

**Negotiated Rule Draft No. 3.1**  
**Docket No. 58-0101-1801, Dated June 15, 2018**

Rule revisions have been made based on the June 12, 2018, meeting discussion and review of written comments received. These revisions are highlighted in yellow.  
This draft includes revisions to Subsection 210.20 based on DEQ review and are highlighted in gray.

**Written comment deadline for this draft – June 21, 2018**

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

**006. GENERAL DEFINITIONS.**

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**108. Significant.** In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following: (4-11-06)

- a. Pollutant and emissions rate: (4-11-06)
  - 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: (4-4-13)
    - (1) Twenty-five (25) tons per year of particulate matter emissions; (4-4-13)
    - (2) Fifteen (15) tons per year of PM<sub>10</sub> emissions; or (4-4-13)
    - (3) Ten (10) tons per year of direct PM<sub>2.5</sub> emissions; or forty (40) tons per year of sulfur dioxide emissions; or forty (40) tons per year of nitrogen oxide emissions; (4-4-13)
  - v. Ozone, forty (40) tons per year of volatile organic compounds; (4-11-06)
  - vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)
  - vii. Fluorides, three (3) tons per year; (5-1-94)
  - viii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)
  - ix. Hydrogen sulfide (H<sub>2</sub>S), ten (10) tons per year; (5-1-94)
  - x. Total reduced sulfur (including H<sub>2</sub>S), ten (10) tons per year; (5-1-94)
  - xi. Reduced sulfur compounds (including H<sub>2</sub>S), ten (10) tons per year; (5-1-94)
  - xii. 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)
  - xiii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; (5-1-94)
  - xiv. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; or (5-1-94)
  - xv. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50)

tons per year; ~~or~~.

(4-11-06)

~~xvi. 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)~~

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Discussion 006.108.a: Delete radionuclides from the list of pollutants with significant emission rate values to make it easier for the applicant (DOE/INL) to determine when a new or modified radionuclide source is exempt under Idaho rules. This revision is made in conjunction with the revisions proposed in 221.02, 222.01.a.ii and 222.01.e.ii, which rely on the EPA process for a permit decision under 40 CFR Part 61, Subpart H.

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**221. CATEGORY I EXEMPTION.**

No permit to construct is required for a source that satisfies the criteria set forth in Section 220 and the following: (4-5-00)

**01. Below Regulatory Concern.** The maximum capacity of a source to emit an air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed shall be less than ten percent (10%) of the significant emission rates set out in the definition of significant at Section 006. (4-5-00)

**02. Radionuclides.** The source ~~shall have potential emissions that are less than one percent (1%) of is~~ not required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

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Discussion 221.02: DEQ found inconsistencies with the radionuclide threshold description in the exemption rules. This proposed revision makes it easier for the applicant (DOE/INL) to determine when a new or modified radionuclide source is exempt under Idaho rules. If the new or modified radionuclide source requires EPA approval to construct under federal radionuclide rules, then the project is not exempt and requires a state permit to construct.

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**222. CATEGORY II EXEMPTION.**

No permit to construct is required for the following sources. (4-5-00)

**01. Exempt Source.** A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

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

i. Comply with Section 223. (4-5-00)

ii. ~~Have potential emissions that are less than one percent (1%) of~~ Not be required to obtain approval

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Discussion 222.01.a.ii: DEQ found inconsistencies with the radionuclide threshold description in the exemption rules. This proposed revision makes it easier for the applicant (DOE/INL) to determine when a new or modified radionuclide source is exempt under Idaho rules. If the new or modified radionuclide source requires EPA approval to construct under federal radionuclide rules, then the project is not exempt and requires a state permit to construct.

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(Break)

e. A pilot plant that uses a slip stream from an existing process stream not to exceed ten percent (10%) of that existing process stream and which satisfies the following: (4-4-13)

i. The source shall comply with Section 223. For carcinogen emissions, the owner or operator may utilize a short term adjustment factor of ten (10) by multiplying either the acceptable ambient concentration or the screening emissions level, but not both, by ten (10). (4-5-00)

ii. The source ~~shall have uncontrolled potential emissions that are less than one percent (1%) of~~ is not required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

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Discussion 222.01.e.ii: DEQ found inconsistencies with the radionuclide threshold description in the exemption rules. This proposed revision makes it easier for the applicant (DOE/INL) to determine when a new or modified radionuclide source is exempt under Idaho rules. If the new or modified radionuclide source requires EPA approval to construct under federal radionuclide rules, then the project is not exempt and requires a state permit to construct.

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iii. The exemption for a pilot plant shall terminate one (1) year after the commencement of operations and shall not be renewed. (4-5-00)

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

No permit to construct for toxic air pollutants is required for a source that satisfies any of the exemption criteria below, the recordkeeping requirements at Subsection 220.02, and reporting requirements as follows: (4-5-00)

**01. Below Regulatory Concern (BRC) Exemption.** The source qualifies for a BRC exemption if the uncontrolled emission rate (refer to Section 210) for all toxic air pollutants emitted by the source is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. (4-5-00)

**02. Level I Exemption.** To obtain a Level I exemption, the source shall satisfy the following criteria: (4-5-00)

a. The uncontrolled emission rate (refer to Section 210) for all toxic air pollutants shall be less than or equal to all applicable screening emission levels listed in Sections 585 and 586; or (4-5-00)

b. The uncontrolled ambient concentration (refer to Section 210) for all toxic air pollutants at the point of compliance shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586. (4-5-00)

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**03. Level II Exemption.** To obtain a Level II exemption, ~~the source shall satisfy the following criteria:~~ (4-5-00)

~~a. The uncontrolled ambient concentration at the point of compliance (refer to Section 210) for all toxic air pollutants emitted by the source shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586; and~~ (4-5-00)

~~b. If the owner or operator installs and operates control equipment that is not otherwise required to qualify for an exemption and the controlled emission rate (refer to Section 210) of the source for all toxic air pollutants the maximum capacity of a source to emit a toxic air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed at the point of compliance is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586.~~ (4-5-00)

**04. Level III Exemption.** To obtain a Level III exemption, the source shall satisfy the following criteria: (4-5-00)

~~a. The uncontrolled ambient concentration at the point of compliance (refer to Section 210) for all toxic air pollutants emitted by the source shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586; and~~ (4-5-00)

~~b. The controlled emission rate (refer to Section 210) for all toxic air pollutants emitted by the source shall be less than or equal to all applicable screening emission levels listed in Sections 585 and 586.~~ (4-5-00)

**0504. Annual Report for Toxic Air Pollutant Exemption.** Commencing on May 1, 1996, and annually thereafter, ~~t~~The owner or operator of a source claiming a Level I, or II, ~~or III~~ exemption shall submit a certified report for the previous calendar year to the Department for each Level I, or II, ~~or III~~ exemption determination. The owner or operator is not required to annually submit a certified report for a Level I, or II, ~~or III~~ exemption determination previously claimed and reported. The report shall be labeled "Toxic Air Pollutant Exemption Report" and shall state the date construction has or will commence and shall include copies of all exemption determinations completed by the owner or operator for each Level I, and II, ~~or III~~ exemption. (4-4-13)

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Discussion 223.03 through .05: This revision has been proposed because, as currently written, the Level II and Level III toxic air pollutant exemptions are more stringent than the Level I exemption threshold. This is because the Level II and Level III exemptions add additional requirements to the same requirements that would already qualify a source for a Level I exemption, thereby making the Level II and Level III requirements more stringent. For example, a Level II exemption requires the uncontrolled ambient concentration to be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586 and the controlled emission rate of the source be less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. However, the Level I exemption requires only that either the uncontrolled emission rate be less than or equal to the screening emissions level or the uncontrolled ambient concentration be less than or equal to the acceptable ambient concentration listed in Sections 585 and 586. This also occurs for a Level III exemption. (Affects only permit exemption requirements.)

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

In accordance with Subsection 203.03, the applicant shall demonstrate preconstruction compliance with Section 161 to the satisfaction of the Department. The accuracy, completeness, execution and results of the demonstration are all subject to review and approval by the Department. (6-30-95)

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**03. Quantification of Ambient Concentrations.**

(6-30-95)

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

(6-30-95)

~~i. For screening modeling, the models use arbitrary meteorological data and predict maximum one (1) hour concentrations for all specified receptor sites. For toxic air pollutants listed in Section 586, multiply the maximum hourly concentration output from the model by a persistence factor of one hundred twenty five one thousandths (0.125) to convert the hourly average to an annual average. For toxic air pollutants listed in Section 585, multiply the maximum hourly concentration output from the model by a persistence factor of four tenths (0.4) to convert the hourly concentration to a twenty four (24) hour average.~~

~~(6-30-95)~~

~~ii. For refined modeling, the models use site specific information. If actual meteorological data is used and the model predicts annual averages for toxic air pollutants listed in Section 586 and twenty four (24) hour averages for toxic air pollutants listed in Section 585, persistence factors need not be used.~~

~~(6-30-95)~~

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Discussion 210.03.a: The screening model referenced in Subsection 210.03.a. is outdated and no longer technically supported (no longer maintained or updated) and the adjustment factors listed in 210.03.a.i are technically incorrect for the current regulatory screening model; therefore, Subsections 210.03.a.i-ii are obsolete and unnecessary. Subsection 210.03.a directs the applicant to Subsection 202.02 where the approved screening models are described.

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

(6-30-95)

**05. Uncontrolled Emissions.**

(6-30-95)

a. Compare the source's or modification's uncontrolled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586.

(6-30-95)

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

(6-30-95)

**06. Uncontrolled Ambient Concentration.**

(6-30-95)

a. Compare the source's or modification's uncontrolled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586.

(6-30-95)

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

(6-30-95)

**07. Controlled Emissions and Uncontrolled Ambient Concentration.**

~~(6-30-95)~~

a. Compare the source's or modification's controlled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586 ~~and compare the source's or modification's uncontrolled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586.~~

~~(6-30-95)~~

b. If the source's or modification's controlled emission rate is less than or equal to the applicable screening emission level ~~and if the source's or modification's uncontrolled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration~~, no further procedures for demonstrating preconstruction compliance ~~will be~~ is required for that toxic air pollutant as part of the application process. (6-30-95)

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Discussion 210.07: Subsections 210.05 through 08 address the demonstration of preconstruction compliance with toxic standards prior to obtaining a permit, specifically dealing with emissions, in pounds per hour, and ambient concentrations, in milligrams or micrograms per cubic meter. An applicant is done with these subsections if a requirement in the previous subsections has been met. Under the current rules, an applicant first checks uncontrolled emissions (.05), then uncontrolled ambient concentration (.06), then controlled emissions and uncontrolled ambient concentration (.07), and then finally controlled ambient concentration (.08). Because .06 already addresses uncontrolled ambient concentration, it is redundant to repeat this check again in .07. The proposed revision removes the redundancy in .07.

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**08. Controlled Ambient Concentration.** (6-30-95)

a. Compare the source's or modification's controlled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

b. If the source's or modification's controlled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

c. The Department shall include an emission limit for the toxic air pollutant in the permit to construct that is equal to or, if requested by the applicant, less than the emission rate that was used in the modeling. (6-30-95)

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**20. NSPS and NESHAP Sources.** No demonstration of compliance with the toxic air pollutant provisions is required to obtain a permit to construct, or demonstrate permit to construct exemption criteria, for a new source or for modification of an existing source, if the toxic air pollutant is also a listed hazardous air pollutant under the Clean Air Act, and from:

a. The equipment or activity is covered by a NSPS or NESHAP; or

b. The source category of equipment or activity is addressed by a NSPS or NESHAP even if the equipment or activity is not subject to compliance requirements under the federal rule. (6-30-95)

~~a. If the owner or operator demonstrates that the toxic air pollutant from the source or modification is regulated by the Department at the time of permit issuance addressed under 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63, no further procedures for demonstrating preconstruction compliance will be is required under Section 210 or 223 for that toxic air pollutant as part of the application process.~~ (6-30-95)

~~b. If the owner or operator demonstrates that the toxic air pollutant from the source or modification is regulated by the EPA at the time of permit issuance under 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63 and the permit to construct issued by the Department contains adequate provisions implementing the federal standard, no further procedures for demonstrating preconstruction compliance will be required under Section 210 for that toxic air pollutant as part of the application process.~~ (6-30-95)

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Discussion 210.20: DEQ found applicants have difficulty applying this rule to their emissions sources subject to 40 CFR Part 60, 61, or 63. This proposed revision makes it easier to apply the rule by making it clear to applicants seeking a permit that, if the emissions source has already been addressed by either a NSPS or a NESHAP federal rule, no further TAPs demonstration is required for HAPs that are TAPs emitted by the source. This was the original intent of this rule section. The revision makes that clarification. (Affects only permit and exemption requirements.)

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**404. PROCEDURE FOR ISSUING PERMITS.**

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**04. Permit Revision or Renewal.** The Director may approve a revision of any Tier II operating permit or renewal of any Tier II operating permit provided the stationary source or facility continues to meet all applicable requirements of Sections 400 through 410. Revised permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsection 404.01.c. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. Renewed Tier II operating permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsections 404.01.c., and 404.02.b. through 404.02.e. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. The expiration of a permit will not affect the operation of a stationary source or a facility during the administrative procedure period associated with the permit renewal process. The permittee shall submit a complete application to the Department for a renewal of the terms and conditions establishing the Tier II operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing permit. To ensure that the term of the permit does not expire before the terms and conditions are renewed, the permittee is encouraged to submit the application nine (9) months prior to expiration. (7-1-02)

Discussion 404.04: Currently the rules have no provisions for renewing Tier II operating permits. This proposed revision notifies applicants when they should renew expiring Tier II permits. The language is consistent with the Tier I operating permit renewal requirements in Section 313.03.

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**586. TOXIC AIR POLLUTANTS CARCINOGENIC INCREMENTS.**

The screening emissions levels (EL) and acceptable ambient concentrations (AACC) for carcinogens are as provided in the following table. The AACC in this section are annual averages.

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
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542-75-6	1,3 dichloropropene	<del>3.5E-04</del> 4.0E-06	<del>1.9E-07</del> 1.7E-03	<del>2.9E-06</del> 2.5E-01
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3042-01-2	Hydrazine	2.9E-03	2.3E-06	3.4E-04
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(4-4-13)

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Discussion Section 586: Two proposed revisions: (1) A consultant recently questioned the unit risk factor (URF) for 1,3-dichloropropene. The value in IDAPA was more restrictive than the value in EPA's toxicological database by orders of magnitude. Because the original URF values in this section were based on EPA's database, the URF and corresponding acceptable ambient concentration for carcinogens (AACC) were changed accordingly. This error was made in the original list and was not noticed until now. As a minor product of combustion, 1,3-dichloropropene has not been a pollutant of concern in any permitting actions to date. (2) A typographical error was corrected in a chemical abstracts service (CAS) number for hydrazine.

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