

DEQ's Response to Comments on Draft Number 3.1
Docket No. 58-0101-1801

Commenter 1 – Idaho Conservation League	Commenter 2 - Torf Environmental Management	Commenter 3 - Simplot
Commenter 4 - Idaho Association of Commerce and Industry		

Commenter	Comment	Response
1	<p>DEQ's proposed changes to Level II Exemption criteria (§223.03) will allow permittees, in essence, to account for controllable emissions in order to qualify for a Level II exemption. DEQ's proposed language for this section mirrors language found in previous exemption sections, notably §221.01, which governs exemptions related to emissions of criteria air pollutants.</p> <p>We have concerns over utilizing the same exemption approach for criteria and toxic air pollutants given the relative toxicity of these pollutants and the effect on public health should control measures fail or be ignored. If DEQ proceeds with this Level II exemption, we request that they update the reporting requirements beyond just the first year of operation. To adequately protect public health, DEQ should require periodic reports from exempted facilities demonstrating their continued compliance with exemption criteria.</p> <p>Pursuant to §220.02, exempted facilities are required to maintain records for a period of five (5) years; however, record retention and a compliance demonstration are two different things, with the latter being a more proactive approach to ensuring public health is not needlessly put in jeopardy. We recommend DEQ require compliance demonstrations from exempted facilities at a frequency of no less than every five (5) years.</p> <p>As presented, the language presented in draft 3.1 for section 210.20 doesn't appear to reference the requirements listed in subsections a and b. We propose the following edit to this section to remedy this issue:</p> <p><i>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, <u>as demonstrated by:</u></i></p> <p><i>a. The equipment or activity covered by a NSPS or NESHAP; or</i></p> <p><i>b. The source category of equipment or activity addressed by a NSPS or NESHAP even if the equipment or activity is not subject to compliance requirements under the federal rule.</i></p> <p><i>proposed edit <u>underlined</u></i></p>	<p>DEQ staff currently receives and reviews the Level I, II, and III (Note: The Level III exemption will be removed as a result of this proposed rulemaking) annual reports, per Section 223.05 of the Rules, for TAP exemptions claimed in the previous year. Owners or operators are required to update reporting requirements beyond the first year of operation. It is only if the emissions are previously claimed and reported and no updates are required that an identical report need not be filed the subsequent year. Although Tier 1 sources are required to submit annual compliance plans, other permitted sources are not required to submit annual reports. Be advised DEQ is in the process of requiring the inspection of identified permit exempt facilities at least once every five years.</p> <p>With the exception of a permit required source test, permitted sources other than Tier 1 sources are not required to submit compliance demonstrations to DEQ annually or every five years. Therefore, it does not make sense to require sources with emissions even less than permitted sources to do so. DEQ is in the process of requiring the inspection of identified permit exempt facilities at least once every five years.</p> <p>DEQ believes that the word "from" in section 210.20 is sufficient to reference the requirements listed in subsections a and b and no additional changes are required in that section.</p>

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2	<p>1. <u>Proposed Revisions Section 223.03 and 223.04</u> I support these revisions. The proposed revisions in 223.03 delete rarely used extra stringent provisions in favor of controlled BRC TAP emissions. This revision would benefit regulated facilities that emit very low amounts of TAPs and enable them to qualify for permit exemption. In addition, this is consistent with the permit exemption criteria for criteria pollutants in Section 221.</p> <p>The revisions in Section 223.04 delete the old Level III Exemption and require that a Toxic Air Pollutant Annual Report reports for a Level I and II continue to be submitted. Draft 3 also includes removing the deadline to submit annual reports. This change was published in Draft 2, published June 8, however, I don't recall discussion about this change in the Negotiated Rulemaking meeting on June 12. Retaining the former May 1 deadline could minimize disagreements between regulated parties and IDEQ. However, I do not oppose the revision.</p> <p>2. <u>Proposed revisions to Section 210.20 NSPS and NESHAP Sources</u> I support this revision. The proposed revision clarifies when facilities subject to NESHAP requirements are not required to demonstrate additional TAP compliance to qualify for permit exemption or to obtain a Permit to Construct.</p>	<p>DEQ agrees that there should be a deadline in Section 223 for TAPs exemption reports. DEQ will include a deadline in the final proposed rulemaking language.</p>
3	<p>The rulemaking meeting on 06/12/18 was productive with good discussion around TAP analyses. As discussed in that meeting, and put forth in the most recent version, Draft No. 3.1, I'm in support of those changes IDEQ has proposed.</p> <p>I believe IACI submitted a letter as well, and Simplot fully supports the IACI comments.</p>	<p>Thank you for the comment.</p>
4	<p>IACI appreciates the Idaho Department of Environmental Quality's (DEQ) consideration of its May 18, 2018 comments on negotiated rulemaking, Docket No. 58-0101-1801, and the opportunity to submit additional comments on the latest proposed draft, dated June 15, 2018. The meeting held June 12, 2018 was a constructive negotiated rulemaking session.</p> <p>DEQ's latest proposed revisions to IDAPA 58.01.01.210.20.a, and the accompanying white paper on the term "addressed," resolve IACI's concerns about clarity and scope in this section. The updated proposed language better reflects current TAPs analysis practices, and allows for the straightforward, streamlined application of this rule. IACI supports the proposed language as now written, and has no further comments on proposed changes to IDAPA 58.01.01.210.20.a.</p>	<p>Thank you for the comment.</p>

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	<p>IACI also supports DEQ's latest proposed revisions to IDAPA 58.01.01.223, which clarifies the required analyses for TAPs exemptions. IACI has no further comments on this section at this time. IACI reiterates its May 18, 2018 comments on all other sections of this proposed rule.</p>	