

EPA-Approved Regulations for Idaho Department of Environmental Quality

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**

SECTION 58.01.01.000. LEGAL AUTHORITY. (EPA note: Approved but not incorporated by reference.)

The Board of Environmental Quality is authorized to promulgate rules for the Department of Environmental Quality governing air pollution pursuant to Sections 39-105 and 39-107, Idaho Code.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.001. TITLE AND SCOPE

These rules shall be cited as IDAPA 58.01.01, Rules of the Department of Environmental Quality, IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho”. These rules provide for the control of air pollution in Idaho.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.002. WRITTEN INTERPRETATIONS (EPA note: Approved but not incorporated by reference.)

The Department of Environmental Quality has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The written statements are available for public inspection and copying at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.003. ADMINISTRATIVE APPEALS (EPA note: Approved but not incorporated by reference.)

Persons may be entitled to appeal final agency actions authorized under this chapter pursuant to IDAPA 16.05.03, Rules of the Department of Health and Welfare, IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings”.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.004. CATCHLINES

Catchlines within this chapter are not to be utilized in the interpretation of the rules.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.005. DEFINITIONS

The purpose of Sections 005 through 008 is to assemble definitions used throughout this chapter.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.006. GENERAL DEFINITIONS

01. Accountable. Any SIP emission trading program must account for the aggregate effect of the emissions trades in the demonstration of reasonable further progress, attainment, or maintenance. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

02. Act. The Environmental Protection and Health Act of 1972 as amended (Sections 39-101 through 39-130, Idaho Code). (5-1-94)

03. Actual Emissions. The actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following: (4-5-00)

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. (4-5-00)

b. The Department may presume that the source-specific allowable emissions for the unit are equivalent to actual emissions of the unit. (4-5-00)

c. For any emissions unit (other than an electric utility steam generating unit as specified below) which has not yet begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. (4-5-00)

d. For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the Department, on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ten (10) years may be required by the Department if it determines such a period to be more representative of normal source post-change operations. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

04. Adverse Impact on Visibility. Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I Area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with:. (3-30-07)

a. Times of visitor use of the Federal Class I Area; and(3-30-07)

b. The frequency and timing of natural conditions that reduce visibility. (3-30-07)

c. This term does not include affects on integral vistas when applied to 40 CFR 51.307. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

05. Air Pollutant/Air Contaminant. Any substance, including but not limited to, dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon or particulate matter or any combination

thereof. (4-5-00)

06. Air Pollution. The presence in the outdoor atmosphere of any air pollutant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

07. Air Quality. The specific measurement in the ambient air of a particular air pollutant at any given time. (5-1-94)

08. Air Quality Criterion. The information used as guidelines for decisions when establishing air quality goals and air quality standards. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

09. Allowable Emissions. The allowable emissions rate of a stationary source or facility calculated using the maximum rated capacity of the source or facility (unless the source or facility is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following: (4-5-00)

a. The applicable standards set forth in 40 CFR part 60 and 61; (4-5-00)

b. Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or (4-5-00)

c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

10. Ambient Air. That portion of the atmosphere, external to buildings, to which the general public has access. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

11. Ambient Air Quality Violation. Any ambient concentration that causes or contributes to an exceedance of a national ambient air quality standard as determined by 40 CFR Part 50. (4-11-06)

12. Atmospheric Stagnation Advisory. An air pollution alert declared by the Department when air pollutant impacts have been observed and/or meteorological conditions are conducive to additional air pollutant buildup. (4-11-06)

13. Attainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular air pollutant or air pollutants. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

14. BART-Eligible Source. Any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in

existence on August 7, 1977, and has the potential to emit two hundred fifty (250) tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. (3-30-07)

- a.** Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (3-30-07)
- b.** Coal cleaning plants (thermal dryers); (3-30-07)
- c.** Kraft pulp mills; (3-30-07)
- d.** Portland cement plants; (3-30-07)
- e.** Primary zinc smelters; (3-30-07)
- f.** Iron and steel mill plants; (3-30-07)
- g.** Primary aluminum ore reduction plants; (3-30-07)
- h.** Primary copper smelters; (3-30-07)
- i.** Municipal incinerators capable of charging more than two hundred fifty (250) tons refuse per day; (3-30-07)
- j.** Hydrofluoric, sulfuric, and nitric acid plants; (3-30-07)
- k.** Petroleum refineries; (3-30-07)
- l.** Lime plants; (3-30-07)
- m.** Phosphate rock processing plants; (3-30-07)
- n.** Coke oven batteries; (3-30-07)
- o.** Sulfur recovery plants; (3-30-07)
- p.** Carbon black plants (furnace process); (3-30-07)
- q.** Primary lead smelters; (3-30-07)
- r.** Fuel conversion plants; (3-30-07)
- s.** Sintering plants; (3-30-07)
- t.** Secondary metal production facilities; (3-30-07)

- u. Chemical process plants; (3-30-07)
- v. Fossil-fuel boilers of more than two hundred fifty (250) million BTU's per hour heat input; (3-30-07)
- w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (3-30-07)
- x. Taconite ore processing facilities; (3-30-07)
- y. Glass fiber processing plants; and (3-30-07)
- z. Charcoal production facilities. (3-30-07)
State Effective: 3/30/07; EPA Effective: 7/11/2011

15. Baseline (Area, Concentration, Date). See Section 579. (5-1-94)
State Effective: 5/1/94; EPA Effective: 2/18/2003

16. Best Available Retrofit Technology (BART). Means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. (3-30-07)
State Effective: 3/30/07; EPA Effective: 7/11/2011

17. Board. Idaho Board of Environmental Quality. (5-1-94)
State Effective: 5/1/94; EPA Effective: 2/18/2003

18. Breakdown. An unplanned failure of any equipment or emissions unit which may cause excess emissions. (4-5-00)
State Effective: 4/5/00; EPA Effective: 2/18/2003

19. BTU. British thermal unit. (5-1-94)

20. Clean Air Act. The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)

21. Collection Efficiency. The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. (5-1-94)
State Effective: 5/1/94; EPA Effective: 2/18/2003

22. Commence Construction Or Modification. In general, this means initiation of physical on-

site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. (4-5-00)

State Effective: 5/1/94; EPA Effective: 2/18/2003

23. Complete. A determination made by the Department that all information needed to process a permit application has been submitted for review. (5-1-94)

24. Construction. Fabrication, erection, installation, or modification of a stationary source or facility. (5-1-94)

25. Control Equipment. Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)

26. Controlled Emission. An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

27. Criteria Air Pollutant. Any of the following: PM-10; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

28. Deciview. A measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements): Deciview Haze Index = $10 \ln_e (b_{\text{ext}} / 10 \text{Mm}^{-1})$ where b_{ext} = the atmospheric light extinction coefficient, expressed in inverse megameters (Mm^{-1}). (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

29. Department. The Department of Environmental Quality. (5-1-94)

30. Designated Facility. Any of the following facilities: (5-1-94)

a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (5-1-94)

b. Coal cleaning plants (thermal dryers); (5-1-94)

c. Kraft pulp mills; (5-1-94)

d. Portland cement plants; (5-1-94)

e. Primary zinc smelters; (5-1-94)

- f.** Iron and steel mill plants; (5-1-94)
- g.** Primary aluminum ore reduction plants; (5-1-94)
- h.** Primary copper smelters; (5-1-94)
- i.** Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; (5-1-94)
- j.** Hydrofluoric, sulfuric, and nitric acid plants; (5-1-94)
- k.** Petroleum refineries; (5-1-94)
- l.** Lime plants; (5-1-94)
- m.** Phosphate rock processing plants; (5-1-94)
- n.** Coke oven batteries; (5-1-94)
- o.** Sulfur recovery plants; (5-1-94)
- p.** Carbon black plants (furnace process); (5-1-94)
- q.** Primary lead smelters; (5-1-94)
- r.** Fuel conversion plants; (5-1-94)
- s.** Sintering plants; (5-1-94)
- t.** Secondary metal production facilities; (5-1-94)
- u.** Chemical process plants; (5-1-94)
- v.** Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; (5-1-94)
- w.** Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (5-1-94)
- x.** Taconite ore processing facilities; (5-1-94)
- y.** Glass fiber processing plants; and (5-1-94)
- z.** Charcoal production facilities. (5-1-94)

31. Director. The Director of the Department of Environmental Quality or his designee. (5-1-94)

32. Effective Dose Equivalent. The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. (5-1-94)

33. Emission. Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

34. Emission Standard. A permit or regulatory requirement established by the Department or EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

35. Emissions Unit. An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term “unit” for the purposes of 42 U.S.C. Sections 7651 through 7651o. (5-1-94)

36. EPA. The United States Environmental Protection Agency and its Administrator or designee. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

37. Environmental Remediation Source. A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and shall have an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition shall be construed so as to actually limit remediation projects to five (5) years or less of total operation. (5-1-95)

State Effective: 5/1/95; EPA Effective: 2/18/2003

38. Excess Emissions. Emissions that exceed an applicable emissions standard established for any facility, source or emissions unit by statute, regulation, rule, permit, or order. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

39. Existing Stationary Source Or Facility. Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

40. Facility. All of the pollutant-emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

41. Federal Class I Area. Any federal land that is classified or reclassified "Class I." (3-30-07)

42. Federal Land Manager. The Secretary of the department with authority over the Federal Class I Area (or the Secretary's designee). (3-30-07)

43. Federally Enforceable. All limitations and conditions which are enforceable by EPA and the Department under the Clean Air Act, including those requirements developed pursuant to 40 CFR Parts 60 and 61 requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Parts 51, 52, 60, or 63. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

44. Fire Hazard. The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands. (5-1-94)

45. Fuel-Burning Equipment. Any furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. (5-1-94)

46. Fugitive Dust. Fugitive emissions composed of particulate matter. (5-1-94)

47. Fugitive Emissions. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (5-1-94)

48. Garbage. Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (5-1-94)

49. Grain Elevator. Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)

50. Grain Storage Elevator. Any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean extraction plant which has a permanent grain storage capacity of thirty five thousand two hundred (35,200) cubic meters (ca. 1 million bushels). (5-1-94)

51. Grain Terminal Elevator. Any grain elevator which has a permanent storage capacity of more than eighty-eight thousand one hundred (88,100) cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

52. Hazardous Air Pollutant (HAP). Any air pollutant listed pursuant to Section 112(b) of the Clean Air Act. Hazardous Air Pollutants are regulated air pollutants. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

53. Hazardous Waste. Any waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may: (5-1-94)

a. Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or (5-1-94)

b. Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or by-product material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa). (5-1-94)

54. Hot-Mix Asphalt Plant. Those facilities conveying proportioned quantities or batch loading of cold aggregate to a drier, and heating, drying, screening, classifying, measuring and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use. (5-1-94)

55. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. (5-1-94)

56. Indian Governing Body. The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

57. Integral Vista. A view perceived from within the mandatory Class I Federal Area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal Area. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

58. Kraft Pulping. Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

59. Least Impaired Days. The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the lowest amount of visibility impairment. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

60. Lowest Achievable Emission Rate (LAER). For any source, the more stringent rate of emissions based on the following: (4-5-00)

a. The most stringent emissions limitation which is contained in any State Implementation Plan for such class or category of facility, unless the owner or operator of the proposed facility demonstrates that such limitations are not achievable; or (4-5-00)

b. The most stringent emissions limitation which is achieved in practice by such class or category of facilities. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the facility. In no event shall the application of the term permit a proposed new or modified facility to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

61. Mandatory Class I Federal Area. Any area identified in 40 CFR 81.400 through 81.437. (3-30-07)

62. Member of the Public. For purposes of Subsection 006.103.a.xvi., a person located at any off-site point where there is a residence, school, business or office. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

63. Modification. (4-11-06)

a. Any physical change in, or change in the method of operation of, a stationary source or facility which results in an emission increase as defined in Section 007 or which results in the emission of any regulated air pollutant not previously emitted. (4-11-06)

b. Any physical change in, or change in the method of operation of, a stationary source or facility which results in an increase in the emissions rate of any state only toxic air pollutant, or emissions of any state only toxic air pollutant not previously emitted. (4-11-06)

c. Fugitive emissions shall not be considered in determining whether a permit is required for a modification unless required by federal law. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

d. For purposes of this definition of modification, 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: (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

i. 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)

ii. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

iii. 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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

64. 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

65. Most Impaired Days. The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the highest amount of visibility impairment. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

66. 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

67. Natural Conditions. Includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

68. 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)

69. 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)

70. Noncondensibles. Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)

71. Odor. The sensation resulting from stimulation of the human sense of smell. (5-1-94)

72. 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)

73. 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

74. Operating Permit. A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

75. Particulate Matter. Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

76. 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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

77. Permit to Construct. A permit issued by the Director pursuant to Sections 200 through 228. (7-1-02)

State Effective: 7/1/02; EPA Effective: 12/27/2010

78. Person. Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)

79. 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

80. 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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

81. Potential to Emit/Potential Emissions. The maximum capacity of a facility or stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility or source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is state or federally enforceable. Secondary emissions do not count in determining the potential to emit of a facility or stationary source. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

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

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

84. 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)

85. 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)

86. 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)

87. 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)

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

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

89. 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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

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

State Effective: 5/1/94; EPA Effective: 2/18/2003

91. Regional Haze. Visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

92. Regulated Air Pollutant. (4-11-06)

a. For purposes of determining applicability of major source permit to operate requirements, issuing, and modifying permits pursuant to Sections 300 through 397, and in accordance with Title V of the federal Clean Air Act amendments of 1990, 42 U.S.C. Section 7661 et seq., “regulated air pollutant” shall have the same meaning as in Title V of the federal Clean Air Act amendments of 1990, and any applicable federal regulations promulgated pursuant to Title V of the federal Clean Air Act amendments of 1990, 40 CFR Part 70; (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

b. For purposes of determining applicability of any other operating permit requirements, issuing, and modifying permits pursuant to Sections 400 through 410, the federal definition of “regulated air pollutant” as defined in Subsection 006.94.a. shall also apply; (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

c. For purposes of determining applicability of permit to construct requirements, issuing, and modifying permits pursuant to Sections 200 through 228, except Section 214, and in accordance with Part D of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7501 et seq., “regulated air pollutant” shall mean those air contaminants that are regulated in non-attainment areas pursuant to Part D of Subchapter I of the federal Clean Air Act and applicable federal regulations promulgated pursuant to Part D of Subchapter I of the federal Clean Air Act, 40 CFR 51.165; and (4-11-06)

d. For purposes of determining applicability of any other major or minor permit to construct requirements, issuing, and modifying permits pursuant to 200 through 228, except Section 214, “regulated air pollutant” shall mean those air contaminants that are regulated in attainment and unclassifiable areas pursuant to Part C of Subchapter I of the federal Clean Air Act, 40 CFR 52.21, and any applicable federal regulations promulgated pursuant to Part C of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7470 et seq. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

93. 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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

94. 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

95. 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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

96. 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

97. 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)

State Effective: 3/20/97; EPA Effective: 2/18/2003

98. 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

99. Secondary Emissions. Emissions which would occur as a result of the construction,

modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

100. 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

101. 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)

State Effective: 4/11/06; EPA Effective: 12/27/2010

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

iv. Particulate matter, twenty-five (25) tons per year of particulate matter emissions; fifteen (15) tons per year of PM₁₀ emissions; (4-11-06)

v. Ozone, forty (40) tons per year of volatile organic compounds; (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

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 (H₂S), ten (10) tons per year; (5-1-94)

x. Total reduced sulfur (including H₂S), ten (10) tons per year; (5-1-94)

xi. Reduced sulfur compounds (including H₂S), 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; (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

xv. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year; or (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

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)

State Effective: 5/1/95; EPA Effective: 2/18/2003

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 006.103.a. above and not a toxic air pollutant, any emission rate; or (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

102. 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)

103. 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)

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

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

106. 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)

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

108. 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)

109. 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

110. 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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

111. 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

112. Stationary Source. Any building, structure, facility, emissions unit, or installation which emits or may emit any air pollutant. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

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

State Effective: 5/1/94; EPA Effective: 2/18/2003

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

State Effective: 4/5/00; EPA Effective: 2/18/2003

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, and required by EPA to obtain a Part 70 permit; (4-11-06)

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, and required by EPA to obtain a Part 70 permit, 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); (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

d. Any Phase II source; and (5-1-94)

e. Any source in a source category designated by the Department. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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

State Effective: 4/5/00; EPA Effective: 2/18/2003

115. 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)

116. 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)

117. 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)

118. 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)

119. 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)

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

121. 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)

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

State Effective: 5/1/94; EPA Effective: 2/18/2003

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

State Effective: 4/5/00; EPA Effective: 2/18/2003

124. Visibility Impairment. Any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions. (3-30-07)

125. Visibility in Any Mandatory Class I Federal Area. Includes any integral vista associated with that area. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

126. 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)

127. 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 225 AND 400 THROUGH 461

01. Agricultural Activities And Services. For the purposes of Subsection 223.03.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and

consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/182003

02. Baseline Actual Emissions. The rate of emissions, in tons per year, of a regulated air pollutant as determined by the following provisions: (4-11-06)

a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the five (5) year period immediately preceding when the owner or operator begins actual construction of the project. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. (4-11-06)

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. (4-11-06)

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. (4-11-06)

iii. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

iv. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsection 007.02.a.ii. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

b. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the ten (10) year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Director for a permit required under these rules, whichever is earlier, except that the ten (10) year period shall not include any period earlier than November 15, 1990. (4-11-06)

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. (4-11-06)

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. (4-11-06)

iii. The average rate shall be adjusted downward to exclude any emission limitation with which the source must currently comply, had such source been required to comply with such limitations during the consecutive twenty-four (24) month period; however, if an emission limitation is part of a standard or other requirement under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the Department has taken credit for such emissions reductions in an attainment demonstration or maintenance plan. (4-11-06)

iv. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. (4-11-06)

v. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsections 006.03.b.ii. and 006.03.b.iii. (4-11-06)

c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero (0); and, thereafter, for all other purposes, shall equal the unit's potential to emit. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

d. For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subsection 007.02.a, for other existing emissions units in accordance with the procedures contained in Subsection 007.02.b, and for a new emissions unit in accordance with the procedures contained in Subsection 007.02.c. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

03. Begin Actual Construction. Commence construction. (4-11-06)

04. Emissions Increase. The amount by which projected actual emissions exceed baseline actual emissions of an emissions unit. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

05. Innovative Control Technology. Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental effects. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/182003

06. Net Emissions Increase. For purposes of Sections 204 and 205, a net emissions increase shall be defined by the federal regulations incorporated by reference. For purposes of Section 210, a net emissions increase shall be an emissions increase from a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification, where: (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

a. A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; (4-5-00)

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification, and is federally enforceable at and after the time that construction of the modification commences. (4-5-00)

State Effective: 4/5/2004; EPA Effective: 2/182003

c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: (5-1-95)

i. The already operating or permitted source commenced construction or modification prior to July 1, 1995; or (5-1-95)

State Effective: 5/1/95; EPA Effective: 2/182003

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or (6-30-95)

iii. The already operating or permitted source is an environmental remediation source subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order. (6-30-95)

07. Pilot Plant. A stationary source located at least one quarter (1/4) mile from any sensitive receptor that functions to test processing, mechanical, or pollution control equipment to determine full-scale feasibility and which does not produce products that are offered for sale except in developmental quantities. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/182003

08. Projected Actual Emissions. (4-11-06)

a. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated air pollutant in any one (1) of the five (5) years (twelve (12) month period) following the date the unit resumes regular operation after the project, or in any one (1) of the ten (10) years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated air pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at an existing major stationary source. (4-11-06)

b. In determining the projected actual emissions, the owner or operator of the stationary source: (4-11-06)

i. Shall consider all relevant information including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with state or federal regulatory authorities, and compliance plans under the approved state implementation plan; and (4-11-06)

ii. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and (4-11-06)

iii. Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive twenty-four (24) month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or (4-11-06)

iv. In lieu of using the method set out in Subsections 007.11.b.i. through 007.11.b.iii., may elect to use the emissions unit's potential to emit, in tons per year. (4-11-06)

09. Reasonable Further Progress (RFP). Annual incremental reductions in emissions of the applicable air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

10. Sensitive Receptor. Any residence, building or location occupied or frequented by persons

who, due to age, infirmity or other health based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. (5-1-94)

11. Short Term Source. Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. (5-1-94)

12. Toxic Air Pollutant Reasonably Available Control Technology (T-RACT). An emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/182003

SECTION 58.01.01.106. ABBREVIATIONS

01. AAC. Acceptable Ambient Concentration.

02. AACC. Acceptable Ambient Concentration for a Carcinogen.

03. ACGIH. American Conference of Government Industrial Hygienists.

04. CAS. Chemical Abstract Service.

05. CL. Derived from ACGIH ceiling Limit UF = 10.

06. EL. Emissions Screening Level.

07. ID. Idaho Division of Environmental Quality. Not OEL based.

08. LA. From LA Dept. of Environmental Quality. Not OEL based eight (8) hour TWA.

09. MA. From MA Dept. of Environmental Protection, Div. of Air Quality Control. Not OEL based, annual averaging time, no uf.

10. MI. From MI Dept. of Natural Resources, Air Quality Div. Based on toxicological data, annual av. time, no uf.

11. NY. From New York Dept. of Conservation, Div. of Air Quality. Not OEL based, one (1) yr. Av. time no uncertainty factor (uf).

12. OEL. Reference Occupational Exposure Level.

13. PL. From Phil. Dept. of Air Management Services. Not OEL based, one (1) yr. averaging

time no uf.

14. PL1. From Phil. Dept. of Air Management Services. Unspecified OEL based, one (1) yr. averaging time, uf=10.

15. PL2. From Phil. Dept. of Air Management Services. Not OEL based one (1) yr. Av. time, uf=10.

16. PL3. From Phil. Dept. of Air Management Services. Not OEL based, one (1) yr. av. time, uf=1000.

17. TWA. Time Weighted Average.

18. UF. Uncertainty Factor.

19. URF. Unit Risk Factor from the US Environmental Protection Agency.

20. WA. From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.107. INCORPORATIONS BY REFERENCE

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

a. All federal publications: U.S. Government Printing Office, <http://www.gpoaccess.gov/ecfr/index.html>; and (10-6-10)

State Effective: 10/6/10; EPA Effective: 8/16/2012

b. All documents herein incorporated by reference: (7-1-97)

i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373- 0502. (7-1-97)

ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

State Effective: 7/1/97; EPA Effective: 2/18/2003

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR Part 51 revised as of July 1, 2010. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: (10-6-10)

State Effective: 10/6/10; EPA Effective: 8/16/2012

i. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and (3-30-07)

ii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. (3-30-07)

State Effective: 3/30/07; EPA Effective: 12/27/2010

b. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 2010. (10-6-10)

c. Approval and Promulgation of Implementation Plans, 40 CFR Part 52 revised as of July 1, 2010. (10-6-10)

d. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 2010. (10-6-10)

e. Ambient Air Quality Surveillance, 40 CFR Part 58, revised as of July 1, 2010. (10-6-10)

~~**f.** Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 2010. (10-6-10)~~

~~**g.** National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 2010. (10-6-10)~~

~~**h.** National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 2010. (10-6-10)~~

~~**i.** Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 2010. (10-6-10)~~

~~**j.** Permits, 40 CFR Part 72, revised as of July 1, 2010. (10-6-10)~~

~~**k.** Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 2010. (10-6-10)~~

~~**l.** Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2010. (10-6-10)~~

~~**m.** Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)~~

n. Determining Conformity of Federal Actions to State or Federal Implementation Plans:

Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 2010, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (10-6-10)

~~o. The final rule for Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units, 70 Fed. Reg. 28,606 (May 18, 2005), corrected at 70 Fed. Reg. 51,266 the final rule for Standards of Performance for Electric Utility Steam Generating Units, Industrial Commercial Institutional Steam Generating Units, and Small Industrial Commercial Institutional Steam Generating Units, only as it applies to coal fired electric steam generating units as defined in 40 CFR 60.24, 71 Fed. Reg. 9865 (February 27, 2006); Revision of December 2000 Clean Air Act Section 112(n) Finding Regarding Electric Utility Steam Generating Units; and Standards of Performance for New and Existing Electric Utility Steam Generating Units: Reconsideration, 71 Fed. Reg. 33,388 (June 9, 2006) are expressly excluded from any incorporation by reference into these rules. (3-30-07)~~

p. The final rule for Primary National Ambient Air Quality Standards for Sulfur Dioxide, 75 Fed. Reg. 35,520 through 35,603 (June 22, 2010) to be codified at 40 CFR Part 50 (National Primary and Secondary Ambient Air Quality Standards), 40 CFR Part 53 (Ambient Air Monitoring Reference and Equivalent Methods), and 40 CFR Part 58 (Ambient Air Quality Surveillance). This final rule is effective on August 23, 2010. (10-6-2010)

q. The final rule for Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, 75 Fed. Reg. 31,514 through 31,608 (June 3, 2010) to be codified at 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans), 40 CFR Part 52 (Approval and Promulgation of Implementation Plans), and 40 CFR Part 70 (State Operating Permit Programs). This final rule is effective on August 2, 2010. (10-6-2010)

State Effective: 10/06/10; EPA Effective: 8/16/2012

SECTION 58.01.01.121. COMPLIANCE REQUIREMENTS BY DEPARTMENT

Any person engaged in an activity which may violate the air quality provisions of the Act, violate an air quality order issued or entered in accordance with the Act or these rules, or violate any of these rules, may be required by the Department to do any of the following:

- 01. Schedule.** Prepare a proposed schedule whereby the unlawful activity will be brought into compliance over a specified period of time.
- 02. Report.** Submit periodic reports to the Department indicating progress in achieving compliance.
- 03. Records.** Submit, keep and maintain appropriate records.

04. Monitoring. Monitor air pollutants at the source, in the ambient air, or in vegetation to demonstrate compliance.

05. Episode Plans. Develop emergency episode plans to help prevent ambient air pollution concentrations from reaching levels which would cause substantial endangerment to health or the environment.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.122. INFORMATION ORDERS BY THE DEPARTMENT

The Department may issue information orders as follows: (5-1-94)

01. Purpose. For the purpose of: (5-1-94)

- a.** Developing or assisting in the development of any implementation plan, any standard of performance, any emission standard or any rule; (5-1-94)
- b.** Determining whether any person is in violation of any standard of performance, any emission standard, any implementation plan or any rule; or (5-1-94)
- c.** Carrying out any air quality provisions of the Act, any air quality order issued or entered in accordance with the Act or rules, or any of these rules. (5-1-94)

02. Persons. The Department may issue an information order to any person who: (5-1-94)

- a.** Owns or operates any emission source; (5-1-94)
- b.** Manufactures emission control equipment; (5-1-94)
- c.** The Department believes may have information necessary to meet the intent of these rules; or (5-1-94)
- d.** Is subject to any requirement of these rules. (5-1-94)

03. Requirements. The information order may require the person to perform the following on a one- time, periodic or continuous basis: (5-1-94)

- a.** Establish, maintain and submit records; (5-1-94)
- b.** Make reports; (5-1-94)
- c.** Install, use, and maintain monitoring equipment, and use audit procedures, or methods; (5-1-94)
- d.** Sample emissions in accordance with procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Department shall prescribe; (5-1-

94)

e. Keep records on control equipment parameters, production variables or other indirect data when the Department determines that direct monitoring of emissions is impractical; (5-1-94)

f. Submit compliance certifications including: (5-1-94)

i. Identification of the applicable requirement that is the basis of the certification; (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

ii. The method(s) or other means used by the owner or operator for determining the compliance status for each applicable requirement, and whether such methods or other means provide continuous or intermittent data; and (4-5-00)

iii. The status of compliance with each applicable requirement, based on the method or means designated in Subsection 122.03.f.ii. 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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

g. Provide such other information as the Department may require. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.123. CERTIFICATION OF DOCUMENTS

All documents, including but not limited to, application forms for permits to construct, application forms for operating permits, progress reports, records, monitoring data, supporting information, requests for confidential treatment, testing reports or compliance certifications submitted to the Department shall contain a certification by a responsible official. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.124. TRUTH, ACCURACY AND COMPLETENESS OF DOCUMENTS

All documents submitted to the Department shall be truthful, accurate and complete.

State Effective: 5/1/94, EPA Effective: 2/18/2003

SECTION 58.01.01.125. FALSE STATEMENTS

No person shall knowingly make any false statement, representation, or certification in any form, notice, or report required under any permit, or any applicable rule or order in force pursuant thereto.

State Effective: 3/23/98; EPA Effective: 2/18/2003

SECTION 58.01.01.126. TAMPERING

No person shall knowingly render inaccurate any monitoring device or method required under any permit, or any applicable rule or order in force pursuant thereto.

State Effective: 3/23/98; EPA Effective: 2/18/2003

SECTION 58.01.01.127. FORMAT OF RESPONSES

All responses and information submitted to the Department shall be provided in a format approved by the Department.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.128. CONFIDENTIAL INFORMATION (EPA note: Approved but not incorporated by reference)

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code and Section 39-111, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 9-342A, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality". If the information for which the person is requesting confidential treatment is submitted to the Department under Sections 300 through 386 or the terms or conditions of a Tier I operating permit, the person shall also submit the same information directly to the EPA.

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.130. STARTUP, SHUTDOWN, SCHEDULED MAINTENANCE, SAFETY MEASURES, UPSET AND BREAKDOWN

The purpose of Sections 130 through 136 is to establish procedures and requirements to be implemented in all excess emissions events and to establish criteria to be applied by the Department in determining whether to take enforcement action to impose penalties for an excess emissions event where the excess emissions are caused by startup, shutdown, scheduled maintenance, upset, or breakdown of any emissions unit or which occur as a direct result of the implementation of any safety measure.

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.131. EXCESS EMISSIONS

01. Applicability. The owner or operator of a facility or emissions unit generating excess emissions shall comply with Sections 131, 132, 133.01, 134.01, 134.02, 134.03, 135, and 136, as applicable. If the owner or operator anticipates requesting consideration under Subsection 131.02, then the owner or operator shall also comply with the applicable provisions of Subsections 133.02, 133.03, 134.04, and 134.05.

02. Enforcement Action Criteria. Where an excess emissions event occurs as a direct result of startup, shutdown, or scheduled maintenance, or an unavoidable upset or unavoidable breakdown, or the implementation of a safety measure, the Department shall consider the sufficiency of the information submitted and the following criteria to determine if an enforcement action to impose penalties is warranted:

- a.** Whether prior to the excess emissions event, the owner or operator submitted and implemented procedures pursuant to Subsections 133.02 and 133.03 or Subsections 134.04 and 134.05, as applicable;

- b.** Whether the owner or operator complied with all relevant portions of Subsections 131, 132, 133.01, 134.01, 134.02, 134.03, 135, and 136;
- c.** Whether the excess emissions event was part of a recurring pattern of excess emissions events indicative of inadequate design, operation or maintenance of the facility or emissions unit; and
- d.** Where appropriate, whether the excess emissions event was caused by an activity necessary to prevent loss of life, personal injury or severe property damage.

03. Effect Of Determination. Any decision by the Department under Subsection 131.02 shall not excuse the owner or operator from compliance with the relevant emission standard and shall not preclude the Department from taking an enforcement action to enjoin the activity causing the excess emissions. Any decision made by the Department under Subsection 131.02 shall not preclude the Department from taking an enforcement action for future or other excess emission events. The affirmative defense for emergencies under Section 332 of these Rules may be applied in addition to the provisions of Sections 130 through 136.

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.132. CORRECTION OF CONDITION

The person responsible for, or in charge of a facility during, an excess emissions event shall, with all practicable speed, initiate and complete appropriate and reasonable action to correct the conditions causing such excess emissions event; to reduce the frequency of occurrence of such events; to minimize the amount by which the emission standard is exceeded; and shall, as provided below or upon request of the Department, submit a full report of such occurrence, including a statement of all known causes, and of the scheduling and nature of the actions to be taken.

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.133. STARTUP, SHUTDOWN AND SCHEDULED MAINTENANCE REQUIREMENTS

The requirements in Subsection 133.01 shall apply in all cases where startup, shutdown, or scheduled maintenance of any equipment or emissions unit is expected to result or results in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsection 133.01, as well as the development and implementation of procedures pursuant to Subsections 133.02 and 133.03 as a prerequisite to any consideration under Subsection 131.02. (4-5-00)

01. General Provisions. The following shall pertain to all startup, shutdown, and scheduled maintenance activities expected to result or resulting in excess emissions: (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

- a.** No scheduled startup, shutdown, or maintenance resulting in excess emissions shall occur during any period in which an Atmospheric Stagnation Advisory and/or a Wood Stove Curtailment Advisory has been declared by the Department within an area designated by the

Department as a PM-10 nonattainment area, unless the permittee demonstrates that such is reasonably necessary to facility operations and cannot be reasonably avoided and the Department approves such activity in advance, to the extent advance approval by the Department is feasible. This prohibition on scheduled startup, shutdown or maintenance activities during Advisories does not apply to situations where shutdown is necessitated by urgent situations, such as imminent equipment failure, power curtailment, worker safety concerns or similar situations. (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

b. The owner or operator of a source of excess emissions shall notify the Department of any startup, shutdown, or scheduled maintenance event that is expected to cause an excess emissions event. Such notification shall identify the time of the excess emissions, specific location, equipment involved, and type of excess emissions event (i.e. startup, shutdown, or scheduled maintenance). The notification shall be given as soon as reasonably possible, but no later than two (2) hours prior to the start of the excess emissions event unless the owner or operator demonstrates to the Department's satisfaction that a shorter advanced notice was necessary. The Department may prohibit or postpone any scheduled startup, shutdown, or maintenance activity upon consideration of the factors listed in Subsection 134.03. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

c. The owner or operator of a source of excess emissions shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event due to startup, shutdown, or scheduled maintenance. (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

d. The owner or operator of a source of excess emissions must make the maximum reasonable effort, including off-shift labor where practicable to accomplish maintenance during periods of nonoperation of any related source operations or equipment. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

02. Excess Emissions Procedures. For all equipment or emissions unit from which excess emissions may occur during startup, shutdown, or scheduled maintenance, the facility owner or operator shall prepare, implement and file with the Department specific procedures which will be used to minimize excess emissions during such events. Specific information for each of the types of excess emissions events (i.e. startup, shutdown and scheduled maintenance) shall be established or documented for each piece of equipment or emissions unit and shall include all of the following (which may be based upon the facility owner or operator's knowledge of the process or emissions where measured data is unavailable): (4-5-00)

a. Identification of the specific equipment or emissions unit and the type of event anticipated. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

b. Identification of the specific emissions in excess of applicable emission standards during the startup, shutdown, or scheduled maintenance period. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

c. The estimated amount of excess emissions expected to be released during each event. (3-20-97)

d. The expected duration of each excess emissions event. (3-20-97)

e. An explanation of why the excess emissions are reasonably unavoidable for each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance). (3-20-97)

f. Specification of the frequency at which each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance) are expected to occur. (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

g. For scheduled maintenance, the owner or operator shall also document detailed explanations of: (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

i. Why the maintenance is needed. (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

ii. Why it is impractical to reduce or cease operation of the equipment or emissions unit during the scheduled maintenance period. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

iii. Why the excess emissions are not reasonably avoidable through better scheduling of the maintenance or through better operation and maintenance practices. (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

iv. Why, where applicable, it is necessary to by-pass, take off line, or operate equipment or emissions unit at reduced efficiency while the maintenance is being performed. (4-5-00)

h. Justification to explain why the piece of equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the excess emissions which occur during startup, shutdown, and scheduled maintenance. (4-5-00)

i. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during startup, shutdown, and scheduled maintenance. These procedures may include such measures as preheating or otherwise conditioning the emissions unit prior to its use or the application of auxiliary equipment or emissions unit to reduce the excess emissions. (4-5-00)

03. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 133 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (4-5-00)

04. Filing Of Excess Emissions Procedures. (4-5-00)

a. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 133.02 shall not be a violation of these Rules in and of itself. (4-5-00)

b. To the extent procedures or plans for excess emissions resulting from startup, shutdown, or scheduled maintenance are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.134. UPSET, BREAKDOWN AND SAFETY REQUIREMENTS

The requirements in Subsections 134.01, 134.02, and 134.03 shall apply in all cases where upset or breakdown of equipment or an emissions unit, or the initiation of safety measures, result or may result in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsections 134.01, 134.02 and 134.03 as well as the development and implementation of procedures pursuant to Subsections 134.04 and 134.05 as a prerequisite to any consideration under Subsection 131.02. Where the owner or operator demonstrates that because of the unforeseeable nature of the excess emissions event it is impractical to develop procedures pursuant to Subsection 134.04, the Department shall exercise its enforcement discretion on a case by case basis. (4-5-00)

01. Routine Maintenance And Repairs. For all equipment or emissions units from which excess emissions may occur during upset conditions or breakdowns or implementation of safety measures, the facility owner or operator shall: (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

a. Implement routine preventative maintenance and operating procedures consistent with good pollution control practices for minimizing upsets and breakdowns or events requiring implementation of safety measures, and (3-20-97)

b. Make routine repairs in an expeditious fashion when the owner or operator knew or should have known that an excess emissions event was likely to occur. Off-shift labor and overtime shall be utilized, to the extent practicable, to ensure that such repairs are made expeditiously. (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

02. Excess Emissions Minimization And Notification. For all equipment or emissions units from which excess emissions result during upset or breakdown conditions, or for other situations that may necessitate the implementation of safety measures which cause excess emissions, the facility owner or operator shall comply with the following: (4-5-00)

a. The owner or operator shall immediately undertake all appropriate measures to reduce

and, to the extent possible, eliminate excess emissions resulting from the event and to minimize the impact of such excess emissions on the ambient air quality and public health. (4-5-00)

b. The owner or operator shall notify the Department of any upset/breakdown/safety event that results in excess emissions. Such notification shall identify the time, specific location, equipment or emissions unit involved, and (to the extent known) the cause(s) of the occurrence. The notification shall be given as soon as reasonably possible, but no later than twenty-four (24) hours after the event, unless the owner or operator demonstrates to the Department's satisfaction that the longer reporting period was necessary. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

c. The owner or operator shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event caused by an upset, breakdown, or safety measure. (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

03. Discretionary Reduction Or Cessation Provisions. During any period of excess emissions caused by upset, breakdown, or operation under facility safety measures, the Department may require the owner or operator to immediately reduce or cease operation of the equipment or emissions unit causing the excess emissions until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department shall be taken upon consideration of the following factors and after consultation with the facility owner or operator: (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

a. Potential risk to the public or the environment. (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

b. Whether ceasing operations could result in physical damage to the equipment, emissions unit or facility, or cause injury to employees. (4-5-00)

c. Whether continued excess emissions were reasonably unavoidable as determined by the Department. (4-5-00)

d. The effect of the increase in pollution resulting from the shutdown and subsequent restart of the equipment or emissions unit or facility. (4-5-00)

e. The owner or operator shall not be required to reduce or cease operations at the entire facility if reducing or ceasing operations at a portion of the facility eliminates or adequately reduces the excess emissions. (4-5-00)

04. Excess Emissions Procedures. For equipment or emissions units and process upsets and breakdowns and situations that require implementation of safety measures, which events can reasonably be anticipated to occur periodically but which cannot be reasonably avoided or predicted with certainty, the owner or operator shall prepare, implement, and file with the Department specific procedures which will be used to minimize such events and excess

emissions during such events. To the extent possible and reasonably practicable (and based upon knowledge of the process or emissions where measured data is not available), specify the following information for each type of anticipated upset/ breakdown/safety event: (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

a. The specific air pollution control equipment or emissions unit and the type of event anticipated. (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

b. The specific emissions in excess of applicable emission standards during the event. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

c. The estimated amount of excess emissions expected to be released during each event. (3-20-97)

d. The expected duration of each excess emissions event. (3-20-97)

e. An explanation of why the excess emissions are reasonably unavoidable. (3-20-97)

f. The frequency of the type of event, based on historic occurrences. (3-20-97)

g. Justification to explain why the piece of control equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the particular type of event. (3-20-97)

h. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during such events, including without limitation those procedures listed under Subsection 134.05. (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

05. Amendments To Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 134 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (4-5-00)

06. Filing Of Excess Emissions Procedures.

a. Failure to follow procedures filed with the Department shall not preclude the Department from making a determination under Subsection 131.02 if the owner or operator demonstrates to the Department's satisfaction that alternate and equivalent procedures were used and were necessitated by the exigency of the circumstances. (4-5-00)

b. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 134.04 shall not be a violation of these Rules in and of itself. (4-5-00)

c. To the extent procedures or plans for excess emissions resulting from upsets, breakdowns

or safety measures are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.135. EXCESS EMISSIONS REPORTS

01. Deadline For Excess Emissions Reports. A written report for each excess emissions event shall be submitted to the Department by the owner or operator no later than fifteen (15) days after the beginning of each such event. (3-20-97)

02. Contents Of Excess Emissions Reports. Each report shall contain the following information: (3-20-97)

a. The time period during which the excess emissions occurred; (3-20-97)

b. Identification of the specific equipment or emissions unit which caused the excess emissions; (3-20-97)

c. An explanation of the cause, or causes, of the excess emissions and whether the excess emissions occurred as a result of startup, shutdown, scheduled maintenance, upset, breakdown or a safety measure; (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

d. An estimate of the emissions in excess of any applicable emission standard (based on knowledge of the process and facility where emissions data is unavailable); (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

e. A description of the activities carried out to eliminate the excess emissions; and (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

f. Certify compliance status with the requirements of Sections 131, 132, 133.01, 134.01 through 134.03, 135, and 136. (4-5-00)

g. If requesting consideration under Subsection 131.02, certify compliance status with Sections 131, 132, 133.01 through 133.03, 134.01 through 134.05, 135, and 136. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.136. EXCESS EMISSIONS RECORDS

01. Maintenance Of Excess Emissions Records. The owner or operator shall maintain excess emissions records at the facility for the most recent five (5) calendar year period. (3-20-97)

02. Availability Of Excess Emissions Records. The excess emissions records shall be made available to the Department upon request. (3-20-97)

03. Contents Of Excess Emissions Records. The excess emissions records shall include the following: (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

a. An excess emissions log book for each emissions unit or piece of equipment containing copies of all reports that have been submitted to the Department pursuant to Section 135 for the particular emissions unit or equipment; and (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

b. Copies of all startup, shutdown, and scheduled maintenance procedures and upset/breakdown/ safety preventative maintenance plans which have been developed by the owner or operator in accordance with Sections 133 and 134, and facility records as necessary to demonstrate compliance with such procedures and plans. (3-20-97)

State Effective: 3/20/97; EPA Effective: 2/18/2003

04. Protections Under Section 128. The protections under Section 128 for confidential information shall be available for excess emissions reports and records upon proper request of the owner or operator in accordance with Section 128. (3-23-98)

State Effective: 3/23/98; EPA Effective: 2/18/2003

SECTION 58.01.01.155. CIRCUMVENTION

No person shall willfully cause or permit the installation or use of any device or use of any means that conceals emissions of pollutants that would otherwise violate the provisions of this chapter without resulting in a reduction in the total amount of emissions. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

SECTION 58.01.01.156. TOTAL COMPLIANCE

Where more than one (1) section of these rules applies to a particular situation, all such rules must be met for total compliance, unless otherwise provided for in these rules.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.157. TEST METHODS AND PROCEDURES

The purpose of this Section is to establish procedures and requirements for test methods and results. Unless otherwise specified in these rules, permit, order, consent decree, or prior written approval by the Department:

01. General Requirements. If a source test is performed to satisfy a performance test requirement or a compliance test requirement imposed by state or federal regulation, rule, permit, order or consent decree, then the test methods and procedures shall be conducted in accordance with the requirements of Section 157.

a. Prior to conducting any emission test, owners or operators are strongly encouraged to submit to the Department in writing, at least thirty (30) days in advance, the following for approval:

- i. The type of method to be used;
- ii. Any extenuating or unusual circumstances regarding the proposed test; and

- iii. The proposed schedule for conducting and reporting the test.
- b. Without prior Department approval, any alternative testing is conducted solely at the owner's or operator's risk. If the owner or operator fails to obtain prior written approval by the Department for any testing deviations, the Department may determine the test does not satisfy the testing requirements.

02. Test Requirements. Tests shall be conducted in accordance with the following requirements.

- a. The test must be conducted under operational conditions specified in the applicable state or federal regulation, rule, permit, order, consent decree or by Department approval. If the operational requirements are not specified, the source should test at worst-case normal operating conditions. Worst-case normal conditions are those conditions of fuel type, and moisture, process material makeup and moisture and process procedures which are changeable or which could reasonably be expected to be encountered during the operation of the facility and which would result in the highest pollutant emissions from the facility.
- b. The Department may impose operational limitations or require additional testing in a permit, order or consent decree if the test is conducted under conditions other than worst-case normal.
- c. The Department will accept the methods approved for the applicable pollutants, source type and operating conditions found in 40 CFR Parts 51, 60, 61, and 63 in determining the appropriate test method for an emission limit where one is not otherwise specified.
- d. The following requirements apply to owners or operators requesting minor changes in the test method. As stated in Subsection 157.01 above, without prior Department approval, other changes may result in rejection of the test results by the Department.
 - i. For federal emission standards codified at 40 CFR Parts 60, 61, and 63, the Department will accept those minor changes which have received written approval of the U.S. EPA Administrator so long as the Department determines they are appropriate for the specific application.
 - ii. For all other emission standards in these rules or for permit requirements, the Department will accept those minor changes that the Department determines are appropriate for the specific application.
- e. An owner or operator proposing to use an alternative test method not considered a minor change in Subsection 157.02.d. above, must:
 - i. Demonstrate to the Department by comparative testing or sufficient analysis, that the alternative method is comparable and equivalent to the designated test method.

- ii. Submit the request for approval to use an alternative test method to the Department at least thirty (30) days in advance of a scheduled test.
 - iii. Obtain, and submit to the Department, EPA approval for use of the alternative test method for emission standards in these rules (except for state only toxic air pollutant standards) or for federal emission standards codified at 40 CFR Parts 60, 61, and 63.
 - iv. Obtain verification that any prior approval of an alternative test method by the Department continues to be acceptable. Alternative methods may cease to be acceptable if new or different information indicates that the alternative test method is less accurate, less reliable, or not comparable with any current state or federal regulation, rule order, permit, or consent decree.
- f. Prior approval by the Department may not constitute Department approval for subsequent tests if new or different information indicates that a previously Department approved test method is less accurate, less reliable or not comparable with any current state or federal regulation, rule, order, permit or consent decree.

03. Observation Of Tests By Department Staff. The owner or operator shall provide notice of intent to test to the Department at least fifteen (15) days prior to the scheduled test, or shorter time period as provided in a permit, order, consent decree or by Department approval. The Department may, at its option, have an observer present at any emissions tests conducted on a source.

04. Reporting Requirements. If the source test is performed to satisfy a performance test requirement imposed by state or federal regulation, rule, permit, order, or consent decree, a written report shall be submitted to the Department within thirty (30) days of the completion of the test. The written report shall:

a. Meet the format and content requirements specified by the Department in any applicable rule, regulation, guidance, permit, order, or consent decree. Any deviations from the format and contents specified require prior written approval from the Department. Failure to obtain such approval may result in the rejection of the test results.

b. Include all data required to be noted or recorded in any referenced test method.

05. Test Results Review Criteria. The Department will make every effort to review test results within a reasonable time. The Department may reject tests as invalid for:

a. Failure to adhere to the approved/required method;

b. Using a method inappropriate for the source type or operating conditions;

c. An incomplete written report;

- d. Computational or data entry errors;
- e. Clearly unreasonable results;
- f. Failure to comply with the certification requirements of Section 123 of these rules; or
- g. Failure of the source to conform to operational requirements in orders, permits, or consent decrees at the time of the test.

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.160. PROVISIONS GOVERNING SPECIFIC ACTIVITIES AND CONDITIONS

Sections 160 through 164 establish provisions governing specific activities and conditions. Test methods and procedures shall comply with Section 157.

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.162. MODIFYING PHYSICAL CONDITIONS

When physical conditions such as tall adjacent buildings, valley and mountain terrain, etc., are such as to limit the normal dispersion of air pollutants, the Board may set more restrictive emission limitations on those sources affected by the unusual conditions when air quality standards would reasonably be expected to be exceeded.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.163. SOURCE DENSITY

Should areas develop where each individual source is meeting the requirements of this chapter, yet the ambient air quality standards are being exceeded or might reasonably be expected to be exceeded, the Board may set more restrictive emission limits than are contained in this chapter.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.164. POLYCHLORINATED BIPHENYLS (PCBS)

01. Prohibition On Burning. Burning any material containing greater than five (5) parts per million of polychlorinated biphenyls (PCBs) is prohibited, except for incineration for the purpose of disposal. Incineration for disposal shall comply with the following provisions: (5-1-94)

- a. No person shall commence construction or modification of a PCB incinerator without a permit issued according to Sections 200 through 225. (5-1-94)
- b. The Department must provide opportunity for public comments prior to a final decision for a permit to construct or modify a new PCB incinerator. (5-1-94)
- c. A permit issued according to Sections 200 through 225 for construction or modification of a PCB incinerator shall require, as a minimum, best available control technology and monitoring instrumentation. (5-1-94)
- d. No permit to operate, construct or modify a PCB incinerator shall be processed or issued prior to March 16, 1987, or such earlier date as shall be determined by the State Board of Environmental Quality. (5-1-94)

02. Prohibition On Sales. No person shall sell, distribute or provide any materials containing greater than five (5) parts per million PCBs for home or commercial heating equipment. (5-1-94)
State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.200. 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), incorporated by reference into these rules at Section 107, and major modification shall be defined as in 40 CFR 52.21(b), incorporated by reference into these rules at Section 107. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.
State Effective: 4/2/00; EPA Effective: 12/27/2010

SECTION 58.01.01.201. PERMIT TO CONSTRUCT REQUIRED

No owner or operator may commence construction or modification of any stationary source, facility, major facility, or major modification without first obtaining a permit to construct from the Department which satisfies the requirements of Sections 200 through 228 unless the source is exempted in any of Sections 220 through 223, or the owner or operator complies with Section 213 and obtains the required permit to construct.
State Effective: 7/1/02; EPA Effective: 12/27/2010

SECTION 58.01.01.202. 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). (4-6-05)
- c. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. (4-6-05)
- 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.203. PERMIT REQUIREMENTS FOR NEW AND MODIFIED STATIONARY SOURCES

No permit to construct shall be granted for a new or modified stationary source unless the applicant shows to the satisfaction of the Department all of the following: (5-1-94)

01. Emission Standards. The stationary source or modification would comply with all applicable local, state or federal emission standards. (5-1-94)

02. NAAQS. The stationary source or modification would not cause or significantly contribute to a violation of any ambient air quality standard. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 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)

State Effective: 4/6/05; EPA Effective: 12/27/2010

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 which is available at www.gpoaccess.gov/ecfr

| 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)

State Effective: 4/2/08; EPA Effective: 12/27/2010

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)

State Effective: 4/6/05; EPA Effective: 12/27/2010

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)

State Effective: 4/5/00; EPA Effective: 12/27/2010

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)

State Effective: 5/1/94; EPA Effective: 12/27/2010

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 remedying existing and preventing future visibility impairment. 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. (3-30-07)

State Effective: 3/30/07; EPA Effective: 12/27/2010

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. (4-6-05)

State Effective: 4/6/05; EPA Effective: 12/27/2010

SECTION 58.01.01.205. 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. (4-6-05)

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 52.21 are incorporated by reference into these rules at Section 107. 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 |
| 40 CFR 52.21(b) | Definitions |
| 40 CFR 52.21(i) | Review of Major Stationary Sources and Major Modifications - Source Applicability and Exempting |
| 40 CFR 52.21(j) | Control Technology Review |
| 40 CFR 52.21(k) | Source Impact Analysis |
| 40 CFR 52.21(r) | Source Obligation |
| 40 CFR 52.21(v) | Innovative Control Technology |
| 40 CFR 52.21(w) | Permit Rescission |
| 40 CFR 52.21(aa) | Actual PALS |

(4-2-08)

02. Effect on Visibility. The applicant must demonstrate that 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 this requirement by the Department. (3-30-07)

State Effective: 3/30/07; EPA Effective: 12/27/2010

03. 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: (4-6-05)

- a.** In 40 CFR 52.21(b)(17), the definition of federally enforceable, Administrator means the EPA Administrator. (4-6-05)
- b.** In 40 CFR 52.21(l)(2), air quality models, Administrator means the EPA Administrator. (4-6-05)
- c.** In 40 CFR 52.21(b)(43), permit program approved by the Administrator, Administrator means the EPA Administrator. (4-6-05)
- 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. (4-6-05)

e. In 40 CFR 52.21(b)(50)(i), regulated NSR pollutant as defined by Administrator, Administrator means the EPA Administrator. (4-6-05)

04. 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. (4-6-05)

State Effective: 4/6/05; EPA Effective: 12/27/2010

SECTION 58.01.01.206. 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, 204.02.d., 205.01 (40 CFR 52.21(k)), 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.

State Effective: 4/6/05; EPA Effective: 12/27/2010

SECTION 58.01.01.207. REQUIREMENTS FOR EMISSION REDUCTION CREDIT

In order to be credited in a permit to construct, any emission reduction credit must satisfy the requirements of Section 460.

SECTION 58.01.01.208. DEMONSTRATION OF NET AIR QUALITY BENEFIT

The demonstration of net air quality benefit shall: (5-1-94)

01. VOCs. For trades involving volatile organic compounds, show that total emissions are reduced for the air basin in which the stationary source or facility is located; (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

02. Other Regulated Air Pollutants. For trades involving any other regulated air pollutant, show through appropriate dispersion modeling that the trade will not cause an increase in ambient concentrations at any modeled receptor; (4-5-00)

03. Mobile Sources. For trades involving mobile sources, show a reduction in the ambient impact of emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for adverse ambient impact where the major facility or major modification would otherwise cause or significantly contribute to a violation of any national ambient air quality standard. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.209. 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

State Effective: 5/3/03; EPA Effective: 12/27/2010

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

a. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. (4-6-05)

State Effective: 4/6/05; EPA Effective: 12/27/2010

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

State Effective: 3/23/98; EPA Effective: 2/18/2003

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

State Effective: 3/23/98; EPA Effective: 2/18/2003

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

State Effective: 7/1/02; EPA Effective: 12/27/2010

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

a. Submit only the information required by Sections 200 through 219 for a permit to construct, in which case: (3-23-98)

State Effective: 3/23/98; EPA Effective: 2/18/2003

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

State Effective: 3/23/98; EPA Effective: 2/18/2003

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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

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 369). 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. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

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)

State Effective: 3/19/99; EPA Effective: 2/18/2003

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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

i. Completeness of the application shall be determined within thirty (30) days. (5-1-

94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

06. Transfer of Permits to Construct. (4-11-06)

a. Transfers by Revision. A permit to construct may be transferred to a new owner or operator in accordance with Subsection 209.04. (4-11-06)

b. Automatic Transfers. Any permit to construct, with or without transfer prohibition language, may be automatically transferred if: (4-11-06)

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; (4-11-06)

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and (4-11-06)

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 209.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 209.06.b.ii. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

SECTION 58.01.01.211. CONDITIONS FOR PERMITS TO CONSTRUCT

01. Reasonable Conditions. The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with:

- a. Sampling ports of a size, number, and location as the Department may require;
- b. Safe access to each port;
- c. Instrumentation to monitor and record emissions data;
- d. Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility; and
- e. Any other sampling and testing facilities as may be deemed reasonably necessary.

02. Cancellation. The Department may cancel a permit to construct if the construction is not begun within two (2) years from the date of issuance, or if during the construction, work is suspended for one (1) year.

03. Notification To The Department. Any owner or operator of a stationary source or facility subject to a permit to construct shall furnish the Department written notifications as follows:

- a. A notification of the anticipated date of initial start-up of the stationary source or facility not more than sixty (60) days or less than thirty (30) days prior to such date; and
- b. A notification of the actual date of initial start-up of the stationary source or facility within fifteen (15) days after such date.

04. Performance Test. Within sixty (60) days after achieving the maximum production rate at which the stationary source or facility will be operated but not later than one hundred eighty (180) days after initial start-up of such stationary source or facility, the owner or operator of such stationary source or facility may be required to conduct a performance test in accordance with methods and under operating conditions approved by the Department and furnish the Department a written report of the results of such performance test.

- a. Such test shall be at the expense of the owner or operator.
- b. The Department may monitor such test and may also conduct performance tests.
- c. The owner or operator of a stationary source or facility shall provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.212. OBLIGATION TO COMPLY

01. Responsibility To Comply With All Requirements. Receiving a permit to construct shall not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal statutes, rules and regulations.

02. Relaxation Of Standards Or Restrictions. At such time that a particular facility or modification becomes a major facility or major modification solely by virtue of a relaxation in any enforceable emission standard or restriction on the operating rate, hours of operation or on the type or amount of material combusted, stored or processed, which was used to exempt the facility or modification from certain requirements for a permit to construct, the requirements for new major facilities or major modifications shall apply to the facility or modification as though construction had not yet commenced.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.213. PRE-PERMIT CONSTRUCTION

This section describes how owners or operators may commence construction or modification of certain stationary sources before obtaining the required permit to construct. (3-23-98)

State Effective: 3/23/98; EPA Effective: 2/18/2003

01. Pre-Permit Construction Eligibility. Pre-permit construction approval is available for non-major sources and non-major modifications and for new sources or modifications proposed in accordance with Subsection 213.01.d. Pre-permit construction is not available for any new source or modification that: uses emissions netting to stay below major source levels; uses optional offsets pursuant to Section 206; or would have an adverse impact on the air quality related values of any Class I area. Owners or operators may ask the Department for the ability to commence construction or modification of qualifying sources under Section 213 before receiving the required permit to construct. To obtain the Department's pre-permit construction approval, the owner or operator shall satisfy the following requirements: (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

a. The owner or operator shall apply for a permit to construct in accordance with Subsections 202.01.a., 202.02, and 202.03 of this chapter. (3-23-98)

b. The owner or operator shall consult with Department representatives prior to submitting a pre-permit construction approval application. (3-23-98)

State Effective: 3/23/98; EPA Effective: 2/18/2003

c. The owner or operator shall submit a pre-permit construction approval application which must contain, but not be limited to: a letter requesting the ability to construct before obtaining the required permit to construct, a copy of the notice referenced in Subsection 213.02; proof of eligibility; process description(s); equipment list(s); proposed emission limits and modeled ambient concentrations for all regulated air pollutants and toxic air pollutants, such that they demonstrate compliance with all applicable air quality rules and regulations. The models shall be conducted in accordance with Subsection 202.02 and with written Department approved protocol and submitted with sufficient detail so that modeling can be duplicated by the Department. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

d. Owners or operators seeking limitations on a source's potential to emit such that permitted emissions will be either below major source levels or below a significant increase must describe in detail in the pre-permit construction application the proposed restrictions and certify in accordance with Section 123 that they will comply with the restrictions,

including any applicable monitoring and reporting requirements. (3-23-98)

02. Permit To Construct Procedures For Pre-Permit Construction. (3-23-98)

a. Within ten (10) days after the submittal of the pre-permit construction approval application, the owner or operator shall hold an informational meeting in at least one (1) location in the region in which the stationary source or facility is to be located. The informational meeting shall be made known by notice published at least ten (10) days before the meeting in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. A copy of such notice shall be included in the application. (3-23-98)

b. Within fifteen (15) days after the receipt of the pre-permit construction approval application, the Department shall notify the owner or operator in writing of pre-permit construction approval or denial. The Department may deny the pre-permit construction approval application for any reason it deems valid. (3-23-98)

State Effective: 3/23/98; EPA Effective: 2/18/2003

c. Upon receipt of the pre-permit construction approval letter issued by the Department, the owner or operator may begin construction at their own risk as identified in Subsection 213.02.d. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction application pursuant to Subsection 213.01.d. shall become enforceable. The owner or operator shall not operate those emissions units subject to permit to construct requirements in accordance with Section 200 unless and until issued a permit pursuant to Section 209. (5-3-03)

State Effective: 5/3/03; EPA Effective: 12/27/2010

d. If the pre-permit construction approval application is determined incomplete or the permit to construct is denied, the Department shall issue an incompleteness or denial letter pursuant to Section 209. If the Department denies the permit to construct, then the owner or operator shall have violated Section 201 on the date it commenced construction as defined in Section 006. The owner or operator shall not contest the final permit to construct decision based on the fact that they have already begun construction. (3-23-98)

State Effective: 3/23/98; EPA Effective: 2/18/2003

SECTION 58.01.01.220. GENERAL EXEMPTION CRITERIA FOR PERMIT TO CONSTRUCT EXEMPTIONS

01. General Exemption Criteria. Sections 220 through 223 may be used by owners or operators to exempt certain sources from the requirement to obtain a permit to construct. Nothing in these sections shall preclude an owner or operator from choosing to obtain a permit to construct. For purposes of Sections 220 through 223, the term source means the equipment or activity being exempted. For purposes of Sections 220 through 223, fugitive emissions shall not be considered in determining whether a source meets the applicable exemption criteria unless required by federal law. No permit to construct is required for a source that satisfies all of the following criteria, in addition to the criteria set forth at Sections 221, 222, or 223: (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

a. The maximum capacity of a source to emit an air pollutant under its physical and operational design without consideration of limitations on emission such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed would not: (4-5-00)

i. Equal or exceed one hundred (100) tons per year of any regulated air pollutant. (4-5-00)

ii. Cause an increase in the emissions of a major facility that equals or exceeds the significant emissions rates set out in the definition of significant at Section 006. (4-5-00)

b. Combination. The source is not part of a proposed new major facility or part of a proposed major modification.(4-5-00)

02. Record Retention. Unless the source is subject to and the owner or operator complies with Section 385, the owner or operator of the source, except for those sources listed in Subsections 222.02.a. through 222.02.g., shall maintain documentation on site which shall identify the exemption determined to apply to the source and verify that the source qualifies for the identified exemption. The records and documentation shall be kept for a period of time not less than five (5) years from the date the exemption determination has been made or for the life of the source for which the exemption has been determined to apply, which ever is greater, or until such time as a permit to construct or an operating permit is issued which covers the operation of the source. The owner or operator shall submit the documentation to the Department upon request. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.221. CATEGORY I EXEMPTION

No permit to construct is required for a source that satisfies the criteria set forth in Section 220 and the following:

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.

02. Radionuclides. The source shall have potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H.

03. Toxic Air Pollutants. The source shall comply with Section 223.

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.222. 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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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

ii. Have potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

b. Environmental characterization activities including emplacement and operation of field instruments, drilling of sampling and monitoring wells, sampling activities, and environmental characterization activities. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

c. Stationary internal combustion engines of less than or equal to six hundred (600) horsepower and which are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. To qualify for this exemption, the source must be operated in accordance with the following: (5-1-94)

i. One hundred (100) horsepower or less -- unlimited hours of operation. (5-1-94)

ii. One hundred one (101) to two hundred (200) horsepower -- less than four hundred fifty (450) hours per month. (5-1-94)

iii. Two hundred one (201) to four hundred (400) horsepower -- less than two hundred twenty-five (225) hours per month. (5-1-94)

iv. Four hundred one (401) to six hundred (600) horsepower -- less than one hundred fifty (150) hours per month. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

d. Stationary internal combustion engines used exclusively for emergency purposes which are operated less than five hundred (500) hours per year and are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

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 or which satisfies the following: (4-5-00)

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 the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

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)

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

State Effective: 4/5/00; EPA Effective: 2/18/2003

a. Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment. (5-1-94)

b. Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

c. Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquified petroleum gas, or biogas (gas produced by the anaerobic decomposition of organic material through a controlled process) with hydrogen sulfide concentrations less than two hundred (200) ppmv exclusively with a capacity of less than fifty (50) million btu's per hour input. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

d. Other fuel burning equipment for indirect heating with a capacity of less than one million (1,000,000) btu's per hour input. (5-1-94)

e. Mobile internal combustion engines, marine installations and locomotives. (5-1-94)

f. Agricultural activities and services. (5-1-94)

g. Retail gasoline, natural gas, propane gas, liquified petroleum gas, distillate fuel oils and diesel fuel sales. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

h. Used Oil Fired Space Heaters which comply with all the following requirements: (7-1-97)

i. The used oil fired space heater burns only used oil that the owner or operator generates on site, that is derived from households, such as used oil generated by individuals maintaining their personal vehicles, or on-specification used oil that is derived from commercial generators provided that the generator, transporter and owner or operator burning the oil for energy recovery comply fully with IDAPA 58.01.05.015, "Rules and Standards for Hazardous Waste"; (7-1-97)

State Effective: 7/1/97; EPA Effective: 2/18/2003

(1) For the purposes of Subsection 222.02.h., “used oil” refers to any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities. (4-5-00)

(2) For the purposes of Subsection 222.02.h., “used oil fired space heater” refers to any furnace or apparatus and all appurtenances thereto, designed, constructed and used for combusting used oil for energy recovery to directly heat an enclosed space. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

ii. Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals; (7-1-97)

State Effective: 7/1/97; EPA Effective: 2/18/2003

iii. The used oil fired space heater is designed to have a maximum capacity of not more than one half (0.5) million BTU per hour; (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

iv. The combustion gases from the used oil fired space heater are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer of the heater and installed to minimize down wash and maximize dispersion; and (7-1-97)

v. The used oil fired space heater is of modern commercial design and manufacture, except that a homemade used oil fired space heater may be used if, prior to the operation of the homemade unit, the owner or operator submits documentation to the Department demonstrating, to the satisfaction of the Department, that emissions from the homemade unit are no greater than those from modern commercially available units. (7-1-97)

State Effective: 7/1/97; EPA Effective: 2/18/2003

i. Multiple chamber crematory retorts used to cremate human or animal remains using natural gas exclusively with a maximum average charge capacity of two hundred (200) pounds of remains per hour and a minimum secondary combustion chamber temperature of one thousand five hundred (1500) degrees Fahrenheit while operating. (4-11-06)

j. Petroleum environmental remediation source by vapor extraction with an operation life not to exceed five (5) years (except for landfills). The short-term adjustment factor in Subsection 210.15 cannot be used if the remediation is within five hundred (500) feet of a sensitive receptor. Forms are available at www.deq.idaho.gov to help assist sources in this exemption determination. (4-11-06)

k. Dry cleaning facilities that are not major under, but subject to, 40 CFR Part 63, Subpart M. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

SECTION 58.01.01.400 PROCEDURES AND REQUIREMENTS FOR TIER II OPERATING PERMITS

The purpose of Sections 400 through 410 is to establish uniform procedures for the issuance of “Tier II Operating Permits.” (7-1-02)

SECTION 58.01.01.401. 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)

State Effective: 7/1/02; EPA Effective: 12/27/2010

~~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; (4-6-05)

State Effective: 4/6/05; EPA Effective: 12/27/2010

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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

e. Bank an emission reduction credit pursuant to Section 461; (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

State Effective: 7/1/02; EPA Effective: 12/27/2010

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

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)

State Effective: 4/5/00; EPA Effective: 2/18/2003

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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

~~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)~~

SECTION 58.01.01.402. APPLICATION PROCEDURES.

Application for a Tier II operating permit 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 and shall be accompanied by all information necessary to perform any analysis or make any determination required under Sections 400 through 410. (7-1-02)

State Effective: 7/1/02; EPA Effective: 12/27/2010

01. Required Information. Site information, plans, description, 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)

02. Additional Specific Information. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

a. For emission reduction credits, a description of the emission reduction credits proposed for use, including descriptions of the stationary sources or facilities providing the reductions, a description of the system of continuous emission control which provides the emission reduction credits, emission estimates, and other information necessary to determine that the emission reductions satisfy the requirements for emission reduction credits (Section 460); and (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

b. For alternative emission limits (bubbles) or emission offsets, information on the air quality impacts of the traded emissions as necessary to determine the change in ambient air quality that would occur. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

c. For restrictions on potential to emit, a description of the proposed potential to emit limitations including the proposed monitoring and recordkeeping requirements that will be used to verify compliance with the limitations. (4-5-00)

03. 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 404.01.c. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

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

State Effective: 5/1/94; EPA Effective: 2/18/2003

04. Additional Information. Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 400 through 410 shall be furnished upon request. (7-1-02)

State Effective: 7/1/02; EPA Effective: 12/27/2010

SECTION 58.01.01.403. PERMIT REQUIREMENTS FOR TIER II SOURCES

No Tier II operating permit shall be granted unless the applicant shows to the satisfaction of the Department that:

01. Emission Standards. The stationary source would comply with all applicable local, state or federal emission standards.

02. NAAQS. The stationary source would not cause or significantly contribute to a violation of any ambient air quality standard.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.404. PROCEDURE FOR ISSUING PERMITS

01. General Procedures. General procedures for Tier II operating permits. (5-1-94)

a. Within thirty (30) days after receipt of the application for a Tier II operating permit, 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. 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 404.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

ii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment shall be provided on an application for any Tier II operating permit pursuant to Subsection 401.01, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516 and any other application which the Director determines an opportunity for public comment should be provided. (5-1-94)

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, 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)

State Effective: 5/1/94; EPA Effective: 2/18/2003

d. A copy of each proposed and final permit will be sent to the U.S. Environmental Protection Agency. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

02. Specific Procedures. Procedures for Tier II operating permits required by the Department under Subsection 401.03. (5-1-94)

a. The Director shall send a notification to the proposed permittee by registered mail of his intention to issue a Tier II operating permit for the facility concerned. The notification shall contain a copy of the proposed permit in draft form stating the proposed emission standards and any required action, with corresponding dates, which must be taken by the proposed permittee in order to achieve or maintain compliance with the proposed Tier II operating permit. (5-1-94)

b. The Department's proposed Tier II operating permit shall be made available to the public in at least one (1) location in the region in which the facility is located. 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 facility is located. A copy of such notice shall be sent to the applicant. There shall be a thirty (30) day period after publication for comment on the Department's proposed Tier II operating permit. Such comment shall be made in writing to the Department. (5-1-94)

c. A public hearing will be scheduled to consider the standards and limitations contained in the proposed Tier II operating permit if the proposed permittee files a request therefor with the Department within ten (10) days of receipt of the notification, or if the Director determines that there is good cause to hold a hearing. (5-1-94)

d. After consideration of comments and any additional information submitted during the comment period or at any public hearing, the Director shall render a final decision upon the proposed Tier II operating permit within thirty (30) days of the close of the comment period or hearing. At this time the Director may adopt the entire Tier II operating permit as originally proposed or any part or modification thereof. (5-1-94)

e. All comments and additional information received during the comment period, together with the Department's final permit, shall be made available to the public at the same location as the proposed Tier II operating permit. (5-1-94)

State Effective: 4/5/00; EPA Effective: 2/18/2003

03. Availability Of Fluid Models And Field Studies. 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.

State Effective: 5/1/1994; EPA Effective: 2/18/2003

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.

State Effective: 7/1/02; EPA Effective: 12/27/2010

05. Transfer of Tier II Permit. (4-11-06)

a. Transfers by Revision. A Tier II permit may be transferred to a new owner or operator in accordance with Subsection 404.04. (4-11-06)

b. Automatic Transfers. Any Tier II permit, with or without transfer prohibition language,

may be automatically transferred if: (4-11-06)

- i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date: (4-11-06)
- ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and (4-11-06)
- iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 404.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 404.05.b.ii.(4-11-06)

State Effect

SECTION 58.01.01.405. CONDITIONS FOR TIER II OPERATING PERMITS

01. Reasonable Conditions. The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with:

- a. Sampling ports of a size, number, and location as the Department may require;
- b. Safe access to each port;
- c. Instrumentation to monitor and record emissions data;
- d. Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility; and
- e. Any other sampling and testing facilities as may be deemed reasonably necessary.

02. Performance Tests. Any performance tests required by the permit shall be performed in accordance with methods and under operating conditions approved by the Department. The owner or operator shall furnish to the Department a written report of the results of such performance test.

- a. Such test shall be at the expense of the owner or operator.
- b. The Department may monitor such test and may also conduct performance tests.
- c. The owner or operator of a stationary source or facility shall provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present.

03. Permit Term. Tier II operating permits shall be issued for a period not to exceed five (5) years. This five (5) year operating permit restriction does not apply to the provisions contained in Section 461.02 (banked emission reduction credits).

04. Single Tier II Operating Permit. When a facility includes more than one (1) stationary source or emissions unit, a single Tier II operating permit may be issued including all stationary sources and emissions units located at that facility. Such Tier II operating permit shall separately identify each stationary source and emissions unit to which the Tier II operating permit applies. When a single stationary source or facility is subject to permit modification, suspension or revocation, such action by the Director shall only affect that individual stationary source or emissions unit without thereby affecting any other stationary source or emissions unit subject to that Tier II operating permit.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.406. OBLIGATION TO COMPLY

Receiving a Tier II operating permit shall not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal rules and regulations.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.460. REQUIREMENTS FOR EMISSION REDUCTION CREDIT

In order to be credited in a permit to construct, Tier I operating permit or Tier II operating permit any emission reduction must satisfy the following:

State Effective: 5/1/94; EPA Effective: 2/18/2003

01. Allowable Emissions. The proposed level of allowable emissions must be less than the actual emissions of the stationary source(s) or emission unit(s) providing the emission reduction credit. No emission reduction(s) can be credited for actual emissions which exceed the allowable emissions of the stationary source(s) or emission unit(s).

State Effective: 5/1/94; EPA Effective: 2/18/2003

02. Timing of Emission Reduction. In an attainment or unclassifiable area any emission reduction which occurs prior to the minor source baseline date must have been banked with the Department prior to the minor source baseline date in order to be credited; in a nonattainment area the emission reduction must occur after the base year of any control strategy for the particular air pollutant.

State Effective: 4/11/06; EPA Effective: 12/27/2010

03. Emission Rate Calculation. The emission rate before and after the reduction must be calculated using the same method and averaging time and the characteristics necessary to evaluate any future use of the emission reduction credit must be described. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

04. Permit Issuance. A permit to construct, Tier I operating permit or Tier II operating permit shall be issued which establishes a new emission standard for the facility, or restricts the operating rate, hours of operation, or the type or amount of material combusted, stored or processed for the stationary source(s) or emission unit(s) providing the emission reductions.

(4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

05. Imposed Reductions. Emission reductions imposed by local, state or federal regulations or permits shall not be allowed for emission reduction credits. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

06. Mobile Sources. The proposed level of allowable emissions must be less than the actual emissions of the mobile sources or stationary sources providing the emission reduction credit. Mobile source emission reduction credits shall be made state or federally enforceable by SIP revision. The form of the SIP revision may be a state or local regulation, operating permit condition, consent or enforcement order, or any mechanism available to the state that is enforceable. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.461. REQUIREMENTS FOR BANKING EMISSION REDUCTION CREDITS (ERC'S)

01. Application To Bank An ERC. The owner or operator of any facility may apply to the Department for a Tier I or Tier II operating permit (or a revision thereto) to bank an emission reduction credit. An application to bank an emission reduction credit must be received by the Department no later than one (1) year after the reduction occurs. The Department may issue or revise such a Tier I or Tier II operating permit and a “Certificate of Ownership” for an emission reduction credit, provided that all emission reductions satisfy the requirements for emission reduction credits (Section 460). (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

02. Banking Period. Emission reduction credits may be banked with the Department. The banked emission reduction credits may be used for offsets, netting in accordance with the definition of net emissions increase at Section 007, or alternative emission limits (bubbles), or sold to other facilities. The use of banked emission reduction credits must satisfy the applicable requirements of the program in which they are proposed for use, including approval of a permit to construct or a Tier I or Tier II operating permit. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

03. Certificate Of Ownership. Upon issuing or revising a Tier I or Tier II operating permit for an emission reduction credit, the Department will issue a “Certificate of Ownership” which will identify the owner of the credits, quantify the credited emission reduction and describe the characteristics of the emissions which were reduced and emissions unit(s) which previously emitted them. (5-1-94)

04. Adjustment By Department. If at any time the Department, or the owner or operator of a facility which has produced an emission reduction credit, finds that the actual reduction in emissions differs from that in the certificate of ownership, the Department will adjust the amount of banked emission reduction credits to reflect the actual emission reduction and issue a revised certificate of ownership. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

05. Proportional Discounts. If at any time the Department finds that additional emission reductions are necessary to attain and maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment, banked emission reduction credits at facilities in the affected area may be proportionally discounted by an amount which will not exceed the percentage of emission reduction required for that area. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

06. Transfer Of Ownership. Whenever the holder of a certificate of ownership for banked emission reduction credits, sells or otherwise transfers ownership of all or part of the banked credits, the holder shall submit the certificate of ownership to the Department. The Department will issue a revised certificate(s) of ownership which reflects the old and new holder(s) and amount(s) of banked emission reduction credits. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

07. Public Registry. The Department will maintain a public registry of all banked emissions reduction credits, indicating the current holder of each certificate of ownership and the amount and type of credited emissions. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.470. Reserved.

State Effective: 5/22/03; EPA Effective:12/27/2010

SECTION 58.01.01.500. REGISTRATION PROCEDURES AND REQUIREMENTS FOR PORTABLE EQUIPMENT

01. Registration Requirements. All existing portable equipment shall be registered within ninety (90) days after the original effective date of this Section 500 and at least ten (10) days prior to relocating, using forms provided by the Department, except that no registration is required for mobile internal combustion engines, marine installations and locomotives.

02. Compliance With Rules And Regulations. Possessing a “Certificate of Registration” does not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal rules and regulations.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.510. STACK HEIGHTS AND DISPERSION TECHNIQUES

The purpose of Sections 510 through 516 is to establish criteria for good engineering practice for stack heights and dispersion techniques.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.511. APPLICABILITY

The provisions of Sections 510 through 516 shall apply to existing, new, and modified stationary sources and facilities. The provisions of Sections 510 through 516 do not apply to stack heights in existence, or dispersion techniques implemented, on or before December 31, 1970, except where regulated or toxic air pollutant(s) are being emitted from such stacks or using such dispersion techniques by sources which were constructed, or reconstructed, or for which major modifications were carried out, after December 31, 1970.

State Effective: 4/11/06; EPA Effective: 12/27/2010

SECTION 58.01.01.512. DEFINITIONS

For the purpose of Sections 500 through 516: (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

01. Dispersion Technique. Any technique which attempts to affect the concentration of a regulated or toxic air pollutant in the ambient air by:

State Effective: 4/11/06; EPA Effective: 12/27/2010

a. Using that portion of a stack which exceeds good engineering practice stack height; (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

b. Varying the rate of emission of a regulated or toxic air pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

State Effective: 4/11/06; EPA Effective: 12/27/2010

c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one (1) stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include the reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream; smoke management in agricultural or silvicultural prescribed burning programs; episodic restrictions on residential woodburning and open burning; techniques which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed five thousand (5,000) tons per year; or the merging of exhaust gas streams where:

State Effective: 5/1/94; EPA Effective: 2/18/2003

i. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams; (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

ii. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a regulated or toxic air pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the regulated or toxic air pollutant affected by such change in operation; or (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

iii. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, the reviewing agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly

motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

02. Excessive Concentration. For the purpose of determining good engineering practice stack height in a fluid modeling evaluation or field study as provided for in Subsection 512.03.c.

“Excessive Concentration” means: (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

a. For sources seeking credit for stack height exceeding that established under Subsection 512.03.b., a maximum ground level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such effects, and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under Subsection 512.02.a., shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Department, an alternative emission rate shall be established in consultation with the source owner or operator. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

b. For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under Subsection 512.03.b., either: (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

i. A maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects as provided in Subsection 512.02.a., except that the emission rate specified by any applicable SIP or, in the absence of such a limit, the actual emission rate shall be used; or (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

ii. The actual presence of a local nuisance caused by the existing stack as determined by the authority administering the Department. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

c. For sources seeking credit after January 12, 1979, for a stack height determined under Subsection 512.03.b., where the Department requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height

credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subsection 512.03.b., a maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects that is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

03. Good Engineering Practice (GEP) Stack Height. The greater of: (5-1-94)

a. Sixty-five (65) meters, measured from the ground-level elevation at the base of the stack; (5-1-94)

b. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required,

$$H = 2.5S$$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation. For all other stacks provided that the Department may require the use of a field study or fluid model to verify GEP stack height for the source,

$$H = S + 1.5L$$

where: (5-1-94)

i. H = good engineering practice stack height measured from the ground-level elevation at the base of the stack. (5-1-94)

ii. S = height of nearby structure(s) measured from the ground-level elevation at the base of the stack. (5-1-94)

iii. L = lesser dimension, height or projected width, of nearby structure(s). (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

c. The height demonstrated by a fluid model or a field study approved by the Department which ensures that the emissions from a stack do not result in excessive concentrations of any regulated or toxic air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, structures, or terrain features.

State Effective: 4/11/06; EPA Effective: 12/27/2010

04. Nearby Structures Or Terrain Features. “Nearby” as applied to a specific structure or terrain feature under the definition of “good engineering practice stack height”; and (5-1-94)

a. For purposes of applying the formulae provided under Subsection 512.03.b., means that distance up to five (5) times the lesser of the height or the width dimension of a structure, but not greater than one-half (1/2) mile (0.8 km); and (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

b. For conducting demonstrations under Subsection 512.03.c., means not greater than one-half (0.5) mile (0.8 km), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten (10) times the maximum height of the feature, not to exceed two (2) miles if such feature achieves a height one-half (0.5) mile (0.8 km) from the stack that is at least forty percent (40%) of the GEP stack height determined by the formulae provided in Subsection 512.03.b., or twenty-six (26) meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

05. Stack In Existence. The owner or operator had: (5-1-94)

a. Begun, or caused to begin, a continuous program of physical on-site construction of the stack; or (5-1-94)

b. Entered into binding agreements or contractual obligations which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.513. REQUIREMENTS

The required degree of emission control of any regulated or toxic air pollutant shall not be affected by the amount of any stack height that exceeds good engineering practice (GEP) or by any other dispersion technique. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

SECTION 58.01.01.514. OPPORTUNITY FOR PUBLIC HEARING

Whenever a new or revised emission limitation is to be based on a good engineering practice stack height that exceeds the height allowed by the formulae in Subsections 512.03.a. and 512.03.b., the Department will notify the public of the availability of the demonstration study submitted under Subsection 512.03.c., and will provide an opportunity for public hearing on the demonstration study

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.515. APPROVAL OF FIELD STUDIES AND FLUID MODELS

Any field study or fluid model used to demonstrate GEP stack height under Subsection 512.03.b. or 512.03.c., and any determination of "excessive concentration" under Subsection 512.02 must be approved by the EPA prior to an emission limit being established. The construction of any new stack, or any increase to the height of any existing stack to the height determined by the formulae in Subsection 512.03.b., without completing a fluid model and a field study must be approved by the EPA.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.516. NO RESTRICTION ON ACTUAL STACK HEIGHT

The provisions of Sections 510 through 516 do not restrict, in any manner, the actual stack height

of any stationary source or facility.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.550. AIR POLLUTION EMERGENCY RULE

The purpose of Sections 550 through 562 is to define criteria for an air pollution emergency, to formulate a plan for preventing or alleviating such an emergency, and to specify rules for carrying out the plan. The procedures for implementing Sections 550 through 562 are delineated in Chapter VI of the SIP.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.551. EPISODE CRITERIA

The purpose of Sections 551 through 556 is to establish criteria for stages of atmospheric stagnation and/or degraded air quality.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.552. STAGES

The Department has defined four (4) stages of atmospheric stagnation and/or degraded air quality. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

01. Stage 1 - Air Pollution Forecast And Caution. An internal watch by the Department shall be actuated by a National Weather Service report that an Atmospheric Stagnation Advisory has been issued, or the equivalent local forecast of stagnant atmospheric conditions. (3-15-02)

State Effective: 3/15/02; EPA Effective: 2/18/2003

02. Stage 2 - Alert. This is the first stage at which air pollution control actions by industrial sources are to begin. (5-1-94)

03. Stage 3 - Warning. The warning stage indicates that air quality is further degraded and that control actions are necessary to maintain or improve air quality. (5-1-94)

04. Stage 4 - Emergency. The emergency stage indicates that air quality has degraded to a level that will substantially endanger the public health and that the most stringent control actions are necessary. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.553. EFFECT OF STAGES

Once an episode stage is reached or the Department determines that reaching a particular stage is imminent, emergency action corresponding to that stage will remain in effect until air quality measurements indicate that another stage (either lower or higher) has been attained. At such time, actions corresponding to the next stage will go into effect. This procedure will continue until the episode is terminated. The air quality criteria used to define each of the episode stages for carbon monoxide, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide are specified in Section 556. The levels will be determined by the Department through its analysis of meteorological and ambient air quality monitoring data.

State Effective: 3/15/02, EPA Effective: 2/18/2003

SECTION 58.01.01.556. CRITERIA FOR DEFINING LEVELS WITHIN STAGES

The air quality criteria defining each of these levels for carbon monoxide (CO), nitrogen dioxide (NO₂), ozone (O₃), particles with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers (PM-10), particles with an aerodynamic diameter less than or equal to a nominal two point five (2.5) micrometers (PM-2.5), and sulfur dioxide (SO₂) are: (3-15-02)

01. Stage 1 - Forecast And Caution. A Stage 1 Forecast and Caution shall be declared by the Department when particulate concentrations or visibility attributable to particulate matter reaches, or is forecasted to reach, and continue, at or above the levels listed below. The Department may call a Stage 1 Forecast and Caution, if it determines, after evaluating the pertinent meteorology and weather conditions and source parameters such as source type, strength and projected duration, that a Stage 1 Forecast and Caution is required to protect the public health. (3-15-02)

a. Pollutant Levels.

| | |
|-----------------------|---------------------------------------|
| <u>CO</u> | <u>NA</u> |
| <u>NO₂</u> | <u>NA</u> |
| <u>O₃</u> | <u>NA</u> |
| <u>SO₂</u> | <u>NA</u> |
| <u>PM-2.5</u> | <u>100 ug/m3 1 hour aver age</u> |
| <u>PM-2.5</u> | <u>50 ug/m3 24 hour aver age</u> |
| <u>PM-10</u> | <u>385 ug/m3 1 hour aver age</u> |
| <u>PM-10</u> | <u>150 mg/m3 24 hour aver age</u> |

(3-15-02)

b. Visibility. When PM-10 or PM 2.5 monitoring readings are not available, the Department may declare a Stage 1 – Forecast and Caution: based on visibility readings according to the following scale:

| | |
|-----------------------|-----------------------------------|
| <u>CO</u> | <u>NA</u> |
| <u>NO₂</u> | <u>NA</u> |
| <u>O₃</u> | <u>NA</u> |
| <u>SO₂</u> | <u>NA</u> |
| <u>PM</u> | <u>2.75 4.50 miles visibility</u> |

(3-15-02)

02. Stage 2 - Alert.

| | |
|---|------------------------|
| CO - 17 mg/m ³ (15 ppm) | 8-hour average |
| NO ₂ - 1130 ug/m ³ (0.6 ppm) | 1-hour average- |
| 282 ug/m ³ (0.15 ppm) | 24-hour average |
| O ₃ - <u>400</u> ug/m ³ (0. <u>2</u> ppm) | 1-hour average |
| PM-10 - <u>350</u> ug/m ³ | <u>24-hour average</u> |
| SO ₂ - 800 ug/m ³ (0.3 ppm) | <u>24-hour average</u> |

(4-5-00)

03. Stage 3 - Warning.

| | |
|---|------------------------|
| CO - 34 mg/m ³ (30 ppm) | 8-hour average |
| NO ₂ - 2260 ug/m ³ (1.2 ppm), | 1-hour average- |
| 565 ug/m ³ (0.3 ppm) | 24-hour average |
| O ₃ - 800 ug/m ³ (0.4 ppm) | 1-hour average |
| PM-10 - <u>420</u> ug/m ³ | <u>24-hour average</u> |
| SO ₂ - <u>1600</u> ug/m ³ (0.6 ppm) | <u>24-hour average</u> |

(4-5-00)

04. Stage 4 - Emergency.

| | |
|--|-----------------|
| CO - 46 mg/m ³ (40 ppm) | 8-hour average |
| NO ₂ - 3000 ug/m ³ (1.6 ppm) | 1-hour average- |
| 750 ug/m ³ (0.4 ppm) | 24-hour average |

| | |
|--|-----------------|
| O ₃ - 1000 ug/m ³ (0.5 ppm) | 1-hour average |
| PM-10 - 500 ug/m ³ | 24-hour average |
| SO ₂ - 2100 ug/m ³ (0.8 ppm) | 24-hour average |

(4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.557. PUBLIC NOTIFICATION

The purpose of Sections 557 through 560 is to establish requirements for public notification regarding atmospheric stagnation and/or degraded air quality.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.558. INFORMATION TO BE GIVEN

01. Information To Be Given. On the basis of degrading air quality as determined by the Director, and the criteria for emergency episode stages as shown in Section 556, the Director will utilize appropriate news media to insure that the following information is announced to the public: (5-1-94)

- a. Definition of the extent of the problem; (5-1-94)
- b. Indication of the action taken by the Director; (5-1-94)
- c. Air pollution forecast for next few days; (5-1-94)
- d. Notice of when the next statement from the Department will be issued; (5-1-94)
- e. Listing of all general procedures which the public, commercial, institutional and industrial sectors are required to follow; (5-1-94)
- f. Specific warnings and advice to those persons who because of acute or chronic health problems, may be most susceptible to the effects of the episode. (3-15-02)

State Effective: 3/15/02, EPA Effective: 2/18/2003

SECTION 58.01.01.559. MANNER AND FREQUENCY OF NOTIFICATION

Such announcements will be made by the news media during regularly scheduled television and radio news broadcasts and in all editions of specified newspapers. In addition, when the stage 4 emergency level is reached, television and radio stations designated by the Department will repeat these announcements at one (1) hour intervals during normal broadcasting hours.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.560. NOTIFICATION TO SOURCES

The Department will assure that all significant sources of the applicable air pollutant(s) are notified of the emergency stage by telephone or other appropriate means. (4-11-06)

State Effective: 4/11/06; EPA Effective: 12/27/2010

SECTION 58.01.01.561. GENERAL RULES

All persons in the designated stricken area shall be governed by the following rules for each emergency episode stage. The Director may waive one (1) or more of the required measures at each episode stage if, on the basis of information available to him, he judges that a measure is an inappropriate response to the specific episode conditions which then exist. (5-1-94)

State Effective: 5/1/1994, EPA Effective: 2/18/2003

01. Stage 1 - Air Pollution Forecast And Caution. There shall be no open burning of any kind. (3-15-02)

State Effective: 3/15/2002, EPA Effective: 2/18/2003

02. Stage 2 - Alert. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid waste shall be prohibited. (3-15-02)

State Effective: 3/15/02; EPA Effective: 2/18/2003

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to switch to natural gas or distillate oil if available. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

03. Stage 3 - Warning. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

b. The use of burners and incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited. (3-15-02)

State Effective: 3/15/02; EPA Effective: 2/18/2003

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel are required to either: (5-1-94)

i. Switch completely to natural gas or distillate oil; or (5-1-94)

ii. If these low sulfur fuels are not available, curtail the use of existing fuels to the

extent possible without causing injury to persons or damage to equipment. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

04. Stage 4 - Emergency. This will be called only with specific concurrence of Governor. (5-1-94)

State effective: 5/1/1994, EPA Effective: 2/18/2003

a. There shall be no open burning of any kind. (5-1-94)

State effective: 5/1/1994, EPA Effective: 2/18/2003

b. The use of burners and incinerators for the disposal of any form of solid or liquid waste shall be prohibited. (3-15-02)

State effective: 3/15/2002, EPA Effective: 2/18/2003

c. All places of employment described below shall immediately cease operations: (5-1-94)

i. All mining and quarrying operations; (5-1-94)

ii. All construction work except that which must proceed to avoid injury to persons; (5-1-94)

iii. All manufacturing establishments except those required to have in force an air pollution emergency plan; (5-1-94)

iv. All wholesale trade establishments, i.e. places of business primarily engaged in selling merchandise to retailers or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies except those engaged in the distribution of drugs, surgical supplies and food; (5-1-94)

v. All offices of local, county and State government including authorities, joint meetings, and other public bodies excepting such agencies which are determined by the chief administrative officer of local, county, or State government authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order; (5-1-94)

vi. All retail trade establishments except pharmacies, surgical supply distributors, and stores primarily engaged in the sale of food; (5-1-94)

vii. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices; (5-1-94)

viii. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops; (5-1-94)

ix. Advertising offices, consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting; photocopying, mailing, mailing list and stenographic services; equipment rental services, commercial testing laboratories; (5-1-94)

x. Automobile repair, automobile services, garages except those located adjacent to state or interstate highways; (5-1-94)

xi. Establishments rendering amusement and recreational services including motion picture theaters; (5-1-94)

xii. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

d. All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of the applicable air pollutant(s) from their operation by ceasing, curtailing, or postponing operations which emit the applicable air pollutants to the extent possible without causing injury to persons or damage to equipment. These actions include limiting boiler lancing or soot blowing operations for fuel burning equipment to between the hours of 12:00 pm (noon) and 4:00 p.m.

State Effective: 4/11/06; EPA Effective: 12/27/2010

:

e. When the emergency episode is declared for carbon monoxide, the use of motor vehicles is prohibited except in emergencies or with the approval of local or state police or the Department. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.562. SPECIFIC EMERGENCY EPISODE ABATEMENT PLANS FOR POINT SOURCES

In addition to the general rules presented in Section 561, the Department shall require that specific point sources adopt and implement their own Emergency Episode Abatement Plans in accordance with the criteria set forth in Sections 551 through 556. An individual plan can be revised periodically by the Department after consultation between the Department and the owners and/or operators of the source.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.563. TRANSPORTATION CONFORMITY

The purpose of Sections 563 through 574 is to adopt and implement Section 176(c) of the Clean Air Act (CAA), as amended [42 U.S.C. 7401 et seq.], and the related requirements of 23 U.S.C. 109(j), with respect to the conformity of transportation plans, programs, and projects developed, funded, or approved by the United States Department of Transportation (USDOT), and by metropolitan planning organizations (MPOs) or other recipients of funds under Title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). These sections set forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to Section 110 and Part D of the CAA. The publications

referred to or incorporated by reference in Sections 563 through 574 are available from the IDEQ.

State Effective: 3/30/01; EPA Effective: 6/11/2001

SECTION 58.01.01.564. INCORPORATION BY REFERENCE

With the exception of Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b), 40 CFR Part 93, Subpart A, Sections 93.100- 93.129, are incorporated by reference into these rules at Section 107 of these rules.

State Effective: 3/30/01; EPA Effective: 6/11/2001

SECTION 58.01.01.565. ABBREVIATIONS

- 01.** CAA. Clean Air Act, as amended.
- 02.** CFR. Code of Federal Regulations.
- 03.** CO. Carbon Monoxide.
- 04.** EPA. Environmental Protection Agency.
- 05.** FHWA. Federal Highway Administration of USDOT.
- 06.** FTA. Federal Transit Administration of USDOT.
- 07.** HPMS. Highway Performance Monitoring System.
- 08.** ICC. Interagency Consultation Committee.
- 09.** IDEQ. Idaho Department of Environmental Quality.
- 10.** ITD. Idaho Transportation Department.
- 11.** LHTAC Local Highway Technical Assistance Council.
- 12.** LRTP. Long Range Transportation Plan.
- 13.** MPO. Metropolitan Planning Organization.
- 14.** NAAQS. National Ambient Air Quality Standards.
- 15.** NEPA. National Environmental Policy Act, as amended.
- 16.** O3. Ozone.
- 17.** PM. Particulate matter.

18. PM_x. Particles with an aerodynamic diameter less than or equal to a nominal X micrometers, where X denotes any size fraction number regulated by the NAAQs (e.g.: 10, 2.5).

19. STIP. Statewide Transportation Improvement Program.

20. TCM. Transportation Control Measure.

21. TIP. Transportation Improvement Program.

22. USDOT. United States Department of Transportation.

23. VMT. Vehicle Miles Traveled.

State Effective: 3/30/01; EPA Effective: 6/11/2001

SECTION 58.01.01.566. DEFINITIONS FOR THE PURPOSE OF SECTIONS 563 THROUGH 574 AND 582

Terms used but not defined in Sections 563 through 574 and 582 shall have the meaning given them by the CAA, Titles 23 and 49 U.S.C., other Environmental Protection Agency (EPA) regulations, or other USDOT regulations, in that order of priority. For the purpose of Sections 563 through 574 and 582:

01. Applicable Implementation Plan. Applicable Implementation Plan is defined in Section 302(q) of the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under Section 110 of the CAA, or promulgated under Section 110(c) of the CAA, or promulgated or approved pursuant to regulations promulgated under Section 301(d) of the CAA and which implements the relevant requirements of the CAA.

02. Consult Or Consultation. The lead agency confers with other ICC members and persons on the distribution list and considers their views prior to taking actions relating to transportation conformity. The lead agency shall distribute all appropriate information necessary to make a conformity determination and, prior to making a conformity determination, shall consider the views of such parties and shall provide a timely, written response to those views. Such views and written responses shall be included in the record of decision or action. Consultation shall not occur with respect to a transportation plan or transportation improvement program (TIP) revision that merely adds or exempts projects listed in 40 CFR 93.126.

03. Distribute. Make available relevant documents and information by electronic and manual means, whichever is more appropriate, to all ICC members and persons on the distribution list. Electronic distribution may include existing and future technological applications, such as electronic mail, internet web-site posting including downloadable files, or the use of an electronic mail reply system based on the distribution list. Manual distribution may include the United States Postal Service, the state internal mail system, a facsimile machine, or any commercially available mail service provider.

04. Distribution List. A list containing the names and addresses of ICC members and any person(s) expressing an interest in receiving information and material pertaining to ICC meetings. To express interest, a person may contact the lead agency by postal mail, electronic mail, telephone or in person, and inform the ICC member of their interest in being on the distribution list for information and material pertaining to ICC meetings.

05. Exempt Projects. Projects exempt from conformity requirements based on the general criteria of safety, mass transit, and other factors, as described in 40 CFR 93.126.

06. Lead Agency. The transportation or air quality agency responsible for conducting the consultation process, as identified in Subsections 568.01 through 568.03.

07. Lead Air Quality Agency. An agency designated pursuant to Section 174 of the CAA as responsible for developing an applicable implementation plan, or alternatively the agency designated by the Governor as the lead air quality agency for a county, region, or any jurisdiction.

08. Local Highway Jurisdiction. A county with jurisdiction over a highway system, a city with jurisdiction over a highway system, or a highway district, as defined by Section 40-113(3), Idaho Code.

09. Local Highway Technical Assistance Council (LHTAC). The public agency created in Chapter 24, Title 40, Idaho Code.

10. Maximum Priority.

a. All possible actions must be taken to shorten the time periods necessary to complete essential steps in TCM implementation - for example, by increasing the funding rate - even though timing of other projects may be affected. It is not permissible to have prospective discrepancies with the applicable implementation plan's TCM implementation schedule due to:

i. Lack of funding in the TIP;

ii. Lack of commitment to the project by the sponsoring agency;

iii. Unreasonably long periods to complete future work due to lack of staff or other agency resources;

iv. Lack of approval or consent by local governmental bodies; or

v. Failure to have applied for a permit where necessary work preliminary to such application has been completed.

b. Where statewide and metropolitan funding resources, planning, and management

capabilities are fully consumed within the flexibility of the Transportation Equity Act of 1998 (TEA-21), Pub. L. No. 105-178, 112 Stat 107, as amended by Pub. L. No. 105-206, 112 Stat 685, or future federal omnibus transportation funding bills, with responding to damage from natural disasters, civil unrest, or terrorist acts, TCM implementation can be determined to be timely without regard to the above, provided reasonable efforts are being made.

11. Metropolitan Planning Organization (MPO). The organization designated as being responsible, together with the State, for conducting the continuing cooperative and comprehensive transportation planning process under 23 U.S.C. 134 and 49 U.S.C. 5303 and 23 CFR 450. It is the forum for cooperative transportation decision-making.

12. Public Notice. Distribution of the meeting times, location, duration and agenda, to all the ICC members and persons on the distribution list.

13. Recipient Of Funds Designated Under Title 23 U.S.C. Or The Federal Transit Laws. Any agency at any level of state, county, city, or regional government that routinely receives Title 23 U.S.C. or Federal Transit Laws funds to construct FHWA/FTA projects, operate FHWA/FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners, developers, contractors, or entities that are only paid for services or products created by their own employees.

14. Regionally Significant Project. A transportation project, other than an exempt project, that is on a facility which serves regional transportation needs (such as access to and from the area outside the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including, at a minimum:

- a.** All principal arterial highways;
- b.** All fixed guideway transit facilities that offer an alternative to regional highway travel; and
- c.** Any other facilities determined to be regionally significant through Section 570, interagency consultation.

15. Transportation Agency. The public agency responsible for one (1) or more of the following transportation modes:

- a.** Air;
- b.** Rail;

- c. Water;
- d. Highway;
- e. Bicycle and pedestrian paths; and
- f. Transit.

16. Transit Agency. Any agency involved in providing mass transportation services by bus, rail, or other conveyance providing general or special service to the public on a regular and continuing basis. The term “Transit Agency” does not include school buses or charter or sightseeing services.

State Effective: 3/30/00; EPA Effective: 6/11/2001

SECTION 58.01.01.567. AGENCIES AFFECTED BY CONSULTATION

This Section identifies those agencies and other entities (federal, tribal, state and local) involved in the consultation process and those general actions requiring consultation.

01. Interagency Consultation Committee. A committee of representatives shall be formed in each nonattainment or maintenance area of the state, to convene on conformity determinations, as necessary, and shall be called the Interagency Consultation Committee (ICC) for that nonattainment or maintenance area. The ICC shall undertake consultation procedures, as applicable, in preparing for and before making conformity determinations in developing long-range transportation plans (LRTP), transportation improvement programs (TIP), and applicable implementation plans.

02. ICC Members. The ICC shall consist of the following agencies or entities, as applicable:

- a. A Metropolitan Planning Organization (MPO) where one exists;
- b. The Idaho Transportation Department (ITD);
- c. The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) divisional office;
- d. The Idaho Department of Environmental Quality (IDEQ);
- e. Affected Local Highway Jurisdictions involved in transportation,
- f. Affected Transit agency(ies);
- g. The Local Highway Technical Assistance Council (LHTAC);
- h. Indian Tribal governments with transportation planning responsibilities; and
- i. The United States Environmental Protection Agency (EPA).

03. Agencies Entitled To Participate. Agencies which may be affected by the consultation process and which are entitled to participate in the consultation process include:

- a.** Any local transit agency or provider, local highway jurisdiction, and any city or county transportation or air quality board or agency where the nonattainment or maintenance area is located; and
- b.** Any other state or federal or tribal organization in the state responsible under state or federal law for developing, submitting or implementing transportation related provisions of an implementation plan.

04. More Than One Pollutant. Areas that are nonattainment for more than one (1) pollutant may conduct consultation, as specified in this section, through a single committee for all pollutants.

05. Open To The Public. All meetings of the ICC shall be open to the public.

06. Delegation. An ICC member may delegate its role or responsibility in the consultation process to another entity pursuant to applicable state law. An ICC member making such delegation shall notify all other ICC members in writing when the delegation occurs. The written notice shall provide the name, address, and telephone number of one (1) or more contact persons representing the entity accepting the delegated role or responsibility.

07. General Actions Requiring Consultation. The ICC shall undertake the consultation process prior to the development of the following:

- a.** The implementation plan(s), including the emission budget and list of TCMs in the applicable implementation plan(s), prepared by the lead air quality agency in a nonattainment or maintenance area;
- b.** All other conformity determinations for transportation plans, projects, and programs; and
- c.** Revisions to the preceding documents which may directly or indirectly affect conformity determinations.

State Effective: 3/30/00; EPA Effective: 6/11/2001

SECTION 58.01.01.568. ICC MEMBER ROLES IN CONSULTATION

The lead agency as identified in this section is the ICC member responsible for initiating the consultation process, preparing the initial and final drafts of the document or decision, and assuring the adequacy of the consultation process for all conformity processes and procedures.

01. Designated Lead Air Quality Agency. IDEQ or the MPO, as the designated lead air quality agency, shall be the lead agency for the development of the implementation plan, the associated emission budgets, and the list of Transportation Control Measures (TCMs) in the plan. The concurrence of IDEQ on each applicable implementation plan is required before IDEQ adopts the plan and submits it to EPA for inclusion in the applicable implementation plan.

02. Areas With An MPO. For areas in which an MPO has been established, the designated MPO shall be the lead agency responsible for conformity determinations, development of the LRTP, development of the TIP, and project level documentation under 23 CFR 450.

03. Areas Without An MPO. For areas in which an MPO has not been established, ITD shall be the lead agency for preparing the final document on conformity determinations, the development of the statewide transportation plan, the development of the STIP, and project level documentation under 23 CFR 450.

State Effective: 3/30/01; EPA Effective: 6/11/2001

SECTION 58.01.01.569. ICC MEMBER RESPONSIBILITIES IN CONSULTATION

This Section identifies the specific responsibilities of ICC members.

01. Designated Lead Air Quality Agency Responsibilities. The designated lead air quality agency shall be responsible for developing or providing and distributing draft and final documentation, data and analyses for:

- a.** Air emission inventories;
- b.** Emission budgets;
- c.** Attainment and maintenance demonstrations;
- d.** Control strategy implementation plan revisions;
- e.** Updated motor vehicle emission factors;
- f.** Proposal and evaluation of TCMs; and
- g.** Public outreach on draft air quality plans pursuant to 40 CFR Part 51.

02. Designated MPO Responsibilities. The designated MPO shall be responsible for:

- a.** Conformity determinations corresponding to LRTPs and TIPs;
- b.** Making conformity determinations for the entire nonattainment or maintenance area, including areas beyond the boundaries of the MPO, where no agreement is in effect as required by 23 CFR 450.310(f);
- c.** Identify regionally significant projects through the consultation process;
- d.** Implementing TCMs in air quality nonattainment and/or maintenance areas, as applicable;
- e.** Providing technical and policy input on emissions budgets;

- f.** Performing transportation modeling, regional emissions analyses, and project level analysis, as necessary;
- g.** Documenting timely implementation of TCMs, as required, for determining conformity; and
- h.** Distributing relevant draft and final project environmental documents to ICC members and persons on the distribution list per the schedule in Subsection 570.01.c.

03. Non-MPO Area Responsibilities. In areas without an established MPO, ITD shall be responsible for:

- a.** Conformity determinations corresponding to STIPs and project-level analyses;
- b.** Providing technical and policy input on proposed revisions to motor vehicle emissions factors and to emission budgets;
- c.** Distributing relevant draft and final project environmental documentation prepared by, or for ITD, to ICC members and persons on the distribution list per the schedule in Subsection 570.01.c.;
- d.** Convening air quality technical review meetings on specific projects when requested by other ICC members, or as needed;
- e.** Convening interagency consultation meetings required for purposes of making conformity determinations in nonattainment or maintenance areas, outside of MPO boundaries, as necessary;
- f.** Making conformity determinations in nonattainment or maintenance areas, outside of MPO boundaries, as necessary; and
- g.** Implementing TCMs in air quality nonattainment and/or maintenance areas, as applicable.

04. FHWA And FTA Responsibilities. FHWA and FTA shall be responsible for:

- a.** Assuring timely action on final findings of conformity for transportation plans, TIPs, and federally funded projects, including the basis for those findings after consultation with other agencies as provided in Section 569 and 40 CFR 93.105; and
- b.** Providing guidance on conformity and the transportation planning process to ICC members. FHWA and FTA may rely solely on the consultation process initiated by ITD or the MPO, where one exists, and shall not be required to duplicate that process.

05. EPA Responsibilities. EPA shall be responsible for providing policy and technical guidance on conformity criteria to ICC members.

06. Responsibility To Disclose Potentially Regionally Significant Projects. ITD, the local highway jurisdiction, transit agency, or transportation project sponsor shall be responsible for disclosing potentially regionally significant projects within air quality nonattainment and maintenance areas to the ICC in a timely manner.

a. Local Highway Jurisdictions shall disclose of potentially regionally significant projects upon written request of ITD within fourteen (14) days of such request, or when annual local and MPO project lists are due to ITD District Offices as part of the annual STIP development process;

b. In an MPO area, to help assure timely disclosure, the sponsor of any potentially regionally significant project shall disclose such projects to the MPO annually on or before March 1 of that calendar year; and

c. In MPO nonattainment and maintenance areas, the TIP and associated conformity demonstration shall be deemed to be incomplete if any regionally significant project has not been disclosed to the ICC in a timely manner. Therefore, such a TIP shall be considered to be non-conforming to applicable implementation plan(s).

State Effective: 3/30/01; EPA Effective: 6/11/2001

SECTION 58.01.01.570. GENERAL CONSULTATION PROCESS

Section 570 provides the general procedures for interagency consultation (federal, tribal, state, and local) and public participation for transportation conformity determinations in air quality nonattainment and maintenance areas in the state of Idaho.

01. Lead Agency In Consultation. The following are the responsibilities of the lead agency at each stage of the consultation process:

a. Initiating the consultation process by notifying other ICC members of the document or decision that must undergo the consultation process and by scheduling and convening consultation meetings and agendas;

b. Developing and maintaining a distribution list of all ICC members and any other persons expressing an interest in receiving information and materials pertaining to ICC meetings;

c. Distributing an agenda and all supporting material, including minutes of ICC meetings, to ICC members and persons on the distribution list as follows:

i. Fourteen (14) days in advance of an ICC meeting if there are non-technical issues to be resolved by the ICC;

ii. Thirty (30) days in advance of an ICC meeting if there are technical issues to be resolved by the ICC; or

- iii. If distribution of technical material pursuant to Subsection 570.01.c.ii. is not feasible thirty (30) days prior to an ICC meeting, then the lead agency shall notify the ICC members and persons on the distribution list in writing at least thirty (30) days prior to the ICC meeting. Together with the notification, the lead agency shall distribute and disclose all available material and documentation to the ICC members and persons on the distribution list, informing them of the nature, purpose, and details of possible program changes that are expected to occur from earlier analyses of the actions. All technical material and documentation shall be distributed at a minimum of fourteen (14) days prior to the ICC meeting.
- d.** Conferring with other agencies and persons not on the distribution list that have expressed an interest in the document or decision to be developed;
 - e.** Providing ICC members and persons on the distribution list access to all information needed for meaningful input;
 - f.** Soliciting early and continuing input from other ICC members and persons on the distribution list;
 - g.** Following the public consultation procedures outlined in Section 574;
 - h.** Providing an opportunity for informal question and answer on the draft document or proposed decision;
 - i.** Considering the views of ICC members and persons on the distribution list and responding in writing to significant comments in a timely and substantive manner prior to finalizing or taking any final action on those documents or determinations enumerated in Section 567.07.a. through 567.07.c.; and
 - j.** Assuring all comments and written responses of ICC members and persons on the distribution list are made part of the record of any action.
- 02.** Public Comment Period To Satisfy Thirty Day Document Distribution Requirement. A lead agency may use all or any part of another public comment period established for public outreach procedures pursuant to 23 CFR 450 for a transportation plan, program, or project to satisfy the thirty (30) day advance distribution requirement for technical issues, and shall notify all ICC members and other persons on the distribution list when so doing fourteen (14) days prior to commencement of the public comment period.
- 03.** Separate Times Or In Combination. The above actions may be conducted at separate times or in combination, as required, to enhance the efficiency of the process.
- 04.** Final Document Distribution. A lead agency, upon completion of a final document subject to the consultation process under Sections 563 through 574 of these rules (including any federal

agency), shall distribute each final document to all other ICC members and persons on the distribution list within thirty (30) days of adopting or approving such document or making such determination.

05. Use Of Checklist For Distribution Of Material. The lead agency may supply a checklist of available supporting information to ICC members and persons on the distribution list to be used to request all or part of the supporting information, in lieu of generally distributing all supporting information.

06. Use Of Other Meetings For Consultation. A meeting that is scheduled or required for another purpose may be used for the purposes of consultation only if the public notice for the meeting identifies consultation as an agenda item.

State Effective: 3/30/01; EPA Effective: 6/11/2001

SECTION 58.01.01.571. CONSULTATION PROCEDURES

The consultation process among ICC members and persons on the distribution list shall be undertaken for the following specific major activities (federal, tribal, state, and local), specific routine activities and specific air quality related activities, in accordance with the procedures in Section 570. Participating agencies shall be all ICC members unless otherwise specified in Subsections 571.01 through 571.04.

01. Specific Major Activities. The consultation process shall be undertaken for the following specific major activities. The lead agency for each activity shall be the designated MPO or ITD in the absence of an MPO.

a. Evaluating and choosing each air quality model and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses including vehicle miles traveled forecasting. The hot-spot analyses shall be performed consistent with procedures described in 40 CFR 93.116 and 40 CFR 93.123 and regional emissions analysis shall be performed using procedures outlined on 40 CFR 93.122.

b. Determining which minor arterials and other transportation projects should be considered “regionally significant” for the purposes of regional emissions analysis, in addition to those functionally classified as principal arterial or higher or fixed guideway transit systems or extensions that offer an alternative to regional highway travel.

c. Evaluating whether projects otherwise exempted from meeting the requirements of Sections 563 through 574 of these rules should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason per 40 CFR 93.126 and 127.

d. Making a determination as to whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs. This consultation procedure shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove

TCMs or substitute TCMs with other emission reduction measures.

e. Identifying projects located at sites in PM nonattainment or maintenance areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM hot-spot analysis. In case a method for quantitative hot-spot analysis has not been formally adopted by EPA, a sound qualitative analysis developed in conjunction with FHWA may be used for the same.

f. Making a determination whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, and whether the project's design concept and scope have changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility.

g. For areas in the state with no MPOs, making a determination whether a project has undergone project-level analysis and whether the project's design concept and scope have changed significantly from those which were included in the project-level analysis, or in a manner which would significantly impact use of the facility.

h. Establishing appropriate public participation opportunities for project-level conformity determinations, as applicable, in the manner specified by Section 574, to be initiated by the recipient of the funds designated under 23 U.S.C. or the Federal Transit Act.

i. Choosing conformity tests and methodologies for isolated and rural nonattainment and maintenance areas as required by 40 CFR 93.109(g)(2)(iii).

02. Specific Routine Activities. The consultation process shall be undertaken for the following specific routine activities. The lead agency shall be the MPO or ITD in the absence of an MPO.

a. Evaluating events that will trigger new conformity determinations in addition to those triggering events established in 40 CFR 93.104. Participating agencies shall be the MPO and state, tribal, regional, and local air quality planning agencies.

b. Consulting on emissions analysis for transportation activities that cross the borders of MPOs or nonattainment or maintenance areas. Participating agencies shall be the MPO and state, tribal, regional, and local air quality planning agencies.

c. Determining whether the project sponsor or MPO has demonstrated that the requirements are satisfied without a particular mitigation, such as emissions offsets or other control measures, or determining that a conforming project approved with mitigation no longer requires mitigation.

d. Assuring that plans for construction of regionally significant projects that are not FHWA/FTA projects, including projects for which alternative locations, design concept and

scope, or the no-build option are still being considered, are disclosed to the MPO or ITD in the absence of an MPO on a regular basis, and assuring that any changes to those plans are immediately disclosed.

e. Determining whether a project, which was previously found to conform, has or will have a significant change in design concept and scope since the project plan and TIP conformity determination.

f. Designing, scheduling, and funding of research and data collection effort pertaining to transportation or air quality planning with implications for transportation conformity.

g. Reviewing and recommending regional transportation model development by the MPO (e.g., household/travel transportation surveys).

h. Development of transportation improvement programs.

i. Development of regional transportation plans.

j. Consulting when the metropolitan planning area does not include the entire nonattainment area or maintenance area, for planning requirements which may fall under the jurisdiction of more than one (1) MPO or the MPO and ITD.

03. Specific Air Quality Related Activities. The consultation process shall be undertaken when preparing an applicable implementation plan that includes the revision or addition of a motor vehicle emissions inventory and budget activities in accordance with the procedures in Section 570. Consultation is not required for administrative amendments that do not affect conformity. The lead agency for each activity shall be IDEQ or the MPO. In addition to the Section 570 consultation process, the lead agency shall undertake the following:

a. Scheduling consultation meetings early in the process of decision on the applicable implementation plan, and prior to making a final recommendation to their management, committees, boards or commissions, for a final decision on such documents;

b. Arranging for technical committees or teams to assist ICC members in reviewing documents provided by the lead agency. The lead agency may convene technical meetings as necessary; and

c. Scheduling and conducting meetings of the ICC at regularly scheduled intervals, no less frequently than quarterly.

d. The ICC may appoint subcommittees to address specific issues pertaining to applicable implementation plan development. Any recommendations of a subcommittee shall be considered by the ICC.

04. Notification Process. The designated MPO, or ITD in the absence of an MPO, shall notify

ICC members and persons on the distribution list of a transportation plan or TIP revisions that merely add or delete exempt projects listed in 40 CFR 93.126 early in the process of decision, and by supplying all relevant documents and information to the same.

State Effective: 3/30/01; EPA Effective: 6/11/2001

SECTION 58.01.01.572. FINAL CONFORMITY DETERMINATIONS BY USDOT

Section 572 establishes the process USDOT shall follow when making final determinations on proposed or anticipated transportation actions subject to transportation conformity.

01. Final Conformity Determination Process. USDOT will make making final determinations on proposed or anticipated STIP or transportation plan or project conformity by:

a. Distributing a draft conformity determination to EPA for review and comment. USDOT shall allow a maximum of thirty (30) days for EPA to respond; and

b. USDOT shall respond in writing to any significant comments raised by EPA within fourteen (14) days of receipt in writing before making a final decision.

02. New Or Revised Information. If USDOT requests any new or revised information to support a STIP, TIP or transportation plan or project conformity determination, then USDOT shall either return the conformity determination for additional consultation pursuant to Section 570, or USDOT shall distribute the new information to the ICC members and persons on the distribution list for review and comment;

a. When USDOT distributes such new or additional information to ICC members and persons on the distribution list, USDOT shall allow for a maximum of thirty (30) days for the lead agency to respond to any new or revised supporting information; and

b. USDOT shall distribute a written response within fourteen (14) days of receipt to any significant comments raised by the ICC members and persons on the distribution list on the new or revised supporting information before making a final decision.

State Effective: 3/30/01; EPA Effective: 6/11/2001

SECTION 58.01.01.573. RESOLVING CONFLICTS

Conflicts between state agencies or between state agencies and the MPO regarding a determination of conformity, applicable implementation plan submittal, or other policy decision under Sections 563 through 574, shall be resolved in the following manner.

01. Conflict Resolution At The Level Of IDEQ Regions And ITD Districts. Every effort shall be made to resolve any conflicts among state agencies or between state agencies and an MPO at the regional level. The regional administrator of IDEQ, the District Engineer of ITD and the other agency managers at the regional level of the affected jurisdictions, or their designated representatives shall be involved in conflict resolution at the regional level.

02. Conflict Resolution At The Level Of IDEQ And ITD Headquarters. If conflict(s) are not resolved at the regional level, the issue shall be raised to the level of agency directors for

resolution.

03. Conflict Resolution At The Governor's Level. If conflict(s) are not resolved through Subsection 569.02, then IDEQ shall raise the conflict to the Governor, as follows:

a. The IDEQ administrator shall request in writing that ITD or the MPO provide IDEQ with written notification of resolution of IDEQ's comments. ITD or the MPO shall provide IDEQ with the requested written notification within fourteen (14) days of receipt of IDEQ's written request.

b. Within fourteen (14) days of its receipt of the requested written notification, IDEQ may appeal the conformity determination in writing to the Governor. If IDEQ appeals to the Governor, then the final conformity determination must have the concurrence of the Governor. If IDEQ does not appeal in writing to the Governor within fourteen (14) days of its receipt of written notification of resolution of its comments, then the lead transportation agency may proceed with the final conformity determination.

c. The fourteen (14) days shall start on the date when the IDEQ administrator receives notification of the written resolution of his comments regarding a determination of conformity, applicable implementation plan submittal, or other decision under Sections 563 through 574.

04. Process For Conflict Resolution At The Governor's Level. The Governor may delegate to another independent official or agency within the state his or her role in this process. The Governor may not delegate his or her role to the head or staff of the state air quality agency or any local air quality agency, ITD, a state transportation commission or board, any agency that has responsibility for any one (1) of these functions, or an MPO.

State Effective: 3/30/01; EPA Effective: 6/11/2001

SECTION 58.01.01.574. PUBLIC CONSULTATION PROCEDURES

Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, reasonable public access to technical and policy information considered by the agency, and consistent with these requirements and those of 23 CFR 450. Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.95. In addition, these agencies must specifically address, in writing, all public comments relating to known plans for a regionally significant project, which is not receiving FHWA or FTA funding, or approval. This is especially important if the project's emissions have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. These agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

State Effective: 3/30/01; EPA Effective: 6/11/2001

SECTION 58.01.01.575. AIR QUALITY STANDARDS AND AREA CLASSIFICATION

Ambient Air Quality Standards. The purpose of Sections 575 through 587 is to establish air

quality standards for the state of Idaho which define acceptable ambient concentrations consistent with established air quality criteria.

State Effective: 4/11/06; EPA Effective: 12/27/2010

SECTION 58.01.01.576. GENERAL PROVISIONS FOR AMBIENT AIR QUALITY STANDARDS

01. Applicability. The ambient air quality standards established herein shall apply to all of the state.

02. Standard Conditions. Where applicable, air quality measurements shall be corrected to a reference temperature of twenty-five degrees Celsius (25C) and to a reference pressure of seven hundred and sixty (760) millimeters of mercury absolute.

03. Revisions. As pertinent air quality criteria information becomes available, such information shall be considered and new or revised air quality standards promulgated as appropriate.

04. Control Of Unregulated Contaminants. The absence of an air quality standard for a specific contaminant shall not preclude action by the Department to control such contaminants to assure the health, welfare and comfort of the people of the State.

05. Methods. All measurement techniques for determining compliance with 40 CFR Part 50 shall be consistent with those specified in 40 CFR Parts 50 and 53.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.578. DESIGNATION OF ATTAINMENT, UNCLASSIFIABLE, AND NONATTAINMENT AREAS

01. Annual Review. The Department shall annually review the available ambient air quality data and when appropriate, redesignate areas as attainment, unclassifiable or nonattainment with the standards in 40 CFR Part 50.

02. Boundaries. Boundaries for such areas will be based, as much as possible, on actual ambient concentrations and shall take into account such things as the location of air pollutant sources, modeled air quality concentrations, terrain, geographical boundaries and political jurisdictions.

03. Area Designation. Designation of attainment and unclassifiable areas shall generally be made on a county basis. Redesignation of attainment or unclassifiable areas cannot intersect or be smaller than the area of impact of any major facility or major modification which establishes the baseline date or is subject to a PSD permit.

04. Redesignations. Redesignations shall be adopted by the Department after public notice and opportunity for a public hearing and will be submitted by the Governor (or if delegated, the Director) to the U.S. Environmental Protection Agency.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.579. BASELINES FOR PREVENTION OF SIGNIFICANT

DETERIORATION

01. Baseline Date(s). (5-1-94)

a. Major Source Baseline Date. January 6, 1975 in the case of particulate matter and sulfur dioxide; February 8, 1988 in the case of nitrogen dioxide. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

b. Minor Source Baseline Date. The earliest date after the trigger date on which a major stationary source or a major modification subject to prevention of significant deterioration (PSD) submits a complete application. The trigger date is: (4-5-00)

i. In the case of particulate matter and sulfur dioxide, August 7, 1977; and (4-5-00)

ii. In the case of nitrogen dioxide, February 8, 1988. (4-5-00)

c. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if: (4-5-00)

i. The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d) of the Clean Air Act for the pollutant on the date of its complete prevention of significant deterioration (PSD) application; and (4-5-00)

ii. In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant. (4-5-00)

d. Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that the Department may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Department, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM-10 emissions. (4-5-00)

02. Baseline Area. Any intrastate area designated as attainment or unclassifiable under 42 U.S.C. Section 7407(d), in which the major facility or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than a one (1) microgram per cubic meter (annual average) of the regulated air pollutant for which the minor source baseline date is established. (4-5-00)

03. Baseline Concentration. The ambient concentration for a particular regulated air pollutant which exists in the applicable baseline area on the applicable minor source baseline date. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

- a. The baseline concentration shall represent: (5-1-94)
 - i. The actual emissions from sources in existence on the applicable minor source baseline date; and (5-1-94)
 - ii. The allowable emissions of major facilities and major modifications which commenced construction before the applicable major source baseline date, but were not in operation by the applicable minor source baseline date. (5-1-94)
- b. The baseline concentration shall not include the actual emissions of new major facilities and major modifications which commenced construction on or after the applicable major source baseline date. (5-1-94)
State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.580. CLASSIFICATION OF PREVENTION OF SIGNIFICANT DETERIORATION AREAS

01. Restrictions On Area Classification. (5-1-94)

- a. All of the following areas which were in existence on August 7, 1977, are Class I and may not be redesignated: (5-1-94)
 - i. International parks; (5-1-94)
 - ii. National wilderness areas which exceed five thousand (5,000) acres; (5-1-94)
 - iii. National memorial parks which exceed five thousand (5,000) acres; (5-1-94)
 - iv. National parks which exceed six thousand (6,000) acres. (5-1-94)
- b. The following areas are Class II and may be redesignated only as Class I or II: (5-1-94)
 - i. National monuments, national primitive areas, national preserves, national recreational areas, national wild and scenic rivers, national wildlife refuges, and national lakeshores or seashores which exceed ten thousand (10,000) acres; or (5-1-94)
 - ii. National parks or national wilderness areas established after August 7, 1977, which exceed ten thousand (10,000) acres. (5-1-94)
- c. All other areas in the State are Class II and may be redesignated Class I, II or III. (5-1-94)

02. Procedures For Redesignation Of Prevention Of Significant Deterioration (PSD)

Areas. The Governor may submit to the U.S. Environmental Protection Agency a proposal to redesignate areas as a revision to the SIP. In preparing any such proposal the Department shall: (4-5-00)

- a.** Consult with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation; (5-1-94)
- b.** Prepare a discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposal. This document will be made available for public inspection at least thirty (30) days prior to the public hearing on the proposed redesignation and the notice announcing the hearing will include notification of the availability of the document; (5-1-94)
- c.** Provide written notice to the appropriate Federal Land Manager of any federal lands proposed for redesignation and provide at least thirty (30) days for the Federal Land Manager to confer with the Department and to submit written comments and recommendations. If written comments and recommendations are submitted, the Department shall publish a list of any inconsistency between the proposed redesignation and the comments and recommendations, including the reasons for making a redesignation against the recommendation of the Federal Land Manager; (5-1-94)
- d.** Notify other states, Indian governing bodies, and federal land managers whose land may be affected by the proposed redesignation at least thirty (30) days prior to the public hearing; (5-1-94)
- e.** For a redesignation to Class III: After consulting with the appropriate committees of the legislature, if it is in session, or the leadership of the legislature, if it is not in session, obtain specific approval by the Governor and by all general purpose units of local government representing a majority of the residents of the area to be redesignated; demonstrate that the redesignation would not cause, or contribute to, violations of any ambient air quality standard, or violations of PSD increments in any other area; and make available, for public inspection prior to the public hearing, any permit application and accompanying material for any major facility or major modification which could only be permitted if the area were designated as Class III; and (5-1-94)
- f.** Hold at least one (1) public hearing on the proposed redesignation. (5-1-94)

SECTION 58.01.01.581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS

The purpose of Section 581 is to establish the allowable degree of deterioration for the areas within the State which have air quality better than the ambient standards. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

01. Class I, II and III Areas. Class I, II, and III area PSD increment requirements contained in 40 CFR 52.21(c) are incorporated by reference into these rules at Section 107. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr. (10-6-10)

State Effective: 10/6/10; EPA Effective: 8/16/2012

02. Exceedances. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

03. Exclusions. The following concentrations shall be excluded in determining compliance with the maximum allowable increases: (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

a. Concentrations attributable to the increase in emissions from facilities which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, over the emissions from such facilities before the effective date of such order or plan; this shall not apply more than five (5) years after the effective date of such order or plan; (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

b. Concentrations of PM-10 attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities; (7-1-97)

State Effective: 7/1/97; EPA Effective: 2/18/2003

c. The increase in concentrations attributable to new facilities outside the United States over the concentrations attributable to existing facilities which are included in the baseline concentration; and (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

d. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen dioxide, or particulate matter from facilities which are affected by a revision to the SIP approved by the U.S. Environmental Protection Agency; this exclusion shall not exceed two (2) years unless a longer time is approved by the U.S. Environmental Protection Agency, is not renewable, and applies only to revisions which: (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

i. Would not affect the applicable pollutant concentrations in a Class I area or an area where an applicable increment is known to be violated and would not cause or contribute to a violation of an ambient air quality standard; and

State Effective: 4/11/06; EPA Effective: 12/27/2010

ii. Require limitations to be in effect at the end of the approved time period which would ensure that the emissions from facilities affected by the revision would not exceed those concentrations occurring before the revision was approved. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.582. INTERIM CONFORMITY PROVISIONS FOR NORTHERN

ADA COUNTY FORMER NONATTAINMENT AREA FOR PM-10

The purpose of Section 582 is to implement part of the settlement of “Idaho Clean Air Force, et al. v. EPA, et al.” Section 582 requires that the growth in transportation related PM-10 emissions be offset annually in the absence of federal transportation conformity requirements in the former PM-10 nonattainment area in northern Ada County, Idaho. Section 582 will remain in place until a PM-10 maintenance demonstration and maintenance plan containing a motor vehicle emissions budget can be developed, submitted to the U.S. Environmental Protection Agency (EPA) and approved as meeting the requirements of Section 175A of the Clean Air Act, and the transportation plan and TIP for northern ADA County has been found to conform to the applicable implementation plan. The Department will prepare a PM-10 maintenance plan within the agreed upon time frame to be submitted to EPA for approval.

01. Definitions. Terms not specifically defined in Subsection 582.01 are defined in Sections 565 and 566 of these rules.

- a. Annual Reduction Amount.** Represents the estimated, annual average increase in PM-10 emissions in the former nonattainment area expected between the years 1997 and 2005 and is calculated at seven hundred fifty (750) kg/day.
- b. Consent Decree.** The consent decree approved by the Ninth Circuit Court of Appeals to resolve “Idaho Clean Air Force, et al. v. EPA, et al.,” (Ninth Circuit Docket Nos. 99-70289 & 99-70576).
- c. Emissions Reductions.** Reductions in emissions of PM-10 or PM-10 precursors to be achieved by transportation control measures (as defined in 40 CFR 93.101) or other binding emissions control measures. Control measures adopted by the Metropolitan Planning Organization and approved by the Department shall be enforceable obligations of the State Implementation Plan (SIP).
- d. Former Nonattainment Area.** That portion of northern Ada County designated as a nonattainment area for PM-10 by 40 CFR 81.87 prior to March 12, 1999.
- e. Interim Period.** The period beginning with the fiscal year commencing October 1, 2000, until EPA approves a maintenance plan containing a motor vehicle emission budget for the former nonattainment area and the Metropolitan Planning Organization adopts a transportation plan and TIP that is found to conform in accordance with Section 176(c) of the Clean Air Act and 40 CFR Part 93.
- f. Metropolitan Planning Organization (MPO).** For purposes of Section 582, Community Planning Association of Southwest Idaho (COMPASS), or its successor organization, is the MPO for the former nonattainment area.
- g. Regionally Significant Project.** A transportation project, other than an exempt project, that is on a facility which serves regional transportation needs (such as access to and from the area outside the region, major activity centers in the region, major planned developments

such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including, at a minimum:

- i. All principal arterial highways;
- ii. All fixed guideway transit facilities that offer an alternative to regional highway travel; and
- iii. Any other facilities determined to be regionally significant through Section 570, interagency consultation.

02. Applicability. The provisions of Section 582 shall apply during the interim period. The transportation conformity requirements of 40 CFR Part 93 applicable to nonattainment areas shall apply to the former nonattainment area pursuant to 42 U.S.C. Section 7506(c)(5) if the area is designated nonattainment or attainment with an approved maintenance plan. The provisions of Section 582 shall no longer apply after a maintenance demonstration and maintenance plan containing motor vehicle emissions budget(s) for PM-10 is submitted by the Department as a State Implementation Plan (SIP) revision, has been approved by EPA as meeting the requirements of Section 175A of the Clean Air Act, and a transportation plan and TIP have been found to conform to the applicable implementation plan pursuant to 40 CFR Part 93.

03. Adoption Of Control Measures And Demonstration Of Emissions Reductions. As a precondition to:

- a. The expenditure of any non-exempt federal transportation funds that would be prohibited under a conformity lapse;
- b. The construction of any regionally significant projects that would be prohibited under a conformity lapse;
- c. The execution by the Idaho Transportation Department or the Ada County Highway District of any project agreements required by 23 U.S.C. Section 106(a) that would be prohibited under a conformity lapse; or
- d. The execution of agreements with contractors to begin construction on a highway project that is not exempt from a conformity determination pursuant to 40 CFR 93.126 and 93.127 during any fiscal year during the interim period, the MPO shall:
 - i. Demonstrate that the control measures adopted to achieve emissions reductions in prior fiscal years have been implemented and will continue to be implemented during the next fiscal year;
 - ii. Demonstrate that the control measures adopted to achieve emissions reductions have achieved the magnitude of emissions reductions expected as a result of the

implementation of such measures;

iii. Adopt (subject to approval by the Department pursuant to Subsection 852.04) control measures adequate to achieve emissions reductions reasonably calculated to reduce actual emissions during the next fiscal year in the former nonattainment area by the annual reduction amount, at a minimum, in addition to any emissions reductions required to be achieved prior to the beginning of such fiscal year; and

iv. With regard to control measures that will not be implemented directly by the MPO, obtain written commitments from the responsible entities that the control measures will be implemented in the manner and within the fiscal year required to meet the emission reductions.

04. Department Review. Following adoption by the MPO, the control measures designed to achieve the new emissions reductions for the next fiscal year, associated emissions calculations, and the demonstrations required by Subsection 582.03 shall be submitted to the Department no later than April 1 of each year. The Department shall review and approve the submission if the Department determines that the requirements of Subsection 582.03 are met in accordance with the following:

a. The Department will respond to the submittal within thirty (30) days of receipt. The response may include approval of the submission, a request for further information, or conditional approval of the control measures subject to submission of evidence that entities responsible for implementation of the measures have adopted any ordinances, appropriations or other approvals needed to complete the implementation of such measures. If further information is required, such information shall be submitted to the Department within thirty (30) days of request. The Department shall take final action to approve or deny the submission within ninety (90) days of the MPO's submission of the documentation required by Subsection 582.03; and

b. The Department shall by July 1 of each year during the interim period provide to the MPO, the Ada County Highway District Commissioners and the Idaho Department of Transportation a report listing the emissions control measures implemented and the emissions control measures planned but not yet implemented for the then-current fiscal year, together with the Department's written determination as to whether the Emissions Reductions associated with such emissions control measures satisfy the requirements under Section 582.

05. First Year Emissions Reductions. For the initial fiscal year to which Section 582 applies, the MPO shall adopt new control measures reasonably calculated to achieve emissions reductions of two thousand (2000) kg/day. The MPO may take credit for any reductions in transportation-related emissions of PM-10 that were actually achieved by the implementation of enforceable control measures or other measures following March 12, 1999, and that continue to be implemented during the interim period.

06. Restrictions if Emissions Reductions Not Adopted. If the MPO adopts control measures for the purpose of achieving emissions reductions in a fiscal year, and the relevant local governmental entities do not adopt the necessary implementing ordinances or appropriate necessary funds, if any, by the beginning of the following fiscal year, the MPO shall not expend any non-exempt federal transportation funds or construct any regionally significant projects, that would be prohibited under a conformity lapse, in such following fiscal year until each of the relevant local governmental entities, if any, take such actions as may be necessary to implement the control measures previously approved by the MPO and the Department.

07. Restrictions on TIP if Emissions Reductions Not Adopted or Achieved. If:

a. Control measures required to achieve emissions reductions for a prior fiscal year have not been implemented, or

b. The Department does not approve the control measures submitted by the MPO as adequate to achieve the required emissions reductions for any fiscal year, then:

i. The MPO shall not submit any TIP or TIP revision for a project subject to the requirements of Subsection 582.03, that would be prohibited under a conformity lapse, to the Idaho Transportation Department for inclusion into the State Transportation Improvement Program or to FHWA/ FTA for approval, and

ii. No new agreement for a project subject to the requirements of Subsection 582.03, that would be prohibited under a conformity lapse, may be executed by the Idaho Transportation Department or the Ada County Highway District until control measures adequate to achieve the total emissions reductions required for any prior fiscal year are implemented and the control measures adequate to achieve the total emissions reductions for the next fiscal year are approved.

State Effective: 3/30/01; EPA Effective: 6/11/01

SECTION 58.01.01.600. RULES FOR CONTROL OF OPEN BURNING

The purpose of Sections 600 through 623 is to reduce the amount of emissions and minimize the impact of open burning to protect human health and the environment from air pollutants resulting from open burning as well as to reduce the visibility impairment in mandatory Class I Federal Areas in accordance with the regional haze long-term strategy referenced at Section 667.

State Effective: 4/2/08; EPA Effective: 9/2/08

SECTION 58.01.01.601. FIRE PERMITS, HAZARDOUS MATERIALS AND LIABILITY

Compliance with the provisions of Sections 600 through 623 does not exempt or excuse any person from complying with applicable laws and ordinances of other jurisdictions responsible for fire control or hazardous material disposal or from liability for damages or injuries which may result from open burning.

State Effective: 4/2/08; EPA Effective: 9/2/08

SECTION 58.01.01.602. NONPREEMPTION OF OTHER JURISDICTIONS

The provisions of Sections 600 through 623 are not intended to interfere with the rights of any city, county or other governmental entities or agencies to provide equal or more stringent control of open burning within their respective jurisdictions.

State Effective: 4/2/08; EPA Effective: 9/2/08

SECTION 58.01.01.603. GENERAL RESTRICTIONS

01. Categories and Materials. No person shall allow, suffer, cause or permit any open burning operation unless it is a category of open burning set forth in Sections 600 through 623 and the materials burned do not include any of the following:

State Effective: 4/2/08; EPA Effective: 9/2/08

a. Garbage, as defined in Section 006.

State Effective: 3/21/03; EPA Effective: 9/2/08

b. Dead animals, animal parts, or animal wastes (feces, feathers, litter, etc.) except as provided in Section 616.

State Effective: 3/21/03; EPA Effective: 9/2/08

c. Motor vehicles, parts, or any materials resulting from a salvage operation.

State Effective: 3/21/03; EPA Effective: 9/2/08

d. Tires or other rubber materials or products.

State Effective: 3/21/03; EPA Effective: 9/2/08

e. Plastics.

State Effective: 3/21/03; EPA Effective: 9/2/08

f. Asphalt or composition roofing or any other asphaltic material or product.

State Effective: 3/21/03; EPA Effective: 9/2/08

g. Tar, tar paper, waste or heavy petroleum products, or paints.

State Effective: 3/21/03; EPA Effective: 9/2/08

h. Lumber or timbers treated with preservatives.

State Effective: 3/21/03; EPA Effective: 9/2/08

i. Trade waste, as defined in Section 006, except as specifically allowed under Sections 600 through 623.

State Effective: 4/2/08; EPA Effective: 9/2/08

j. Insulated wire.

State Effective: 3/21/03; EPA Effective: 9/2/08

k. Pathogenic wastes.

State Effective: 3/21/03; EPA Effective: 9/2/08

l. Hazardous wastes.

State Effective: 5/1/94; EPA Effective: 9/2/08

02. Air Pollution Episodes. No person shall allow, suffer, cause or permit any open burning to

be initiated during any stage of an air pollution episode declared by the Department in accordance with Sections 550, through 562.

State Effective: 3/21/03; EPA Effective: 9/2/08

03. Emergency Authority. In accordance with Title 39, Chapter 1, Idaho Code, the Department has the authority to require immediate abatement of any open burning in cases of emergency requiring immediate action to protect human health or safety.

State Effective: 3/21/03; EPA Effective: 9/2/08

SECTION 58.01.01.606. CATEGORIES OF ALLOWABLE BURNING

The purpose of Sections 606 through 623 is to establish categories of open burning that are allowed when done according to prescribed conditions. Unless specifically exempted each category in Sections 606 through 623 is subject to all of the provisions of Sections 600 through 605.

State Effective: 4/2/08; EPA Effective: 9/2/08

SECTION 58.01.01.607. RECREATIONAL AND WARMING FIRES

Fires used for the preparation of food or for recreational purposes (e.g. campfires, ceremonial fires, and barbecues) or small fires set for handwarming purposes, are allowable forms of open burning.

State Effective: 3/21/03; EPA Effective: 9/2/08

SECTION 58.01.01.608. WEED CONTROL FIRES

Open outdoor fires used for the purpose of weed abatement such as along fence lines, canal banks, and ditch banks is an allowable forms of open burning.

State Effective: 5/1/94; EPA Effective: 9/2/08

SECTION 58.01.01.609. TRAINING FIRES

Fires used by qualified personnel to train firefighters in the methods of fire suppression and fire fighting techniques, or to display certain fire ecology or fire behavior effects are allowable forms of open burning. Training facilities shall notify the Department prior to igniting any training fires. Training fires shall not be allowed to smolder after the training session has terminated. Training fires are exempt from Subsections 603.01.c. and 603.01.e. through 603.01.j.

State Effective: 3/21/03; EPA Effective: 9/2/08

SECTION 58.01.01.610. INDUSTRIAL FLARES

Industrial flares, used for the combustion of flammable gases are allowable forms of open burning. Industrial flares are subject to permitting requirements in Sections 200 through 223.

State Effective: 3/21/03; EPA Effective: 9/2/08

SECTION 58.01.01.611. RESIDENTIAL SOLID WASTE DISPOSAL FIRES

01. Fires Allowed. Open outdoor fires used to dispose of solid waste (e.g. rubbish, tree leaves, yard trimmings, gardening waste, etc.) excluding garbage produced by the operation of a domestic household is an allowable form of open burning when the following provisions are met:

- a. No scheduled house to house solid waste collection service is available; and
- b. The burning is conducted on the property where the solid waste was generated.

02. Fires Exempt. Open outdoor fires used to dispose of tree leaves, gardening waste or yard trimmings are exempt from Subsection 611.01.a. when conducted in accordance with local governmental ordinances or rules which allow for the open burning of tree leaves, gardening waste or yard trimming during certain periods of the year.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.612. LANDFILL DISPOSAL SITE FIRES

The use of fires for the disposal of solid waste at any solid waste landfill disposal site or facility is an allowable form of open burning only if conducted in accordance with IDAPA 58.01.06, “Solid Waste Management Rules and Standards” or the Solid Waste Facilities Act, Chapter 74, Title 39, Idaho Code.

State Effective: 3/21/03; EPA Effective: 9/2/08

SECTION 58.01.01.613. ORCHARD FIRES

The use of heating devices to protect orchard crops from frost damage and the use of fires to dispose of orchard clippings are allowable forms of open burning when the following provisions are met:

State Effective: 3/21/03; EPA Effective: 9/2/08

01. Open-Pot Heaters. The use of stackless open-pot heaters is prohibited.

State Effective: 5/1/94; EPA Effective: 9/2/08

02. Heating Device Opacity. Orchard heating device with visible emissions exceeding forty percent (40%) opacity at normal operating conditions shall not be used. Opacity shall be determined by the procedures contained in Section 625.

State Effective: 3/21/03; EPA Effective: 9/2/08

03. Heating Device Emissions. All heaters purchased after September 21, 1970, shall emit no more than one (1.0) gram per minute of solid carbonaceous matter at normal operating conditions as certified by the manufacturer. At the time of purchase, the seller shall certify in writing to the purchaser that all new equipment is in compliance with Section 613.

State Effective: 3/21/03; EPA Effective: 9/2/08

04. Orchard Clippings. The open burning of orchard clippings shall be conducted on the property where the clippings were generated.

State Effective: 5/1/94; EPA Effective: 9/2/08

SECTION 58.01.01.614. PRESCRIBED BURNING

The use of open outdoor fires to obtain the objectives of prescribed fire management burning is an allowable form of open burning when the provisions of Section 614 are met.

01. Burning Permits Or Prescribed Fire Plans.

a. Whenever a burning permit or prescribed fire plan is required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed burning shall meet all permit and/or plan conditions and terms which control smoke.

b. The Department will seek interagency agreements to assure permits or plans issued by agencies referred to in Subsection 614.01.a. provide adequate consideration for controlling smoke from prescribed burning.

02. Smoke Management Plans For Prescribed Burning.

a. Whenever a permit or plan is not required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed burning shall meet all conditions set forth in a Smoke Management Plan for Prescribed Burning.

b. The Department will develop and put into effect a Smoke Management Plan for Prescribed Burning consistent with the purpose of Sections 600 through 616.

03. Rights-Of-Way Fires.

The open burning of woody debris generated during the clearing of rights of way shall be open burned according to Sections 38-101 and 38-401, Idaho Code, IDAPA 20 Title 16 and Sections 606 through 616 of these rules.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.615. DANGEROUS MATERIAL FIRES

Fires used or permitted by a public or military fire chief to dispose of materials (including military ordnance) which present a danger to life, valuable property or the public welfare, or for the purpose of prevention of a fire hazard when no practical alternative method of disposal or removal is available are allowable forms of open burning.

State Effective: 3/21/03; EPA Effective: 9/2/08

SECTION 58.01.01.616. INFECTIOUS WASTE BURNING

Upon the order of a public health officer, fires used to dispose of diseased animals or infested material are an allowable form of open burning and exempt from Subsection 603.01.k.

State Effective: 3/21/03; EPA Effective: 9/2/08

SECTION 58.01.01.617. CROP RESIDUE.

The open burning of crop residue on fields where the crops were grown is an allowable form of open burning if conducted in accordance with Section 39-114, Idaho Code, and Sections 618 through 624 of these rules.

State Effective: 7/1/11; EPA Effective: 4/18/13

SECTION 58.01.01.618. PERMIT BY RULE.

01. General Requirements. All persons shall be deemed to have a permit by rule if they comply with all the provisions of Sections 618 through 623. No person shall conduct an open burn of crop residue without obtaining the applicable permit by rule. Those persons applying for a spot burn, baled agricultural residue burn, or propane flaming permit shall comply with the provisions in Section 624. The permit by rule does not relieve the applicant from obtaining all other required permits and approvals required by other state and local fire agencies or permitting authorities.

State Effective: 7/1/11; EPA Effective: 4/18/13

02. Forms. The Department shall provide the appropriate forms to complete the permit by rule. Forms may be available at the Department offices or on the Department website.

State Effective: 4/2/08; EPA Effective: 9/2/08

SECTION 58.01.01.619. REGISTRATION FOR PERMIT BY RULE.

Any person applying to burn crop residue shall annually provide the following registration information to the Department at least thirty (30) days prior to the date the applicant proposes to burn:

01. Location of Property. Street address of the property upon which the proposed burning of crop residue will occur or, if there is no street address of the property, the legal description of the property using longitude and latitude coordinates or township, range and section for the Idaho meridian;

02. Applicant Information. Name, mailing address, and telephone number of the applicant, and the person who will be responsible for conducting the proposed burning of crop residue and the portable form of communication referenced in Subsection 622.01.c.;

03. Plot Plan. A plot plan showing the location of each proposed crop residue burning area in relation to the property lines and indicating the distances and directions of the nearest residential, public, and commercial properties, and roads;

04. Type, Acreage and Fuel Characteristics of Crop Residue Proposed to be Burned. The crop type, area over which burning will be conducted (acres), and other fuel characteristics;

05. Preventive Measures. A description of the measures that will be taken to prevent escaped burns or withhold additional material such that the fire burns down, including but not limited to, the availability of water and plowed firebreaks; and

06. Date of Burning. The requested date(s) when the proposed crop residue burning would be conducted or the proposed date the field will be available to be burned.

State Effective: 4/2/08; EPA Effective: 9/2/08

SECTION 58.01.01.620. REGISTRATION FEE.

01. Payment of Fee. The permit by rule registration fee set out in Section 39-114, Idaho Code, shall be paid in its entirety at least seven (7) days prior to the proposed burn date. See also Subsection 624.02.a. for registration and fee requirements for burning under a spot and baled agricultural residue burn permit. The permit by rule registration form and fee should be sent to:

Crop Residue Burning Registration Fees
Fiscal Office

Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255

State Effective: 7/1/11; EPA Effective: 4/18/13

02. Effect of Payment. Payment of the registration fee does not imply authorization or

approval to burn.

State Effective: 4/2/08; EPA Effective: 9/2/08

SECTION 58.01.01.621. BURN DETERMINATION.

01. Burn Approval Criteria. The Department shall develop a Crop Residue Operating Guide to use in assisting in the determination of burn approvals. The permittee shall obtain initial approval from the Department for the proposed burn at least twelve (12) hours in advance of the burn. The permittee shall confirm, with the Department, the approval the morning of the proposed burn. The Department may shorten this time frame if meteorological or other applicable conditions change that will impact the air quality during the proposed burn period. To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed seventy-five percent (75%) of the level of any national ambient air quality standards on any day and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556 of these rules. In making this determination, the Department shall consider the following:

- a. Expected Emissions. Expected emissions from all burns proposed for the same dates;
- b. Proximity of Other Burns. The proximity of other burns and other potential emission sources within the area to be affected by the proposed burn;
- c. Moisture Content. Moisture content of the material to be burned;
- d. Acreage, Crop Type, and Fuel Characteristics. Acreage, crop type, and fuel characteristics to be burned;
- e. Meteorological Conditions. Meteorological conditions;
- f. Proximity to Institutions with Sensitive Populations. The proximity of the burn to institutions with sensitive populations, including public schools while in session; hospitals; residential health care facilities for children, the elderly or infirm; and other institutions with sensitive populations as approved by the Department. The Department shall not authorize a burn if conditions are such that institutions with sensitive populations will be adversely impacted or when the plume is predicted to impact such institutions;
- g. Proximity to Public Roadways. Proximity to public roadways;
- h. Proximity to Airports. Proximity to airports; and
- i. Other Relevant Factors. Any other factors relevant to preventing exceedances of the air quality concentrations of Section 621.

02. Notification of Approval. If the Department approves the burn, then it will post on its website written notification of the approval and any specific conditions under which the burn is approved. Special conditions may include, but are not limited to:

- a. Conditions for burns near institutions with sensitive populations;
- b. The requirement to withhold additional material such that the fire burns down if the Department determines pollutant concentrations reach the levels in Subsection 621.01;
- c. Conditions to ensure the burn does not create a hazard for travel on a public roadway; and
- d. The requirement to consult with the Department to determine actions to be taken if conditions at the burn site fail to satisfy the conditions specified in the notice of approval to burn.

State Effective: 4/2/08; EPA Effective: 9/2/08

SECTION 58.01.01.622. GENERAL PROVISIONS.

01. Burn Provisions. All persons in Idaho intending to dispose of crop residue through burning shall abide by the following provisions;

- a. **Burning Prohibitions.** Burning of crop residue shall not be conducted on weekends, federal or state holidays, or after sunset or before sunrise;
- b. **Designated Burn Day.** Burning of crop residue shall not be conducted unless the Department has designated that day a burn day and the permittee has received individual approval specifying the conditions under which the burn may be conducted;
- c. **Portable Form of Communication.** The person conducting the burning must have on their possession a portable form of communication such as a cellular phone or radio of compatible frequency with the Department in order to receive burn approval information or information that might require measures to withhold additional material such that the fire burns down;
- d. **Location of Field Burning.** Open burning of crop residue shall be conducted in the field where it was generated;
- e. **Limitations on Burning.** When required by the conditions of the notice of approval to burn, the permittee burning in proximity to institutions with sensitive populations shall immediately extinguish the fire or withhold additional material such that the fire burns down, unless the Department determines that the burn will not have an adverse impact on such institutions;
- f. **Training Session.** All persons intending to burn crop residue shall attend a crop residue burning training session provided by the Idaho Department of Environmental Quality or the Idaho State Department of Agriculture and shall attend a crop residue disposal refresher training session every five (5) years;

g. Air Stagnation or Degraded Air Quality. All field burning shall be prohibited when the Department issues an air quality forecast and caution, alert, warning or emergency as identified in Section 552 of these rules:

h. Allowable Forms of Open Burning. The use of reburn machines, propane flammers, or other portable devices to ignite or reignite a field for the purposes of crop residue burning shall be considered an allowable form of open burning. Tires and other restricted material described in Section 603.01 are not allowed for ignition of fields:

i. Additional Burn Permits. All persons intending to burn crop residue shall obtain any additional applicable permits from federal, state or local fire control authorities prior to receiving approval from the Department to burn crop residue; and

j. Reporting to the Department. All persons burning crop residue shall report to the Department the date burning was conducted, the actual number and location of acres burned, and other information as required by the Department. The Department may restrict further burning by a permittee until completed burns are reported.

State Effective: 4/2/08; EPA Effective: 9/2/08

k. Specific Conditions. The open burning of crop residue shall be conducted in accordance with the specific conditions in the permittee's permit by rule.

State Effective: 7/1/11; EPA Effective: 4/18/13

02. Annual Report. The Department shall develop an annual report that shall include, at a minimum, an analysis of the causes of each exceedance of a limitation in Section 621, if any, and an assessment of the circumstances associated with any reported endangerment to human health associated with a burn. The report shall include any proposed revisions to these rules or the Crop Residue Operating Guide deemed necessary to prevent future exceedances.

03. Advisory Committee. The Department will assemble an advisory committee consisting of representatives from environmental organizations, farming organizations, health organizations, tribal organizations, the Idaho State Department of Agriculture, the Idaho Department of Environmental Quality, and others to discuss open burning of crop residue issues.

State Effective: 4/2/08; EPA Effective: 9/2/08

SECTION 58.01.01.623. PUBLIC NOTIFICATION

01. Designation of Burn Days. The Director or his designee shall designate for a given county or airshed within a county burn or no burn days.

State Effective: 4/2/08; EPA Effective: 9/2/08

02. Posting on Website. The Department shall post daily on its website (www.deq.idaho.gov):

State Effective: 7/1/11; EPA Effective: 4/18/13

a. Whether a given day is a burn or no burn day;

b. The location and number of acres permitted to be burned;

c. Meteorological conditions and any real time ambient air quality monitoring data; and
State Effective: 4/2/08; EPA Effective: 9/2/08

d. A toll free number to receive requests for information (1-800-345-1007).
State Effective: 7/1/11; EPA Effective: 4/18/13

03. E-Mail Update Service. The Department shall provide an opportunity for interested persons to sign up to receive automatic e-mail updates for information regarding the open burning of crop residue.

State Effective: 4/2/08; EPA Effective: 9/2/08

624. (RESERVED) SPOT BURN, BALED AGRICULTURAL RESIDUE BURN, AND PROPANE FLAMING PERMITS.

Note: Adoption of Section 624 does not in itself authorize the open burning of crop residue in Idaho. Before burning under Section 624 can be conducted, several actions must take place, including development of a revised State Implementation Plan (SIP) and approval of the SIP by the U.S. Environmental Protection Agency (EPA). Prior to EPA SIP approval, those desiring to conduct spot burns, baled agricultural residue burns, or propane flaming must obtain a permit by rule in accordance with Sections 618 through 623. Contact DEQ before burning.

01. Applicability.

a. Spot Burn. A spot burn includes no more than one (1) acre of evenly distributed crop residue or two (2) tons of piled crop residue. The open burning of weed patches, spots of heavy residue, equipment plugs and dumps, pivot corners of fields, and pastures may constitute a spot burn. Spot burn does not include the open burning of wind rows.

b. Baled Agricultural Residue Burn. An open burn used to dispose of broken, mildewed, diseased, or otherwise pest-ridden bales still in the field where they were generated.

c. Propane Flaming. The use of flame-generating equipment to briefly apply flame and/or heat to the topsoil of a cultivated field of pre-emerged or plowed-under crop residue with less than five hundred fifty (550) pounds of burnable, non-green residue per acre in order to control diseases, insects, pests, and weed emergence.

02. Spot and Baled Agricultural Residue Burn Permit.

a. Registration and Fee Requirements. Any person applying for a spot and baled agricultural residue burn permit under Section 624 shall provide the registration information listed in Subsections 619.01 and 619.02 and pay a nonrefundable fee of twenty dollars (\$20) to the Department (see Section 620) at least fourteen (14) days prior to the date the applicant proposes to conduct the first burn of the calendar year.

b. Term and Acreage. A spot and baled agricultural residue burn permit is valid for the calendar year in which it is issued and is good for a cumulative total of no more than ten (10) acres of spots and/or equivalent piled or baled agricultural residue during the year and no more than one

(1) acre of spots and/or equivalent piled or baled agricultural residue per day. Two (2) tons of piled or baled agricultural residue is assumed to be equivalent to one (1) acre.

03. Propane Flaming Permit. Persons conducting propane flaming as defined under Subsection 624.01.c. shall be deemed to have a permit by rule if they comply with the applicable provisions in Subsections 624.04 and 624.05.

04. General Provisions. All persons intending to burn under Section 624 shall comply with the provisions of Subsections 622.01.c., 622.01.d., 622.01.f., through 622.01.i., and 622.01.k. in addition to the following:

a. The permittee is responsible to ensure that adequate measures are taken so the burn does not create a hazard for travel on a public roadway.

b. Burning is not allowed if the proposed burn location is within three (3) miles of an institution with a sensitive population and the surface wind speed is greater than twelve (12) miles per hour or if the smoke is adversely impacting or is expected to adversely impact an institution with a sensitive population.

c. Designated Burn Day. Burning shall not be conducted unless the Department has designated that day a burn day, which for purposes of Section 624 may include weekends and holidays, and the permittee burns within the burn window provided on the Department's website at www.deq.idaho.gov. Spot and baled agriculture residue burns shall not smolder and create smoke outside of the designated time period burning is allowed.

05. Recordkeeping. Permittees shall record the date, time frame, type of burn, type of crop, and amount burned on the date of the burn. Records of such burns shall be retained for two (2) years and made available to the Department upon request.

State Effective: 7/1/11; EPA Effective: 4/18/13

SECTION 58.01.01.625. VISIBLE EMISSIONS

A person shall not discharge any air pollutant into the atmosphere from any point of emission for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than twenty percent (20%) opacity as determined by this section.

01. Exemptions. The provisions of this section shall not apply to:

State Effective: 4/5/00; Effective: 9/2/08

a. Kraft Process Lime Kilns, if operating prior to January 24, 1969; or

b. Carbon Monoxide Flare Pits on Elemental Phosphorous Furnaces, if operating prior to January 24, 1969; or

c. Liquid Phosphorous Loading Operations, if operating prior to January 24, 1969; or

d. Wigwam Burners; or

e. Kraft Process Recovery Furnaces.

f. Calcining Operations Utilizing an Electrostatic Precipitator to Control Emissions, if operating prior to January 24, 1969.

State Effective: 5/1/94; EPA Effective: 9/2/08

02. Standards For Exempted Sources. Except as provided in Section 626, for sources exempted from the provisions of this section, a person shall not discharge into the atmosphere from any point of emission, for any air pollutant for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than forty percent (40%) opacity as determined by this section.

03. Exception. The provisions of this section shall not apply when the presence of uncombined water, nitrogen oxides and/or chlorine gas are the only reason(s) for the failure of the emission to comply with the requirements of this rule.

04. Test Methods And Procedures. The appropriate test method under this section shall be EPA Method 9 (contained in 40 CFR Part 60) with the method of calculating opacity exceedances altered as follows:

a. Opacity evaluations shall be conducted using forms available from the Department or similar forms approved by the Department.

b. Opacity shall be determined by counting the number of readings in excess of the percent opacity limitation, dividing this number by four (4) (each reading is deemed to represent fifteen (15) seconds) to find the number of minutes in excess of the percent opacity limitation. This method is described in the Procedures Manual for Air Pollution Control, Section II (Evaluation of Visible Emissions Manual), September 1986.

c. Sources subject to New Source Performance Standards must calculate opacity as detailed above and as specified in 40 CFR Part 60.

State Effective: 4/5/00; Effective: 9/2/08

05. Applicability. Section 625 shall not apply to the open burning of crop residue.

State Effective: 4/2/08; EPA Effective: 9/2/08

SECTION 58.01.01.626. GENERAL RESTRICTIONS ON VISIBLE EMISSIONS FROM WIGWAM BURNERS

Except for a period of one (1) hour following start up a person shall not discharge into the atmosphere from any wigwam burner any air pollutant for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than twenty percent (20%) opacity as determined by the procedures contained in Section 625.

State Effective: 4/5/00, EPA Effective: 2/18/2003

SECTION 58.01.01.650. RULES FOR CONTROL OF FUGITIVE DUST

The purpose of Sections 650 through 651 is to require that all reasonable precautions be taken to

prevent the generation of fugitive dust.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.651. GENERAL RULES

All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. In determining what is reasonable, consideration will be given to factors such as the proximity of dust emitting operations to human habitations and/or activities, the proximity to mandatory Class I Federal Areas and atmospheric conditions which might affect the movement of particulate matter. Some of the reasonable precautions may include, but are not limited to, the following:

(3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

01. Use of Water or Chemicals. Use, where practical, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land. (5-1-94)

02. Application of Dust Suppressants. Application, where practical, of asphalt, oil, water or suitable chemicals to, or covering of dirt roads, material stockpiles, and other surfaces which can create dust. (5-1-94)

03. Use of Control Equipment. Installation and use, where practical, of hoods, fans and fabric filters or equivalent systems to enclose and vent the handling of dusty materials. Adequate containment methods should be employed during sandblasting or other operations. (5-1-94)

04. Covering of Trucks. Covering, when practical, open bodied trucks transporting materials likely to give rise to airborne dusts. (5-1-94)

05. Paving. Paving of roadways and their maintenance in a clean condition, where practical. (5-1-94)

06. Removal of Materials. Prompt removal of earth or other stored material from streets, where practical. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.665. REGIONAL HAZE RULES.

The purpose of Sections 665 through 668 is to address regional haze visibility impairment in mandatory Class I Federal Areas. The intent of Sections 665 through 668 is to set forth the requirements to implement the federal programs for visibility protection and regional haze.

State Effective: 3/30/07, EPA Effective: 7/11/2011

SECTION 58.01.01.666. REASONABLE PROGRESS GOALS.

The Department will establish reasonable progress goals, expressed in deciviews for each mandatory Class I Federal Area located within Idaho. These goals will provide for reasonable progress toward achieving natural visibility conditions. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The reasonable progress goals are not directly enforceable, but will be implemented

through enforceable strategies in the long-term strategy. (3-30-07)

01. Process for Setting Reasonable Progress Goals. In establishing a reasonable progress goal for any mandatory Class I Federal Area within Idaho, the Department shall: (3-30-07)

a. Consider the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources, and include a demonstration showing how these factors were taken into consideration in selecting the goal. (3-30-07)

b. Analyze and determine the rate of progress needed to attain natural visibility conditions by the year 2064. To calculate this rate of progress, the Department will compare baseline visibility conditions to natural visibility conditions in the mandatory Class 1 Federal Area and determine the uniform rate of visibility improvement (measured in deciviews) that would need to be maintained during each implementation period in order to attain natural visibility conditions by 2064. In establishing the reasonable progress, the Department will consider the uniform rate of improvement in visibility and the emission reduction measures needed to achieve it for the period covered by the implementation plan. (3-30-07)

c. Consult with those states which may reasonably be anticipated to cause or contribute to visibility impairment in the mandatory Class I Federal Area. (3-30-07)

02. Justification for Reasonable Progress Goals. If the Department establishes a reasonable progress goal that provides for a slower rate of improvement in visibility than the rate that would be needed to attain natural conditions by 2064, the Department will demonstrate, based on the factors in Subsection 666.01.a., that the rate of progress for the implementation plan to attain natural conditions by 2064 is not reasonable; and that the progress goal adopted by the Department is reasonable. The Department will provide to the public for review, as part of its implementation plan, an assessment of the number of years it would take to attain natural conditions if visibility improvement continues at the rate of progress selected by the Department as reasonable. (3-30-07)

SECTION 58.01.01.667. LONG-TERM STRATEGY FOR REGIONAL HAZE.

The purpose of Section 667 is to develop a long-term strategy for making reasonable progress toward the national goal of preventing any future and remedying any existing impairment of visibility in mandatory Class I Federal Areas in which impairment results from man-made air pollution. (3-30-07)

01. Submittal of Long-Term Strategy. The Department will submit to EPA a long-term strategy that addresses regional haze visibility impairment for each mandatory Class I Federal Area within the state and for each mandatory Class I Federal Area located outside the state which may be affected by emissions from the state. (3-30-07)

02. Enforceable Emission Limitations. The long-term strategy must include enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the

reasonable progress goals established by the Department. (3-30-07)

03. Requirements for Long-Term Strategy. In establishing long-term strategy for regional haze, the Department will meet the following requirements: (3-30-07)

a. The Department will document the technical basis, including modeling, monitoring and emissions information, on which the state is relying to determine its apportionment of emission reduction obligations necessary for achieving reasonable progress in each mandatory Class I Federal Area it affects. The Department may meet this requirement by relying on technical analyses developed by the regional planning organization and approved by all state participants. The Department will identify the baseline emission inventory on which its strategies are based. The baseline emissions inventory year is presumed to be the most recent year of the consolidated periodic emissions inventory. (3-30-07)

b. The Department will identify all anthropogenic sources of visibility impairment considered by the Department in developing its long-term strategy. The Department should consider major and minor stationary sources, mobile sources, and area sources. (3-30-07)

c. The Department will consider, at a minimum, the following factors in developing its long-term strategy: (3-30-07)

i. Emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; (3-30-07)

ii. Measures to mitigate the impacts of construction activities; (3-30-07)

iii. Emissions limitations and schedules for compliance to achieve the reasonable progress goal; (3-30-07)

iv. Source retirement replacement schedules; (3-30-07)

v. Smoke management techniques for agricultural and forestry management purposes including plans as currently exist with the state for these purposes; (3-30-07)

vi. Enforceability of emissions limitations and control measures; and (3-30-07)

vii. The anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. (3-30-07)

04. Interstate Consultation. The Department will undertake the following process in developing the long-term strategy where interstate consultation is required. (3-30-07)

a. Where Idaho has emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal Area located in another state or states, the

Department will consult with the other state(s) in order to develop coordinated emission management strategies. (3-30-07)

b. The Department will consult with any other state having emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal Area within Idaho. (3-30-07)

c. Where other states cause or contribute to impairment in a mandatory Class I Federal Area, the Department must demonstrate that the state has included in its implementation plan all measures necessary to obtain its share of the emission reductions needed to meet the progress goal for the area. If the state of Idaho has participated in a regional planning process, the Department must ensure the state has included all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. (3-30-07)

SECTION 58.01.01.668. BART REQUIREMENT FOR REGIONAL HAZE.

The purpose of Section 668 is to implement the BART requirements in 40 CFR 51.308(e). The following analysis and documentation is required for each BART-eligible source: (3-30-07)

01. BART-Eligible Sources. The Department shall identify a list of all BART-eligible sources within the state. (3-30-07)

02. BART Determination. The Department shall complete a determination of BART for each BART-eligible source in the state that emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any mandatory Class 1 Federal Area. All such sources are subject to BART. (3-30-07)

a. A single source that is responsible for a one (1.0) deciview change or more in any mandatory Class I Federal Area is considered to “cause” visibility impairment. (3-30-07)

b. A single source that is responsible for a one-half (0.5) deciview change or more in any mandatory Class I Federal Area is considered to “contribute” to visibility impairment. (3-30-07)

c. The determination of BART must be based on an analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each BART-eligible source that is subject to BART within the state. In this analysis, the following must be taken into consideration: (3-30-07)

i. Costs of compliance; (3-30-07)

ii. Energy and non-air quality environmental impacts of compliance; (3-30-07)

iii. Any pollution control equipment in use at the source; (3-30-07)

- iv. The remaining useful life of the source; and (3-30-07)
 - v. The degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. (3-30-07)
- d.** The Department may determine that a BART determination is not required: (3-30-07)
- i. For sulfur dioxide (SO₂) or for nitrogen oxides (NO_x) if a BART-eligible source has the potential to emit less than forty (40) tons per year of such pollutant(s); or (3-30-07)
 - ii. For PM₁₀ if a BART-eligible source emits less than fifteen (15) tons per year of such pollutant. (3-30-07)

03. Alternative to Infeasible Emission Standards. If the Department determines in establishing BART that technological or economic limitations on the applicability of measurement methodology to a particular source would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice, or other operational standard, or combination thereof, to require the application of BART. Such standard, to the degree possible, is to set forth the emission reduction to be achieved by implementation of such design, equipment, work practice, or operation and must provide for compliance by means which achieve equivalent results. (3-30-07)

04. BART Installation and Operation Due Date. Each source subject to BART is required to install and operate BART as expeditiously as practicable, but in no event later than five (5) years after approval of the implementation plan. (3-30-07)

05. Maintenance of BART Equipment. Each source subject to BART is required to maintain the control equipment required by the Department and establish procedures to ensure such equipment is properly operated and maintained. (3-30-07)

06. BART Alternative. As an alternative to the installation of BART for a source or sources, the Department may approve a BART alternative. If the Department approves source grouping as a BART alternative, only sources (including BART-eligible and non-BART eligible sources) causing or contributing to visibility impairment to the same mandatory Class I Federal Area may be grouped together. (3-30-07)

- a.** If a source(s) proposes a BART alternative, the resultant emissions reduction and visibility impacts must be compared with those that would result from the BART options evaluated for the source(s). (3-30-07)
- b.** Source(s) proposing a BART alternative must demonstrate that this BART alternative will achieve greater reasonable progress than would be achieved through the installation and operation of BART. (3-30-07)

c. Source(s) proposing a BART alternative shall include in the BART analysis an analysis and justification of the averaging period and method of evaluating compliance with the proposed emission limitation. (3-30-07)

07. Reasonable Progress Goal Requirements for BART-Eligible Sources. Once the Department has met the requirements for BART or BART alternative, as identified in Subsection 668.06, BART-eligible sources will be subject to the requirements of reasonable progress goals, as defined in 40 CFR 51.308(d), in the same manner as other sources. (3-30-07)

State Effective: 3/30/07; EPA Effective: 7/11/2011

SECTION 58.01.01.675. FUEL BURNING EQUIPMENT -- PARTICULATE MATTER

The purpose of Sections 675 through 681 is to establish particulate matter emission standards for fuel burning equipment.

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.676. STANDARDS FOR NEW SOURCES

A person shall not discharge into the atmosphere from any fuel burning equipment with a maximum rated input of ten (10) million BTU's per hour or more, and commencing operation on or after October 1, 1979, particulate matter in excess of the concentrations shown in the following table:

| FUEL TYPE | ALLOWABLE Particulate gr/dscf | EMISSIONS Oxygen |
|------------------|--|-------------------------|
| Gas | .015 | 3% |
| Liquid | .050 | 3% |
| Coal | .050 | 8% |
| Wood Product | .080 | 8% |

The effluent gas volume shall be corrected to the oxygen concentration shown.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.677. STANDARDS FOR MINOR AND EXISTING SOURCES

A person shall not discharge into the atmosphere from any fuel burning equipment in operation prior to October 1, 1979, or with a maximum rated input of less than ten (10) million BTU per hour, particulate matter in excess of the concentrations shown in the following table:

| FUEL TYPE | ALLOWABLE Particulate gr/dscf | EMISSIONS Oxygen |
|------------------|--|-------------------------|
| Gas | .015 | 3% |
| Liquid | .050 | 3% |
| Coal | .100 | 8% |
| Wood Product | .200 | 8% |

The effluent gas volume shall be corrected to the oxygen concentration shown.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.678. COMBINATIONS OF FUELS

When two (2) or more types of fuel are burned concurrently, the allowable emission shall be determined by proportioning the gross heat input and emission standards for each fuel.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.679. AVERAGING PERIOD

For purposes of Sections 675 through 680, emissions shall be averaged according to the following, whichever is the lesser period of time: (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

01. One Cycle. One (1) complete cycle of operation; or (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

02. One Hour. One (1) hour of operation representing worst-case conditions for the emission of particulate matter.

State Effective: 4/11/2006; EPA Effective: 12/27/2010

SECTION 58.01.01.680. ALTITUDE CORRECTION

For purposes of Sections 675 through 680, standard conditions shall be adjusted for the altitude of the source by subtracting one-tenth (0.10) of an inch of mercury for each one hundred (100) feet above sea level from the standard atmospheric pressure at sea level of twenty-nine and ninety-two one hundredths (29.92) inches of mercury.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.681. TEST METHODS AND PROCEDURES

The appropriate test method under Sections 675 through 680 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures shall also comply with Section 157.

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.700. PARTICULATE MATTER -- PROCESS WEIGHT LIMITATIONS

01. Particulate Matter Emission Limitations. The purpose of Sections 700 through 703 is to establish particulate matter emission limitations for process equipment.

State Effective: 5/3/2003; EPA Effective: 12/27/2010

02. Minimum Allowable Emission. Notwithstanding the provisions of Sections 701 and 702, no source shall be required to meet an emission limit of less than one (1) pound per hour. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

03. Averaging Period. For the purposes of Sections 701 through 703, emissions shall be averaged according to the following, whichever is the lesser period of time: (4-5-00)

a. One (1) complete cycle of operation; or (4-5-00)

b. One (1) hour of operation representing worst-case conditions for the emissions of particulate matter. (4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

04. Test Methods And Procedures. The appropriate test method under Sections 700 through 703 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157.

State Effective: 4/4/2000; EPA Effective: 2/18/2003

SECTION 58.01.01.701. PARTICULATE MATTER -- NEW EQUIPMENT PROCESS WEIGHT LIMITATIONS

01. General Restrictions. No person shall emit into the atmosphere from any process or process equipment commencing operation on or after October 1, 1979, particulate matter in excess of the amount shown by the following equations, where E is the allowable emission from the entire source in pounds per hour, and PW is the process weight in pounds per hour.

a. If PW is less than 9,250 pounds per hour,
 $E = 0.045(PW)^{0.60}$

b. If PW is equal to or greater than 9,250 pounds per hour,
 $E = 1.10(PW)^{0.25}$

02. Exemption. The provisions of Section 701 shall not apply to fuel burning equipment.

03. Emission Standards -- Table. The following table illustrates the emission standards set forth in Section 701.

| PROCESS WEIGHT | ALLOWABLE EMISSIONS FROM ENTIRE SOURCE | PROCESS WEIGHT | EMISSIONS FROM ENTIRE SOURCE |
|-----------------------|---|-----------------------|-------------------------------------|
| lb/hr | lb/hr | lb/hr | lb/hr |
| 175 or less | 1 | 20,000 | 13.08 |
| 200 | 1.08 | 40,000 | 15.56 |
| 400 | 1.64 | 60,000 | 17.22 |
| 600 | 2.09 | 80,000 | 18.50 |
| 800 | 2.40 | 100,000 | 19.56 |
| 1,000 | 2.84 | 200,000 | 23.26 |
| 2,000 | 4.30 | 400,000 | 27.66 |
| 4,000 | 6.52 | 600,000 | 30.61 |
| 6,000 | 8.32 | 800,000 | 32.90 |
| 8,000 | 9.89 | 1,000,000 | 34.79 |
| 10,000 | 11.00 | 2,000,000 | 41.37 |

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.702. PARTICULATE MATTER -- EXISTING EQUIPMENT PROCESS WEIGHT LIMITATIONS

The provisions of Section 702 shall become effective on January 1, 1981. (4-5-00)

01. General Restrictions. No person shall emit into the atmosphere from any process or process equipment operating prior to October 1, 1979, particulate matter in excess of the amount shown by the following equations, where E is the allowable emission from the entire source in pounds per hour, and PW is the process weight in pounds per hour: (4-5-00)

a. If PW is less than 17,000 pounds per hour,
 $E = 0.045 (PW)^{0.60}$ (4-5-00)

b. If PW is equal to or greater than 17,000 pounds per hour,
 $E = 1.12 (PW)^{0.27}$. (4-5-00)

02. Exemptions. The provisions of Section 702 shall not apply to: (4-5-00)

a. Fuel burning equipment; or (5-1-94)

b. Equipment used exclusively to dehydrate sugar beet pulp or alfalfa. (5-1-94)

03. Emission Standards -- Table. The following table illustrates the emission standards set forth in Section 702.

| PROCESS WEIGHT | EMISSIONS FROM ENTIRE SOURCE | PROCESS WEIGHT | EMISSIONS FROM ENTIRE SOURCE |
|-----------------------|-------------------------------------|-----------------------|-------------------------------------|
| lb/hr | lb/hr | lb/hr | lb/hr |
| 175 or less | 1 | 20,000 | 16.24 |
| 200 | 1.08 | 40,000 | 19.58 |
| 400 | 1.64 | 60,000 | 21.84 |
| 600 | 2.09 | 80,000 | 23.61 |
| 800 | 2.48 | 100,000 | 25.07 |
| 1,000 | 2.84 | 200,000 | 30.23 |
| 2,000 | 4.30 | 400,000 | 36.46 |
| 4,000 | 6.52 | 600,000 | 40.67 |
| 6,000 | 8.32 | 800,000 | 43.96 |
| 8,000 | 9.89 | 1,000,000 | 46.69 |
| 10,000 | 11.30 | 2,000,000 | 56.30 |

(4-5-00)

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.703. PARTICULATE MATTER -- OTHER PROCESSES

01. Other Processes. No person with processes exempt under Subsection 702.02.b. shall emit particulate matter to the atmosphere from any process or process equipment in excess of the amount shown in the following equations, where E is the total rate of emission from all emission points from the source in pounds per hour and P is the process weight rate in pounds per hour.

a. If P is less than sixty thousand (60,000) pounds per hour,

$$E = 0.02518(P)^{0.67}$$

b. If P is greater than or equal to sixty thousand (60,000) pounds per hour,

$$E = 23.84(P)^{0.11} - 40$$

02. Emission Standards -- Table. The following table illustrates the emission standards set forth in Section 703.

| <u>ALLOWABLE RATE OF EMISSION BASED ON PROCESS WEIGHT RATE</u> | | | |
|---|--------------------------------|------------------------------|--------------------------------|
| <u>Process Weight</u> | <u>Rate of Emission</u> | <u>Process Weight</u> | <u>Rate of Emission</u> |
| <u>Rate</u> | | <u>Rate</u> | <u>Emission</u> |
| <u>Lb/Hr</u> | <u>Lb/Hr</u> | <u>Lb/Hr</u> | <u>Lb/Hr</u> |
| <u>100</u> | <u>0.551</u> | <u>16,000</u> | <u>16.5</u> |
| <u>200</u> | <u>0.877</u> | <u>18,000</u> | <u>17.9</u> |
| <u>400</u> | <u>1.40</u> | <u>20,000</u> | <u>19.2</u> |
| <u>600</u> | <u>1.83</u> | <u>30,000</u> | <u>25.2</u> |
| <u>800</u> | <u>2.22</u> | <u>40,000</u> | <u>30.5</u> |
| <u>1,000</u> | <u>2.58</u> | <u>50,000</u> | <u>35.4</u> |
| <u>1,500</u> | <u>3.38</u> | <u>60,000</u> | <u>40.0</u> |
| <u>2,000</u> | <u>4.10</u> | <u>70,000</u> | <u>41.3</u> |
| <u>2,500</u> | <u>4.76</u> | <u>80,000</u> | <u>42.5</u> |
| <u>3,000</u> | <u>5.38</u> | <u>90,000</u> | <u>43.6</u> |
| <u>3,500</u> | <u>5.96</u> | <u>100,000</u> | <u>44.6</u> |
| <u>4,000</u> | <u>6.52</u> | <u>120,000</u> | <u>46.3</u> |
| <u>5,000</u> | <u>7.58</u> | <u>140,000</u> | <u>47.8</u> |
| <u>6,000</u> | <u>8.56</u> | <u>160,000</u> | <u>49.0</u> |
| <u>7,000</u> | <u>9.49</u> | <u>200,000</u> | <u>51.2</u> |
| <u>8,000</u> | <u>10.4</u> | <u>1,000,000</u> | <u>69.0</u> |
| <u>9,000</u> | <u>11.2</u> | <u>2,000,000</u> | <u>77.6</u> |
| <u>10,000</u> | <u>12.0</u> | <u>6,000,000</u> | <u>92.7</u> |
| <u>12,000</u> | <u>13.6</u> | | |

State Effective: 4/5/00, EPA Effective: 2/18/2003

SECTION 58.01.01.725. RULES FOR SULFUR CONTENT OF FUELS

This section applies to fuel burning sources in Idaho. Its purpose is to prevent excessive ground level concentrations of sulfur dioxide. The reference test method for measuring fuel sulfur content shall be ASTM method, D129-95 Standard Test for Sulfur in Petroleum Products (General Bomb Method) or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157.

State Effective: 5/8/2009; EPA Effective: 12/27/2010

01. Definitions.

State Effective: 5/8/2009; EPA Effective: 12/27/2010

a. ASTM. American Society for Testing and Materials.

State Effective: 5/1/94; EPA Effective: 2/18/2003

b. Distillate Fuel Oil. Any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils.

State Effective: 5/1/94; EPA Effective: 2/18/2003

c. Residual Fuel Oil. Any oil meeting the specifications of ASTM Grade 4, Grade 5 and Grade 6 fuel oils.

State Effective: 5/1/94; EPA Effective: 2/18/2003

02. Residual Fuel Oils. No person shall sell, distribute, use or make available for use, any residual fuel oil containing more than one and three-fourths percent (1.75%) sulfur by weight.

State Effective: 5/8/2009; EPA Effective: 12/27/2010

03. Distillate Fuel Oil. No person shall sell, distribute, use or make available for use, any distillate fuel oil containing more than the following percentages of sulfur:

a. ASTM Grade 1. ASTM Grade 1 fuel oil - zero point three percent (0.3%) by weight.

b. ASTM Grade 2. ASTM Grade 2 fuel oil - zero point five percent (0.5%) by weight.

State Effective: 5/8/2009; EPA Effective: 12/27/2010

04. Coal. No person shall sell, distribute, use or make available for use, any coal containing greater than one percent (1.0%) sulfur by weight.

State Effective: 5/8/2009; EPA Effective: 12/27/2010

SECTION 58.01.01.785. RULES FOR CONTROL OF INCINERATORS

The purpose of Sections 785 through 788 is to prevent excessive emissions of particulate matter from incinerators.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.786. EMISSION LIMITS

01. General Restrictions. No person shall allow, suffer, cause or permit any incinerator to discharge more than two-tenths (0.2) pounds of particulates per one hundred (100) pounds of refuse burned.

02. Averaging Period. For the purposes of Section 786, emissions shall be averaged according to the following, whichever is the lesser period of time:

a. One (1) complete cycle of operation; or

b. One (1) hour of operation representing worst-case conditions for the emissions of particulate matter.

03. Test Methods And Procedures. The appropriate test method under Sections 785 through 788 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157.

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.787. EXCEPTIONS

Sections 785 and 786 do not apply to wigwam burners.

State Effective: 3/23/98; EPA Effective: 2/18/2003

SECTION 58.01.01.805. RULES FOR CONTROL OF HOT-MIX ASPHALT PLANTS

The purpose of Sections 805 through 808 is to establish for hot-mix asphalt plants restrictions on the emission of particulate matter.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.806. EMISSION LIMITS

No person shall cause, allow or permit a hot-mix asphalt plant to have particulate emissions which exceed the limits specified in Sections 700 through 703.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.807. MULTIPLE STACKS

In the case of more than one (1) stack to a hot-mix asphalt plant, the emission limitation will be based on the total emission from all stacks.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.808. FUGITIVE DUST CONTROL

01. Fugitive Emission Controls. No person shall cause, allow or permit a plant to operate that is not equipped with an efficient fugitive dust control system. The system shall be operated and maintained in such a manner as to satisfactorily control the emission of particulate material from any point other than the stack outlet.

02. Plant Property Dust Controls. The owner or operator of the plant shall maintain fugitive dust control of the plant premises and plant owned, leased or controlled access roads by paving, oil treatment or other suitable measures. Good operating practices, including water spraying or other suitable measures, shall be employed to prevent dust generation and atmospheric entrainment during operations such as stockpiling, screen changing and general maintenance.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.815. RULES FOR CONTROL OF KRAFT PULPING MILLS

The purpose of Sections 815 through 826 is to establish for kraft pulping mills restrictions additional to the general rules presented in this Chapter; to formulate a schedule for compliance with the restrictions; and to formalize the policy of the Department concerning emissions control from kraft pulping mills.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.816. STATEMENT OF POLICY

It is hereby declared to be the policy of the Department to:

01. Best Treatment And Control. Require, in accordance with a specific program and timetable, the highest and best practicable treatment and control of emissions through the utilization of technically feasible equipment, devices and procedures.

02. Monitoring. Require effective monitoring and reporting of emissions and reporting of other data pertinent to air quality or emissions. The Department will use these data in conjunction with other data on ambient air and local conditions to develop and revise emission standards and air quality standards as necessary, and to determine compliance therewith.

03. Research. Encourage and assist the kraft pulping industry to conduct research and technological development designed to progressively reduce emissions in accordance with specific programs, objectives and time schedules.

04. Available Technology Required. Establish standards deemed to be technically feasible and reasonably attainable, with the intent of revising the standards as necessary when new information and technology are developed.

05. New Source Standards. Establish more restrictive standards for new mills or for mills expanding existing facilities.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.817. GENERAL RULES

All emission standards in Sections 818 through 823 are based on average daily emissions. These limitations do not preclude a requirement to install the highest and best practicable treatment and control available.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.821. RECOVERY FURNACE PARTICULATE STANDARDS

The emission of particulate matter from all recovery furnace stacks shall not exceed four (4) pounds per ton of equivalent air-dried kraft pulp. Compliance with this requirement shall be achieved by not later than July, 1975.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.822. LIME KILN STANDARDS

The emission of particulate matter from all lime kilns shall not exceed one (1) pound per ton of equivalent air-dried kraft pulp. Compliance with this requirement shall be achieved by not later than July, 1975.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.823. SMELT TANK STANDARDS

The emission of particulate material from all smelt tanks shall not exceed one-half ($\frac{1}{2}$) pound per ton of equivalent air-dried kraft pulp. Compliance with this requirement shall be achieved by not later than July, 1972.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.824. MONITORING AND REPORTING

02. Particulate Sampling. Each mill shall sample the recovery furnace, lime kiln, and smelt tank for particulate emissions on a regularly scheduled basis in accordance with its sampling program as approved by the Department. The appropriate test method under Sections 821 through 823 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and

equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures shall also comply with Section 157. (4-5-00)

03. Monitoring Program And Time Schedule Submittal. Each mill shall submit within sixty (60) days after the original effective date of Sections 815 through 826 a detailed monitoring program and time schedule for approval by the Department. The equipment shall be ordered within thirty (30) days after the monitoring program has been approved in writing by the Department. The equipment shall be placed in effective operation in accordance with the approved program within ninety (90) days after delivery. (5-1-94)

04. Quarterly Reporting Requirements. Unless otherwise authorized by the Department, data shall be reported by each mill at the end of each calendar quarter, as follows: (4-5-00)

a. Daily average emission of TRS gases expressed in parts per million on a dry gas basis for each source included in the approved monitoring program. (5-1-94)

b. The number of hours each day that the emission of TRS gases from each recovery furnace stack exceeds emission standards and the maximum concentration of TRS measured each day. (5-1-94)

c. Emission of TRS gases in pounds of sulfur per equivalent air-dried ton of pulp processed in the kraft cycle on a quarterly basis for each source included in the approved monitoring program. (4-5-00)

d. Emission of particulates in pounds per equivalent air-dried ton of pulp produced in the kraft cycle based upon sampling conducted in accordance with the approved monitoring program. (5-1-94)

e. Average daily equivalent kraft pulp production in air-dried tons. (5-1-94)

f. Other emission data as specified in the approved monitoring program. (5-1-94)

05. Semi-Annual Reporting Requirements. Unless otherwise authorized by the Department, excess emissions data for emissions units covered by Section 820 shall be reported by each mill at the end of each semi-annual calendar period, as follows: (4-5-00)

a. Excess emissions for the semi-annual report required by Subsection 824.05 shall be defined as periods during which noncondensibles are not treated as required by Section 820. Periods of excess emissions reported under Subsection 824.05 shall not be a violation under Section 820 provided that the time of excess emissions (excluding periods of startup, shutdown, or malfunction) divided by the total process operating time in a semi-annual period does not exceed one percent (1%). (4-5-00)

b. The total duration of excess emissions during the reporting period (recorded in hours). (4-5-00)

c. The total duration of excess emissions expressed as a percent of the total source operating time during that reporting period, and (4-5-00)

d. A breakdown of the total duration of excess emissions during the reporting period into those that are due to startup/shutdown, control equipment problems, process problems, other known causes, and other unknown causes. (4-5-00)

06. Miscellaneous Reports. Each kraft mill shall furnish, upon request of the Department, such other pertinent data as the Department may require to evaluate the mill's emission control program. Each mill shall immediately report abnormal mill operations which result in increased emissions of air pollutants, following procedures set forth in the approved monitoring program. (5-1-94)

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.825. SPECIAL STUDIES

Special studies, having prior approval of the Department, shall be conducted, and the results thereof submitted to the Department by December, 1972.

01. Areas To Be Included. The studies shall cover the following areas:

a. TRS Emissions. Evaluation of the emissions of TRS from all other sources within the mill. Other sources mean sources of odorous sulfur emissions including, but not limited to, vents from lime kilns, knotters, brown stock pulp washers, multiple-effect evaporators, digesters, blow tanks, smelt tanks, blow heat accumulators, black liquor storage, black liquor oxidation systems, tall oil recovery operations, and any operation connected with the handling of condensate liquids within the mill or any vent which may be a significant contributor of odorous gases.

b. Sulfur Dioxide Emissions. Evaluation of the emissions of sulfur dioxide from all sources within the mill, including but not necessarily limited to, the recovery furnace, lime kiln, and power boilers.

c. Water Vapor. Evaluation of water vapor emissions from all sources within the mill.

02. Additional Studies. The Department may require such additional special studies relevant to air pollution and establish completion dates as necessary.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.826. EXCEPTIONS

The emission limits established under Sections 817 through 823 apply to the specific process as described. These emission limits do not apply to open burning, power boilers, or other operations conducted at the site of or ancillary to the kraft pulp mill operation. Such ancillary operations must meet standards established in this chapter.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.845. RULES FOR CONTROL OF SULFUR OXIDE EMISSIONS FROM SULFURIC ACID PLANTS.

The purpose of Sections 845 through 848 is to establish sulfur oxide emission limits for sulfuric acid plants using elemental sulfur for the production of sulfuric acid.

State Effective: 5/1/94; EPA Effective: 2/18/2003

SECTION 58.01.01.846. EMISSION LIMITS

01. General Restrictions. No person shall allow, suffer, cause or permit the operation of any sulfuric acid plant which emits sulfur oxides into the atmosphere in excess of twenty-eight (28) lbs/ton of one hundred percent (100%) sulfuric acid produced.

02. Averaging Period. For the purposes of Section 846, emissions shall be averaged according to the following, whichever is the lesser period of time:

- a. One (1) complete cycle of operation; or
- b. Three (3) hours of operation representing worst-case conditions for the emissions of sulfur oxide.

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.847. MONITORING AND TESTING

The appropriate test method under Sections 845 through 848 shall be EPA Method 8 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157.

State Effective: 4/5/00; EPA Effective: 2/18/2003

SECTION 58.01.01.848. COMPLIANCE SCHEDULE

Any owner or operator of a source subject to Sections 845 through 848 shall no later than December 31, 1972, submit to the Department a proposed Compliance Schedule that demonstrates compliance as expeditiously as feasible but no later than July 31, 1975.

State Effective: 5/1/94; EPA Effective: 2/18/2003