

**Preliminary Draft Negotiated Rule (Draft No. 1)
Docket No. 58-0101-1802, Dated April 27, 2018**

Written comment deadline for this draft – June 7, 2018

**Rules for the Control of Air Pollution in Idaho
IDAPA 58.01.01**

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

New major facilities or major modifications proposed for location in a nonattainment area and which would be major for the nonattainment regulated air pollutant are considered nonattainment new source review (NSR) actions and are subject to the requirements in Section 204. Section 202 contains application requirements and Section 209 contains processing requirements for nonattainment NSR permitting actions. The intent of Section 204 is to incorporate the federal nonattainment NSR rule requirements. (4-6-05)

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 51.165 are incorporated by reference into these rules at Section 107. Requirements contained in the following subparts of 40 CFR 52.21, are incorporated by reference at Section 107 of these rules. These CFR sections have been codified in the electronic CFR at www.ecfr.gov.

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

(4-2-08)

02. Additional Requirements. The applicant must demonstrate to the satisfaction of the Department the following: (4-6-05)

a. LAER. Except as otherwise provided in Section 204, the new major facility or major modification would be operated at the lowest achievable emission rate (LAER) for the nonattainment regulated air pollutant, specifically: (4-6-05)

i. 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)

ii. 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)

b. Required offsets. Allowable emissions from the new major facility or major modification are offset by reductions in actual emissions from stationary sources, facilities, and/or mobile sources in the nonattainment area so as to represent reasonable further progress. All offsetting emission reductions must satisfy the requirements for emission reduction credits (Section 460) and provide for a net air quality benefit 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)

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

d. Effect on visibility. The effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory Class I Federal Area, by the new major facility or major modification, is consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR 51.304(a), may be exempted from Section 204 by the Department. (3-30-07)

e. For the purposes of applying the requirements of 40 CFR 51.165 (a)(13) to modifications at existing major stationary sources of ammonia located in a PM_{2.5} nonattainment area, if the plan requires that the control requirements of this section apply to major stationary sources and major modifications of ammonia as a regulated NSR pollutant (as a PM_{2.5} precursor), the significant rate for ammonia is forty (40) tons per year.

Discussion 204.02.e.: This language is verbatim from 40 CFR 51.165(a)(1)(x)(F), except that it includes 40 tons per year (tpy) as the significant rate for ammonia. This is consistent with other states (Alaska and California) and is also consistent with the other PM_{2.5} precursor significant rates – 40 tpy SO₂, 40 tpy NO_x, and 40 tpy VOCs.
