, pages 130 through 139. No public comments were received; however, additional corrections have been made to the tables found at Subsections 210.01.c. and 210.02.b. for consistency with the National Toxics Rule. The 210.01.c. table was revised by restoring the selenium acute criterion (CMC) to 20 µg/l as a total recoverable concentration and by adding a reference to footnote "f". In addition, a correction has been made to a citation found in footnote "e". The 210.02.b. table was revised by removing the conversion factor for selenium criteria because it is no longer necessary. The need for these corrections was discovered by DEQ after adoption of the temporary rule. The rulemaking record, which contains a detailed explanation for these changes, can be obtained by contacting the undersigned.

SECTION 39-107D, IDAHO CODE STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Don Essig at (208)373-0502, dessig@deq.state.id.us.

Dated this 5th day of February, 2004.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58, TITLE 01, CHAPTER 02

WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

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 text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-12, December 3, 2003, pages 130 through 139.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0102-0303

SUBSECTIONS 210.01 and 210.02

210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.

01. Criteria For Toxic Substances. The criteria of Section 210 apply to surface waters of the state as follows. (5-3-03)

a. Columns B1, B2, and C2 of the following table apply to waters designated for aquatic life use. (5-3-03)

b. Column C2 of the following table applies to waters designated for recreation use. (5-3-03)

c. Column C1 of the following table applies to waters designated for domestic water supply use.

A		B Aquatic life		Human health for consumption of:				
(Number) Compound	^a CAS Number	^b CMC (µg/L)	^b CCC (µg/L)	Water & organisms (µg/L)		Organisms only (µg/L)		
		B1	B2	C1		C2		
1	Antimony	7440360			14	l	4300	l
2	Arsenic	7440382	360	e	190	e	50	d
3	Beryllium	7440417				h		h
4	Cadmium	7440439	3.7	i	1.0	i		h

A		B Aquatic life			Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L)	^b CCC (µg/L)	Water & organisms (µg/L)	Organisms only (µg/L)	
		B1	B2	C1	C2	
5a	Chromium III	16065831	550 i	180 i	h	h
5b	Chromium VI	18540299	15 e	10 e	h	h
6	Copper	7440508	17 i	11 i		
7	Lead	7439921	65 i	2.5 i	h	h
8	Mercury	7439976	2.1 e	0.012 fg	0.14	0.15
9	Nickel	7440020	1400 i	160 i	610 c	4600 c
10	Selenium	7782492	4820 f	5 f	h	h
11	Silver	7440224	3.4 i			
12	Thallium	7440280			1.7 c	6.3 c
13	Zinc	7440666	114 i	105 i		
14	Cyanide	57125	22 j	5.2 j	700 c	220000 c
15	Asbestos	1332214			7,000,000 fibers/L k	
16	2, 3, 7, 8-TCDD Dioxin	1746016			0.000000013 l	0.000000014 l
17	Acrolein	107028			320	780
18	Acrylonitrile	107131			0.059 cl	0.66 cl
19	Benzene	71432			1.2 cl	71 cl
20	Bromoform	75252			4.3 cl	360 cl
21	Carbon Tetrachloride	56235			0.25 cl	4.4 cl
22	Chlorobenzene	108907			680 c	21000 c
23	Chlorodibromomethane	124481			0.41 cl	34 cl
24	Chloroethane	75003				
25	2-Chloroethylvinyl Ether	110758				
26	Chloroform	67663			5.7 cl	470 cl
27	Dichlorobromomethane	75274			0.27 cl	22 cl
28	1,1-Dichloroethane	75343				
29	1,2-Dichloroethane	107062			0.38 cl	99 cl
30	1,1-Dichloroethylene	75354			0.057 cl	3.2 cl
31	1,2-Dichloropropane	78875				
32	1,3-Dichloropropylene	542756			10 c	1700 c
33	Ethylbenzene	100414			3100 c	29000 c

A		B Aquatic life		Human health for consumption of:				
(Number) Compound	^a CAS Number	^b CMC (µg/L)	^b CCC (µg/L)	Water & organisms (µg/L)		Organisms only (µg/L)		
		B1	B2	C1		C2		
34	Methyl Bromide	74839			48	c	4000	c
35	Methyl Chloride	74873				h		h
36	Methylene Chloride	75092			4.7	cl	1600	cl
37	1,1,2,2-Tetrachloroethane	79345			0.17	cl	11	cl
38	Tetrachloroethylene	127184			0.8	l	8.85	l
39	Toluene	108883			6800	c	200000	c
40	1,2-Trans-Dichloroethylene	156605						
41	1,1,1-Trichloroethane	71556				h		h
42	1,1,2-Trichloroethane	79005			0.6	cl	42	cl
43	Trichloroethylene	79016			2.7	l	81	l
44	Vinyl Chloride	75014			2	l	525	l
45	2-Chlorophenol	95578						
46	2,4-Dichlorophenol	120832			93	c	790	c
47	2,4-Dimethylphenol	105679						
48	2-Methyl-4,6-Dinitrophenol	534521			13.4		765	
49	2,4-Dinitrophenol	51285			70	c	14000	c
50	2-Nitrophenol	88755						
51	4-Nitrophenol	100027						
52	3-Methyl-4-Chlorophenol	59507						
53	Pentachlorophenol	87865	20 m	13 m	0.28	cl	8.2	cl
54	Phenol	108952			21000	c	4600000	c
55	2,4,6-Trichlorophenol	88062			2.1	cl	6.5	cl
56	Acenaphthene	83329						
57	Acenaphthylene	208968						
58	Anthracene	120127			9600	c	110000	c
59	Benzidine	92875			0.00012	cl	0.00054	cl
60	Benzo(a)Anthracene	56553			0.0028	l	0.031	l
61	Benzo(a)Pyrene	50328			0.0028	l	0.031	l

A		B Aquatic life		Human health for consumption of:				
(Number) Compound	^a CAS Number	^b CMC (µg/L)	^b CCC (µg/L)	Water & organisms (µg/L)		Organisms only (µg/L)		
		B1	B2	C1		C2		
62	Benzo(b)Fluoranthene	205992			0.0028	I	0.031	I
63	Benzo(ghi)Perylene	191242						
64	Benzo(k)Fluoranthene	207089			0.0028	I	0.031	I
65	Bis(2-Chloroethoxy) Methane	111911						
66	Bis(2-Chloroethyl)Ether	111444			0.031	cl	1.4	cl
67	Bis(2-Chloroisopropyl) Ether	108601			1400	c	170000	c
68	Bis(2-Ethylhexyl) Phthalate	117817			1.8	cl	5.9	cl
69	4-Bromophenyl Phenyl Ether	101553						
70	Butylbenzyl Phthalate	85687						
71	2-Chloronaphthalene	91587						
72	4-Chlorophenyl Phenyl Ether	7005723						
73	Chrysene	218019			0.0028	I	0.031	I
74	Dibenzo(a,h)Anthracene	53703			0.0028	I	0.031	I
75	1,2-Dichlorobenzene	95501			2700	c	17000	c
76	1,3-Dichlorobenzene	541731			400		2600	
77	1,4-Dichlorobenzene	106467			400		2600	
78	3,3'-Dichlorobenzidine	91941			0.04	cl	0.077	cl
79	Diethyl Phthalate	84662			23000	c	120000	c
80	Dimethyl Phthalate	131113			313000		2900000	
81	Di-n-Butyl Phthalate	84742			2700	c	12000	c
82	2,4-Dinitrotoluene	121142			0.11	I	9.1	I
83	2,6-Dinitrotoluene	606202						
84	Di-n-Octyl Phthalate	117840						
85	1,2-Diphenylhydrazine	122667			0.040	cl	0.54	cl
86	Fluoranthene	206440			300	c	370	c
87	Fluorene	86737			1300	c	14000	c

A		B Aquatic life		Human health for consumption of:			
(Number) Compound	^a CAS Number	^b CMC (µg/L)	^b CCC (µg/L)	Water & organisms (µg/L)		Organisms only (µg/L)	
		B1	B2	C1		C2	
88	Hexachlorobenzene	118741		0.00075	cl	0.00077	cl
89	Hexachlorobutadiene	87683		0.44	cl	50	cl
90	Hexachloro-cyclopentadiene	77474		240	c	17000	c
91	Hexachloroethane	67721		1.9	cl	8.9	cl
92	Ideno (1,2,3-cd) Pyrene	193395		0.0028	l	0.031	l
93	Isophorone	78591		8.4	cl	600	cl
94	Naphthalene	91203					
95	Nitrobenzene	98953		17	c	1900	c
96	N-Nitrosodimethylamine	62759		0.00069	cl	8.1	cl
97	N-Nitrosodi-n-Propylamine	621647					
98	N-Nitrosodiphenylamine	86306		5.0	cl	16	cl
99	Phenanthrene	85018					
100	Pyrene	129000		960	c	11000	c
101	1,2,4-Trichlorobenzene	120821					
102	Aldrin	309002	3	0.00013	cl	0.00014	cl
103	alpha-BHC	319846		0.0039	cl	0.013	cl
104	beta-BHC	319857		0.014	cl	0.046	cl
105	gamma-BHC (Lindane)	58899	2	0.019	l	0.063	l
106	delta-BHC	319868					
107	Chlordane	57749	2.4	0.0043	cl	0.00059	cl
108	4,4'-DDT	50293	1.1	0.001	cl	0.00059	cl
109	4,4'-DDE	72559		0.00059	cl	0.00059	cl
110	4,4'-DDD	72548		0.00083	cl	0.00084	cl
111	Dieldrin	60571	2.5	0.0019	cl	0.00014	cl
112	alpha-Endosulfan	959988	0.22	0.056	c	2.0	c

A		B Aquatic life		Human health for consumption of:				
(Number) Compound	^a CAS Number	^b CMC (µg/L)	^b CCC (µg/L)	Water & organisms (µg/L)		Organisms only (µg/L)		
		B1	B2	C1		C2		
113	beta-Endosulfan	33213659	0.22	0.05 6	0.93	c	2.0	c
114	Endosulfan Sulfate	1031078			0.93	c	2.0	c
115	Endrin	72208	0.18	0.00 23	0.76	c	0.81	c
116	Endrin Aldehyde	7421934			0.76	c	0.81	c
117	Heptachlor	76448	0.52	0.00 38	0.00021	cl	0.00021	cl
118	Heptachlor Epoxide	1024573	0.52	0.00 38	0.00010	cl	0.00011	cl
119	Polychlorinated Biphenyls PCBs:	n		0.01 4 n	0.00017	o	0.00017	o
120	Toxaphene	8001352	0.73	0.00 02	0.00073	cl	0.00075	cl
121	Chlorine		19 k	11 k				

Note to table: Table values are from 57 FR 60910, December 22, 1992 (National Toxics Rule) except as noted.
Table Footnotes

a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.

b. See Definitions, Section 003 of these rules.

c. This criterion has been revised to reflect The Environmental Protection Agency's q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of December 22, 1992. The fish tissue bioconcentration factor (BCF) from the 1980 Ambient Water Quality Criteria document was retained in each case.

d. Inorganic form only. The criterion for arsenic is the MCL in effect as of April 5, 2000.

e. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.~~b~~.^c.ⁱⁱ. CMC = column B1 value X WER. CCC = column B2 value X WER.

f. Criterion expressed as total recoverable (unfiltered) concentrations.

g. If the CCC for total mercury is exceeded more than once in a three (3) year period in ambient water, the edible portion of aquatic species of concern must be analyzed to determine whether the concentration of methyl mercury exceeds the FDA action level (one (1.0) mg/kg). If the FDA action level is exceeded, the Director must notify the EPA regional administrator, initiate a review and as appropriate, revision of its mercury criterion in these water quality standards, and take other appropriate action such as the issuance of fish consumption advisory for the affected area.

A		B Aquatic life		Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
h. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.					
i. Aquatic life criteria for these metals are expressed as a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.b.ii and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).					
j. Criteria are expressed as weak acid dissociable (WAD) cyanide.					
k. Total chlorine residual concentrations.					
l. This criterion is based on carcinogenicity of 10 ⁻⁶ risk.					
m. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8). CMC = exp(1.005(pH)-4.830) CCC = exp(1.005(pH)-5.290)					
n. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.					
o. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).					

(10-24-03)F(2-5-04)T

02. Factors For Calculating Hardness Dependent Metals Criteria. Hardness dependent metals criteria are calculated using values from the following table in the equations: (5-3-03)

a. $CMC = WER \exp\{m_A[\ln(\text{hardness})] + b_A\} \times \text{Acute Conversion Factor}$. (5-3-03)

b. $CCC = WER \exp\{m_C[\ln(\text{hardness})] + b_C\} \times \text{Chronic Conversion Factor}$.

Metal	m_A	b_A	m_C	b_C	^a Acute Conversion Factor	^a Chronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0
Cadmium	1.128	-3.828	0.7852	-3.490	0.944	0.909
Chromium (III)	0.819	3.688	0.8190	1.561	0.316	0.860
Chromium (VI)	b	b	b	b	0.982	0.962
Copper	0.9422	-1.464	0.8545	-1.465	0.960	0.960
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
Mercury	b	b	b	b	0.85	b

Nickel	0.846	3.3612	0.8460	1.1645	0.998	0.997
<i>Selenium</i>	<i>b</i>	<i>b</i>	<i>b</i>	<i>b</i>	0.922	<i>b</i>
Silver	1.72	-6.52	c	c	0.85	c
Zinc	0.8473	0.8604	0.8473	0.7614	0.978	0.986

Note to table: The term "exp" represents the base e exponential function.

Footnotes to table:

a. Conversion factors (CF) are from "Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth." The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table.

Cadmium

Acute: $CF = 1.136672 - [(\ln \text{ hardness})(0.041838)]$

Chronic: $CF = 1.101672 - [(\ln \text{ hardness})(0.041838)]$

Lead (Acute and Chronic): $CF = 1.46203 - [(\ln \text{ hardness})(0.145712)]$

b. Not applicable

c. No chronic criteria are available for silver.

~~(10-24-03)F(2-5-04)T~~

Subjects Affected Index

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - Rules For The Control Of Air Pollution In Idaho

Docket No. 58-0101-0302

322. Standard Contents Of Tier I Operating Permits.....	14
---	----

Docket No. 58-0101-0304

006. General Definitions.....	21
200. Procedures And Requirements For Permits To Construct.....	29
202. Application Procedures.....	29
204. Permit Requirements For New Major Facilities Or Major Modifications In Nonattainment Areas.....	32
205. Permit Requirements For New Major Facilities Or Major Modifications In Attainment Or Unclassifiable Areas.....	33
206. Optional Offsets For Permits To Construct.....	36
209. Procedure For Issuing Permits.....	36
225. Permit To Construct Processing Fee.....	39
401. Tier II Operating Permit.....	40

58.01.02 - Water Quality Standards And Wastewater Treatment Requirements

Docket No. 58-0102-0303

210. Numeric Criteria For Toxic Substances For Waters Designated For Aquatic Life, Recreation, Or Domestic Water Supply Use.....	44
--	----

LEGAL NOTICE

Summary of Proposed Rulemakings

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

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

Because of the moratorium on proposed rulemaking during the legislative session, there are no proposed rules being promulgated or published in this month's Bulletin.

Please refer to the Idaho Administrative Bulletin, **March 3, 2004, Volume 04-3** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.

Copies of the Administrative Bulletin and other rules publications are available for purchase. For subscription information and ordering call (208) 332-1820 or write the Office of the Administrative Rules Coordinator, Department of Administration, 650 W. State St., Room 100, Boise, Idaho 83720. Visa and Mastercard accepted.

The Idaho Administrative Bulletin and Administrative Code are available on the Internet at the following address:
<http://www2.state.id.us/adm/adminrules/>

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

**FOR THE ABOVE LINK TO WORK YOU HAVE
TO BE CONNECTED TO THE INTERNET**

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

Subject Index

A
Additional Procedures For Specified Sources 37
Alternative Operating Scenarios, Tier I Operating Permits 14
Authority For & Form Of Terms & Conditions, Tier I Operating Permits 14

C
Compliance Schedule & Progress Reports, Tier I Operating Permits 16
Compliance Status 33
Criteria For Toxic Substances 44

D
Definition Of Nonattainment Regulated Air Pollutant(s) 33

E
Effect On Visibility 33
Emission Limitations & Standards, Tier I Operating Permits 14
Establishing A Good Engineering Stack Height, Air Pollution Control 38
Estimates Of Ambient Concentrations, Air Pollution Control 31

F
Factors For Calculating Hardness Dependent Metals Criteria 50

G
General Definitions, IDAPA 58.01.01, Rules For The Control Of Air Pollution In Idaho 21
General Requirements, Tier I Operating Permit 17

I
Incorporated Federal Program Requirements 32

L
LAER 32

M
Modification, Stationary Source Or Facility 22
Monitoring, Air Pollution Control 22
Monitoring, Tier I Operating Permits 15
Multiple Chamber Incinerator 22
Multiple Tier II Operating Permits 41

N
New Stationary Source Or Facility, Air Pollution Control 22
Nonattainment Area, Air Pollution Control 23
Noncondensibles, Air Pollution Control 23
Numeric Criteria For Toxic Substances For Waters Designated For Aquatic Life, Recreation, Or Domestic Water Supply Use 44

O
Opacity, Air Pollution Control 23
Operating Permit, Air Pollution Control 23
Optional Offsets For Permits To Construct, Air Pollution Control 36
Optional Tier II Operating Permits 40
Other Specific Requirements, Tier I Operating Permits 17

P
PM-10 Emissions, Air Pollution Control 23
PM-10, Air Pollution Control 23
PPM (Parts Per Million) 24
Particulate Matter Emissions 23
Particulate Matter, Air Pollution Control 23
Periodic Compliance Certifications, Tier I Operating Permits 16
Permit Conditions Regarding Acid Rain Allowances, Tier I Operating Permits 17
Permit Duration, Tier I Operating Permits 17
Permit Requirements For New Major Facilities Or Major Modifications In Attainment Or Unclassifiable Areas, Air Pollution Control 33
Permit Requirements For New Major Facilities Or Major Modifications In Nonattainment Areas 32
Permit To Construct Procedures For Tier I Sources 38
Permit To Construct Processing Fee 39
Permit To Construct, Air Pollution Control 23
Portable Equipment 24
Potential To Emit/Potential Emissions, Air Pollution Control 23
Prescribed Fire Management Burning,

Air Pollution Control 24
Primary Ambient Air Quality Standard 24
Procedure For Issuing Permits, Permit To Construct 36
Procedures & Requirements For Permits To Construct, Air Pollution Control 29
Process Or Process Equipment, Air Pollution Control 24
Process Weight Rate, Air Pollution Control 24
Process Weight, Air Pollution Control 24

R
Radionuclide, Air Pollution Control 24
Recordkeeping, Tier I Operating Permits 15
Regulated Air Pollutant 25
Replicable, Air Pollution Control 25
Reporting, Tier I Operating Permits 15
Required Offsets 33
Required Tier II Operating Permits 40
Revisions Of Permits To Construct, Air Pollution Control 38

S
Safety Measure, Air Pollution Control 26
Salvage Operation, Air Pollution Control 26
Scheduled Maintenance, Air Pollution Control 26
Secondary Ambient Air Quality Standard 26
Shutdown, Air Pollution Control 26
Significant Contribution, Air Pollution Control 27
Significant, Air Pollution Control 26
Smoke Management Plan 28
Smoke Management Program 28
Source Operation, Air Pollution Control 28
Stack, Air Pollution Control 28
Standard Conditions, Air Pollution Control 28
Standard Contents Of Tier I Operating Permits 14
Startup, Air Pollution Control 28
Stationary Source 28

T

TRS (Total Reduced Sulfur) 29
Terms Or Conditions For Applicable
Requirements, Tier I Operating
Permits 14
Testing, Tier I Operating Permits 16
Tier I Source 28
Tier II Operating Permit 40
Tier II Operating Permits Required By
The Department 41
Total Suspended Particulates 28
Toxic Air Pollutant 28
Toxic Air Pollutant Carcinogenic
Increments 28
Toxic Air Pollutant Non-Carcinogenic
Increments 29
Toxic Substance, Air Pollution
Control 29
Trade Waste, Air Pollution Control 29
Trading Scenarios, Tier I Operating
Permits 14

U

Unclassifiable Area, Air Pollution
Control 29
Uncontrolled Emission, Air Pollution
Control 29
Upset, Air Pollution Control 29

W

Wood Stove Curtailment Advisory 29