

## Overview of Incorporations by Reference for the DEQ Air Quality Program

Docket No. 58-0101-1905

Required by Idaho Code § 67-5223(4)

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An efficient way to implement new or updated federal regulations is to incorporate them by reference into state rule. Reproducing the Code of Federal Regulations in state rule is impractical and costly. Therefore when possible, and as supported by Idaho industry, DEQ incorporates federal regulations by reference. Sections with no changes are also incorporated to ensure the state rules are consistent with federal regulations and to provide one set of rules for industry to follow. Idaho industry is required to comply with all applicable new and updated federal rules regardless of whether DEQ incorporates them by reference.

In addition, for DEQ to be the implementing authority for the Clean Air Act in the state of Idaho, the agency is required to (1) implement the National Ambient Air Quality Standards (NAAQS) and (2) implement an air quality operating permit program for facilities with significant emissions.

- (1) **National Ambient Air Quality Standards Implementation**—If an area in Idaho exceeds a NAAQS, DEQ will develop a state plan to improve air quality in that area. Whenever EPA updates a federal standard, DEQ also must demonstrate to EPA that it can implement the new standard. To obtain the appropriate authority to implement a new standard, DEQ incorporates by reference the following sections from the Code of Federal Regulations: Parts 50, 51, 52, 53, and 58.
- (2) **Operating Permit Program**—Operating permit requirements are outlined under Parts 64 and 70 of the Code of Federal Regulations. To write these permits in Idaho, DEQ must have the authority to include all of the applicable federal requirements. These requirements are contained in the Code of Federal Regulations Parts 52, 60, 61, 62, 63, 73, and 82.

To maintain authority for implementing the Clean Air Act in Idaho, DEQ is required to continually demonstrate that our air quality program meets minimum federal requirements.

Note, if DEQ's air program does not meet EPA's minimum requirements, EPA could impose sanctions on Idaho as outlined in the Clean Air Act ([42 USC § 7509](#)). Under certain circumstances, these sanctions could include withholding federal highway funds or DEQ operating funds.

*The following parts were revised:*

### **National Ambient Air Quality Standards (NAAQS) Implementation**

The NAAQS implementation rules promulgated by EPA in this time period are mostly administrative in nature. These rules mostly affect DEQ, e.g. updates to state implementation plan (SIP) requirements that DEQ will need to follow, or EPA actions in response to DEQ's SIP submittals. Most notably, EPA redesignated Pinehurst from nonattainment to attainment for the PM<sub>10</sub> standard.

A more detailed summary of the Code of Federal Register changes that impact NAAQS implementation is given below.

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

- States are required to have a state implementation plan, which includes the rules and area-specific plans that address NAAQS. This section outlines the state implementation plan requirements for state environmental agencies.
- There were four actions in this section: one exempted a chemical from being designated as a volatile organic carbon compound ([FR-2018-11-28](#)), one updated compliance testing methods for industry ([FR-2019-11-14](#)), one implemented the 2015 Ozone NAAQS ([FR-2018-12-06](#)), and one revised the 1998 regulations for nitrogen oxides. ([FR-2019-03-08](#)).

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

- This section contains general provisions associated with state implementation plans and Idaho-specific state implementation plan actions.
- Subpart A - General Provisions: One action finalized provisions for interstate pollution transport ([FR-2018-12-21](#)) and one revised the 1998 regulations for nitrogen oxides ([FR-2019-03-08](#)).
- Subpart N - Idaho: EPA promulgated four changes in this section focused on Idaho's state implementation plan. One approved Idaho's incorporation by reference rulemaking and the removal of an expired interim regulation ([FR-2018-08-20](#)), one approved the Pinehurst PM<sub>10</sub> redesignation and limited maintenance plan and approved an emissions inventory for the West Silver Valley PM<sub>2.5</sub> nonattainment area ([FR-2018-08-11](#)), one approved Idaho's interstate transport analysis for the 2012 PM<sub>2.5</sub> NAAQS ([FR-2018-09-24](#)), and one approved a rule revision focused on Kraft pulp mills ([FR-2019-04-08](#)).

### **Operating Permit Program Implementation**

Most of the updates to the subparts associated with DEQ's operating permit program do not impact Idaho facilities. The source category that does impact Idaho facilities is the surface coating of wood building products. The updates to this rule are minimal, affected facilities in Idaho are Woodgrain Millwork and Teton Sales Company.

A more detailed summary of the Code of Federal Register changes that impact DEQ's operating permit program is given below.

**Part 62, Subpart HHH:** Federal plan requirements for hospital/medical/infectious waste incinerators constructed on or before December 1, 2008

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

**Part 64:** Compliance assurance monitoring

- This section outlines the compliance assurance monitoring requirements for emission units at major sources of pollution.

**Part 70:** State operating permit programs

- This section describes the minimum requirements for state permitting programs.

**Part 72:** Permits

- This section establishes permit requirements under the Acid Rain Program.

**Part 73:** Sulfur dioxide allowance system

- This part establishes the requirements and procedures for an SO<sub>2</sub> pollutant trading program.
- Idaho currently does not have any sources participating in a pollutant trading program.