

<p>Docket Number: <u>58-0101-1501</u> Effective Date: <u>2016 Sine die</u> Rules Title: <u>Rules for the Control of Air Pollution in Idaho</u> Agency Contact and Phone: <u>Tiffany Floyd, 373-0440</u></p>	<p style="text-align: center;">Public Notice</p> <p>Hearings: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Locations and Dates: Boise, ID – 9/9/15 Written Comment Deadline: 9/9/15</p>
<p>Descriptive Summary of Rule as Initially Proposed: The purpose of this rulemaking is to ensure that the state rules are consistent with federal regulations and to update federal regulations incorporated by reference to include those revised as of July 1, 2015.</p> <p>This rulemaking reconciles Idaho's state rules with federal regulations by making three minor revisions:</p> <ol style="list-style-type: none"> 1) The greenhouse gas definition of major source at Section 008 is now obsolete after the federal definition was vacated by the U.S. Supreme Court. This definition is being removed. 2) The federal regulations incorporated by reference are updated by capturing revisions as of July 1, 2015 (Section 107) and by removing two federal provisions that are no longer required (Sections 107.03.q. and 564). 3) The permit to construct section (Section 200) is clarified to define a major source to include both the prevention of significant deterioration (PSD) and nonattainment new source review definitions. The current rule implies that only the PSD definition applies. Idaho is required by federal law to implement both as appropriate. <p>A copy of the Air Quality Regulatory Summary is attached.</p> <p>DEQ recommends that the Board adopt the rule, as presented in the final proposal, as a pending rule with the final effective date coinciding with the adjournment <i>sine die</i> of the Second Regular Session of the Sixty-third Idaho Legislature. The rule is subject to review by the Legislature before becoming final and effective.</p>	<p>Negotiated Rule Making: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of Clean Air Act programs. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.</p> <p>Costs To the Agency: No additional costs to the agency.</p> <p>Costs To the Regulated Community: No additional costs to the regulated community.</p> <p>Relevant Statutes: Sections 39-105 and 39-107, Idaho Code</p> <p>Idaho Code § 39-107D 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 regulations.</p> <p>Fiscal Impact Statement: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.</p>

Temporary Rule	<input type="checkbox"/> Necessary to protect public health, safety or welfare <input type="checkbox"/> Compliance with deadlines in amendments to governing law or federal programs <input type="checkbox"/> Conferring a benefit
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Section	Section Title	Summary of Rule Changes Based on Public Comment
008.	Definitions for the Purposes of Sections 300 Through 386.	This section has not been changed. No comment received.
107.	Incorporations by Reference.	This section has not been changed. No comment received.
200.	Procedures and Requirements for Permits to Construct.	This section has not been changed. No comment received.
563.	Transportation Conformity.	This section has not been changed. No comment received.
564.	Incorporation by Reference.	This section has not been changed. No comment received.

Air Quality Regulatory Summary
Docket No. 58-0101-1501
July 1, 2014 to June 30, 2015

Overview

In order for DEQ to be the implementing authority for the Clean Air Act in the state of Idaho, DEQ is required to 1) monitor and maintain the National Ambient Air Quality Standards and 2) have the required laws and infrastructure to run an air quality permitting program.

An efficient way to implement new or updated federal regulations is to incorporate them by reference. It is impractical and costly for Idaho to reproduce the Code of Federal Regulations in our state rules. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations and to provide one set of rules for industry to follow. Idaho industry is required to comply with all applicable new and updated federal rules regardless of whether DEQ incorporates them by reference. If DEQ does not have the authority to implement a rule, then EPA would be the implementing authority. For consistency, DEQ may still incorporate by reference sections with no changes to ensure there is only one set of rules for industry to reference (i.e. the Code of Federal Regulations as of July 1, 2015).

Some rules worth highlighting that may have greater impact in Idaho:

1. Electronic state implementation plan submittal: EPA promulgated a rule that allows states to electronically submit a state implementation plan. Since some state implementation plan submittals and accompanying technical support documents can be hundreds if not thousands of pages, and electronic submittal will be cheaper and more efficient.
2. Woodstove New Source Performance Standard update: EPA updated the existing rule for residential wood heaters. These requirements are mainly for woodstove manufacturers and EPA has retained the authority to implement these requirements.
3. Oil and Natural Gas New Source Performance Standard: EPA finalized changes to this oil and natural gas rule. This rule applies to new oil or natural gas wells like those being constructed by Alta Mesa. Any applicable requirements would be included in the appropriate Idaho DEQ issued air quality permit.

Code of Federal Regulation Sections that the DEQ Air Program incorporates by reference:

In the summary below, the Code of Federal Regulation notices are denoted in parentheses ([FR-2015-03-06](#)) as hyperlinks. A “Ctrl + Click” will take you to the corresponding document.

Part 50: National Primary and secondary ambient air quality standards

- This section contains the air quality standards that EPA promulgates for the criteria pollutants (PM₁₀, PM_{2.5}, ozone, SO₂, NO₂, lead, and CO).
- This past year EPA promulgated one rule ([FR-2015-03-06](#)) in this section that implements the 2008 ozone standard (75 parts per billion).ⁱ
- There is minimal Idaho impact from these actions.

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

- States are required to have a state implementation plan which includes our rules and area specific plans that address National Ambient Air Quality Standards. This section outlines what state environmental agencies need to include in their state implementation plans.
- There were three actions in this section: one related to reporting lead emissions in a state’s emission inventory ([FR-2015-02-19](#)), one implementing the 2008 ozone standard (75 parts per billion) ⁱ ([FR-2015-03-06](#)), and another providing for the electronic submission of state implementation plans to EPA ([FR-2015-02-10](#)).
- There is minimal Idaho impact from these actions.

Part 52, Subparts A and N and Appendices D and E: Approval and promulgation of implementation plans

- This section contains general provisions associated with state implementation plans and Idaho specific state implementation plan actions.
- EPA promulgated 11 rules in this section, most of which are EPA responses to Idaho state implementation plan submittals: a PM and ozone infrastructure state implementation plan approval ([FR-2014-07-14](#)), a Portneuf Valley state implementation plan motor vehicle budget approval ([FR-2014-07-17](#)), a Franklin County PM emission inventory approval ([FR-2014-07-18](#)), a NO₂ and SO₂ infrastructure state implementation plan approval ([FR-2014-08-11](#)), an approval of the Ada County second ten year PM₁₀ maintenance plan submittal [FR-2014-10-02](#), recognition that DEQ completed the infrastructure state implementation plan requirements for NO₂ (other states were found out of compliance) ([FR-2014-11-24](#)), an update of the rules that have been approved into the Idaho state implementation plan ([FR-2015-04-01](#)), the EPA response to the DEQ 2014 incorporation by reference rulemaking submittal ([FR-2015-04-07](#)), a PM_{2.5} interstate transport state implementation plan approval [FR-2015-04-17](#), a rule implementing the 2008 ozone standard (75 parts per billion) ⁱ ([FR-2015-03-06](#)), and

another rule providing for the electronic submission of state implementation plans to EPA ([FR-2015-02-10](#)).

- These actions are administrative in nature.

Part 53: Ambient air monitoring reference and equivalent methods

- DEQ is required to implement a national ambient air quality standard monitoring program in Idaho. Any updates to approved monitoring methods are included in this section. Approved industrial monitoring methods are also included in this section.
- For this incorporation by reference period, there are 3 updates to monitoring methods that Idaho is incorporating: one for PM₁₀ ([FR-2014-08-20](#)), one for PM_{2.5}, CO, and ozone ([FR-2014-11-04](#)), and another for PM_{2.5} and ozone ([FR-2015-06-05](#)).
- There is minimal Idaho impact from these actions.

Part 58: Ambient air surveillance

- This section describes the requirements for states to operate a monitoring program.
- There are currently no updates to this section.

Part 60: Standards of performance for new stationary sources

- The section describes the permitting requirements for new facilities of specific industries.
- The current update includes 4 updates to new source performance standards affecting: units that implement continuous opacity monitoring systems ([FR-2014-05-16](#)), the oil and natural gas sector ([FR-2014-12-31](#)), residential wood heaters ([FR-2015-03-16](#)), and fossil fuel fired power plants ([FR-2014-11-19](#)).
- There will be an impact to Idaho from these actions. The continuous opacity monitoring update would apply to new source performance standard affected facilities required to implement continuous opacity monitoring, the new requirements for the oil and natural gas sector would be included in applicable new air quality permits, and the residential wood heater rule applies mainly to woodstove manufacturers (those requirements are implemented by EPA).

Part 61: National emission standards for hazardous air pollutants

- This section addresses the national emission standards for certain hazardous air pollutants.
- There are no updates to this section.

Part 62, Subpart HHH: Federal plan requirements for Hospital/Medical/Infectious waste incinerators constructed on or before December 1, 2008

- This section describes the requirements for hospital/medical/infectious waste incinerators. Idaho DEQ took delegation of these federal plan requirements.

- There are no updates to this section.

Part 63: National emission standards for hazardous air pollutants for source categories

- This section addresses national emission standards for hazardous air pollutants for specific source categories (i.e. industries).
- There are currently 9 updates to rules in this section that DEQ is incorporating by reference. These include: manufacture of amino/phenolic resins ([FR-2014-10-08](#)), coal and oil fired energy generating units ([FR-2014-11-19](#), [FR-2014-11-19](#), [FR-2015-03-24](#)), polyvinyl chloride and copolymers productions ([FR-2015-02-04](#)), off-site waste and recovery operations ([FR-2015-03-18](#)), flexible polyurethane foam production ([FR-2014-08-15](#)), ferroalloys production ([FR-2015-06-30](#)) and an administrative update ([FR-2015-06-03](#)).
- Idaho does not have affected facilities associated with the updated rules.

Part 64: Compliance assurance monitoring

- This section outlines the compliance assurance monitoring requirements for emission units at major sources.
- There are currently no updates to this section.

Part 70: State operating permit programs

- This section describes the minimum requirements for state permitting programs. There are two updates to this section that DEQ is incorporating by reference. One implements the 2008 ozone National Ambient Air Quality Standards (75 parts per billion) ⁱ ([FR-2015-03-06](#)) and the other fixes an inadvertent change in the compliance certification requirements ([FR-2014-07-28](#)).
- These changes are administrative in nature.

Part 72: Permits

- This section establishes permit requirements under the Acid Rain Program.
- There are currently no updates to this section.

Part 73: Sulfur dioxide allowance system

- This part establishes the requirements and procedures for a SO₂ pollutant trading program.
- Idaho currently does not have any sources participating in a pollutant trading program.
- There are currently no updates to this section.

Part 82: Protection of stratospheric ozone

- The purpose of this section is to implement the Montreal Protocol which addresses substances that deplete the ozone layer.
- There are currently 5 updates to this section that Idaho DEQ is incorporating by reference: one addresses methyl bromide exemptions ([FR-2014-07-31](#)), one expands the list of substitutes for ozone depleting substances ([FR-2014-10-21](#)), one updates the allowance system for hydrofluorochlorocarbons ([FR-2014-10-28](#)), one extends the laboratory exemption for certain ozone depleting substances ([FR-2015-01-26](#)), and the last expands the list of acceptable substitute refrigerants ([FR-2015-04-10](#)).
- These changes have minimal Idaho impact.

ⁱ The ozone standard was lowered to 70 parts per billion in late 2015.