

Dear Senators Burtenshaw, Hart, Taylor, and
Representatives Barbieri, Furniss, Rubel:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Environmental Quality:

IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho-Proposed Rule (Docket No.
58-0101-2601);

IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho-Proposed Rule (Docket No.
58-0101-2602);

IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho-Proposed Rule (Docket No.
58-0101-2603).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/09/2026. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/06/2026.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Environment, Energy & Technology Committee

FROM: Legislative Drafting Attorney - Alli Olson

DATE: September 22, 2026

SUBJECT: Department of Environmental Quality

IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho-Proposed Rule (Docket No. 58-0101-2601)

IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho-Proposed Rule (Docket No. 58-0101-2602)

IDAPA 58.01.01 - Rules for the Control of Air Pollution in Idaho-Proposed Rule (Docket No. 58-0101-2603)

Summary and Stated Reasons for the Rule

The Idaho Department of Environmental Quality submits notice of proposed rulemaking for the rules for the control of air pollution in Idaho, IDAPA 58.01.01. DEQ submitted three separate rulemaking dockets for the IDAPA section, each with proposed changes to different parts of the IDAPA section.

- Docket 58-0101-2601 pertains to air quality general minor permits. According to DEQ, a general minor permit is a source category permit under which DEQ has developed standardized emission limits and operating, monitoring, and recordkeeping requirements that require minimal site-specific engineering analysis. DEQ states that by using standardized permit conditions for categories of emission sources with similar operations and air quality impacts, the general minor permit approach reduces administrative burden with ensuring compliance with applicable air quality standards and continued protection of public health and the environment. The proposed changes define general minor permit and provides for the permit's applicability and development, and for how to apply for a general minor permit.
- Docket 58-0101-2602 pertains to application and processing fees for new and modified facilities seeking certain permits. The Department states the proposed revisions are intended to account for inflation and to reduce reliance on the State General Fund. The proposed changes seemingly revise several sections, consolidating language and fee schedules.
- Docket 58-0101-2603 is DEQ's annual update to federal regulations incorporated by reference. The Department states that the rulemaking is necessary to ensure that the state rules remain consistent with

Paul Headlee, Deputy Director Legislative Services Office	Matt Drake, Manager Research & Legislation	Keith Bybee, Manager Budget & Policy Analysis	April Renfro, Manager Legislative Audits	Norma Clark, Manager Information Technology
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Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

federal regulations and that the proposed rule changes does so by updating the incorporated federal regulation's effective date to 2026.

Negotiated Rulemaking / Fiscal Impact

- Docket 58-0101-2601: DEQ states that negotiated rulemaking was conducted and that notice was published in the April 1, 2026, Idaho Administrative Bulletin, Vol. 26-4, pages 13-14. The Department also states that there will not be a negative fiscal impact greater than \$10,0000 to the general fund.
- Docket 58-0101-2602: DEQ states that negotiated rulemaking was conducted and that notice was published in the April 1, 2026, Idaho Administrative Bulletin, Vol. 26-4, pages 15-16. The Department also states that there will not be a negative fiscal impact greater than \$10,0000 to the general fund.
- Docket 58-0101-2603: DEQ states that negotiated rulemaking was not conducted because DEQ has no discretion with respect to adopting federal regulations that are necessary for EPA approval of Idaho's primacy of Clean Air Act programs. The Department states that there will not be a negative fiscal impact greater than \$10,0000 to the general fund.

Statutory Authority

The Department appears to have the authority to promulgate each part of this rule pursuant to Sections 39-105 and 39-107, Idaho Code.

cc: Department of Environmental Quality
Diane Cutler

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-2601

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section [67-5221\(1\)](#), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This rulemaking action is authorized by Sections [39-105](#) and [39-107](#), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Friday, October 2, 2026 9:30 a.m. MT
In Person Conference Room A - DEQ State Office, 1410 N. Hilton, Boise
Microsoft Teams meeting Join: https://teams.microsoft.com/meet/223645207858766?p=LeDwUByXAcPzP2rGNM Meeting ID: 223 645 207 858 766 Passcode: m7TK3rZ3
Dial in by phone +1 208-985-2810 579257576# United States, Boise Find a local number Phone conference ID: 579 257 576#

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule establishes general requirements and procedures for industries eligible to apply for an air quality general minor permit. A general minor permit is a source category specific permit under which DEQ has developed standardized emission limitations, operating requirements, and monitoring and recordkeeping provisions that require minimal site-specific engineering analysis. By using standardized permit conditions for categories of emission sources with similar operations and air quality impacts, the general minor permit approach is intended to reduce administrative burden while ensuring compliance with applicable air quality standards and continued protection of public health and the environment.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2027 Idaho Legislature, the rule will become effective on July 1, 2027, unless otherwise specified in the concurrent resolution.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not applicable.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state

general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not applicable.

NEGOTIATED RULEMAKING: Pursuant to Section [67-5220](#), Idaho Code, negotiated rulemaking was conducted. On April 1, 2026, the Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the Idaho Administrative Bulletin, [Volume 26-4 pages 13-14](#). Three public meetings were held during the negotiated rulemaking process.

At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, key information considered, and documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at [Air Quality: Docket No. 58-0101-2601](#) | Idaho Department of Environmental Quality.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule only regulates activities that are already regulated by the federal government, and it is not broader in scope or more stringent than existing federal regulations.

INCORPORATION BY REFERENCE: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Aislinn Johns at Aislinn.Johns@deq.idaho.gov or (208) 373-0185.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 2, 2026. Submit written comments to:

Aislinn Johns
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
Aislinn.Johns@deq.idaho.gov

Dated this 2nd day of September, 2026.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
208-373-0165
Diane.Cutler@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-2601
(Only Those Sections With Amendments Are Shown.)

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH ~~229~~ 253 AND 400 THROUGH 461.

01. Agricultural Activities and Services. For the purposes of Subsection 222.02.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. (3-28-23)

02. Baseline Actual Emissions. The rate of emissions, in tons per year, of a regulated air pollutant as determined by the following provisions: (3-28-23)

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 Department will allow the use of a different time period upon a determination that it is more representative of normal source operation. The average rate must: (3-28-23)

i. Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. (3-28-23)

ii. 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. (3-28-23)

iii. For a regulated air pollutant, when a project involves multiple emissions units, use only one (1) consecutive twenty-four (24) month period 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. (3-28-23)

iv. 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. (3-28-23)

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 Department for a permit required under these rules, whichever is earlier, except that the ten (10) year period must not include any period earlier than November 15, 1990. The average rate must: (3-28-23)

i. Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. (3-28-23)

ii. 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. (3-28-23)

iii. 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. (3-28-23)

iv. For a regulated air pollutant, when a project involves multiple emissions units, use only one (1) consecutive twenty-four (24) month period 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. (3-28-23)

v. 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 007.02.b.ii. and 007.02.b.iii. (3-28-23)

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 must: equal zero (0) and, thereafter, for all other purposes, equal the unit's potential to emit. (3-28-23)

d. For a plant-wide applicability limit (PAL) for a stationary source, the baseline actual emissions must 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. (3-28-23)

03. Emissions Increase. The amount by which projected actual emissions exceed baseline actual emissions of an emissions unit. (3-28-23)

04. General Minor Permit. A source category specific permit issued pursuant to Section 230. ()

045. Net Emissions Increase. For purposes of Sections 204 and 205, a net emissions increase is defined by the federal regulations incorporated by reference. For purposes of Section 210, a net emissions increase is 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: (3-28-23)

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; (3-28-23)

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. (3-28-23)

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: (3-28-23)

i. The already operating or permitted source commenced construction or modification prior to July 1, 1995; or (3-28-23)

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 (3-28-23)

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 IDAPA 58.01.05, "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. (3-28-23)

056. Projected Actual Emissions. (3-28-23)

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. (3-28-23)

b. In determining the projected actual emissions, the owner or operator of the stationary source: (3-28-23)

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 (3-28-23)

ii. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and (3-28-23)

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 (3-28-23)

iv. In lieu of using the method set out in Subsections 007.05.b.i. through 007.05.b.iii., may elect to use the emissions unit's potential to emit, in tons per year. (3-28-23)

067. 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. (3-28-23)

078. 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. (3-28-23)

089. 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. (3-28-23)

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

01. Affected States. All States: (3-28-23)

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (3-28-23)

b. That are within fifty (50) miles of the Tier I source. (3-28-23)

02. Allowance. An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (3-28-23)

03. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (3-28-23)

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (3-28-23)

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (3-28-23)

- c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (3-28-23)
 - d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (3-28-23)
 - e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (3-28-23)
 - f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128; (3-28-23)
 - g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (3-28-23)
 - h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (3-28-23)
 - i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (3-28-23)
 - j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 336. (3-28-23)
- 04. Designated Representative.** A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (3-28-23)
- 05. Draft Permit.** The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (3-28-23)
- 06. Final Permit.** The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (3-28-23)
- 07. General Tier I Operating Permit.** A Tier I permit issued pursuant to Section 335. ~~(3-28-23)~~ ()
- 08. Major Facility.** A facility (as defined in Section 006) is major if the facility meets any of the following criteria. (3-28-23)
- a. For hazardous air pollutants, the facility emits or has the potential to emit: (3-28-23)
 - i. Ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station must not be aggregated with emissions from other similar emission units within the facility; or (3-28-23)
 - ii. Twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station must not be aggregated with emissions from other similar emission units within the facility. (3-28-23)
 - b. For non-attainment areas, the facility is located in: (3-28-23)
 - i. A “serious” particulate matter (PM₁₀ or PM_{2.5}) nonattainment area and the facility has the

potential to emit seventy (70) tpy or more of PM₁₀ or PM_{2.5}; (3-28-23)

ii. A “serious” carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide; (3-28-23)

iii. An ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds; or (3-28-23)

iv. An ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen are not included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is “marginal” or “moderate,” one hundred (100) tpy or more, if the area is “serious,” fifty (50) tpy or more, if the area is “severe,” twenty-five (25) tpy or more, and if the area is “extreme,” ten (10) tpy or more. (3-28-23)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant. The fugitive emissions are not considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (3-28-23)

i. Designated facilities. (3-28-23)

ii. All other source categories regulated by 40 CFR Part 60, 61 or 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (3-28-23)

(BREAK IN CONTINUITY OF SECTIONS)

108. OBLIGATION TO COMPLY.

Receiving a permit to construct, a Tier I operating permit, a Tier II operating permit, a general minor permit, a permit by rule, or a certificate of registration for portable equipment does not relieve any owner or operator of the responsibility to comply with all applicable local, state, and federal statutes, rules, and regulations.

(3-28-23)()

(BREAK IN CONTINUITY OF SECTIONS)

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 that satisfies the requirements of Sections 200 through 227 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, or the owner or operator complies with Sections 175 through 181, or the source operates in accordance with all of the applicable provisions of a permit by rule, or the source obtains a general minor permit in accordance with Sections 230-232.

(3-28-23)()

(BREAK IN CONTINUITY OF SECTIONS)

228. -- ~~299~~29. (RESERVED)

230. GENERAL MINOR PERMITS.

Sections 230 through 232 establish requirements and procedures for the Department to develop and issue general minor permits. Upon addressing any public comment, the Department will finalize the general minor permit.

statement of basis, and application materials. This information will be posted on the Department's website. ()

01. Applicability. A general minor permit can be developed by the Department for source categories that have similar operations, emissions, and applicable regulatory requirements. ()

02. Nonmajor Requirement. Source categories that are considered a "major facility" as defined in Section 008, or a "major stationary source" as defined in 40 CFR 51.165(a)(1) and 40 CFR 52.21(b) (referenced in Sections 204 and 205) are not eligible for a general minor permit. ()

03. Nonattainment Area Requirement. Sources operating within a designated nonattainment area are not eligible for a general minor permit. ()

231. PROCEDURES FOR DEVELOPING GENERAL MINOR PERMITS.

General minor permits will be developed through the preparation of a proposed general minor permit, statement of basis, and supporting materials, followed by a thirty (30) day public comment period. Upon addressing any public comments, the Department will finalize the general minor permit, statement of basis, and application. This information will be posted on the Department's website. ()

01. Requirements. Any new or modified general minor permit developed by the Department must meet all requirements in accordance with Section 203. ()

02. Reasonable Permit Conditions. The Department will develop reasonable permit conditions for a general minor permit in accordance with Section 211. ()

03. Request for a New Source Category. Any person may make a request to the Department to consider the development of a general minor permit for a new source category. The Department may use its discretion to determine whether to develop a new general minor permit. The request must include at minimum the following information: ()

a. Justification for why a new general minor permit category should be developed, and ()

b. The approximate number of sources that would be eligible for the general minor permit. ()

04. Public Notice. The Department will provide a thirty (30) day comment period after initial publication on any proposed or modified general minor permit for a source category. Notice of the proposed general minor permit, including the proposed permit, statement of basis, and supporting materials, will be posted on the Department's website. After consideration of comments and any additional information submitted during the comment period, and within fifteen (15) days after the close of the comment period, unless the Department determines additional time is required to evaluate comments and information received or the Department determines in its discretion that a general minor permit is not appropriate, the Department will make available the general minor permit, statement of basis, response to comments, and application on the Department's website. ()

232. PROCEDURES FOR APPLYING FOR COVERAGE UNDER A GENERAL MINOR PERMIT.

General minor permit application requirements for each source category developed by the Department will be posted on the Department's website. ()

01. Application Procedures. Owners or operators of a new or modified source which qualifies for a general minor permit may apply for coverage using the application materials available on the Department's website. ()

02. Fees. Owners or operators who apply for coverage under a general minor permit must submit general minor permit fees pursuant to these rules. Information about making fee payments is available on the Department's website. ()

03. Approval Procedures. Within fifteen (15) days of receipt of the qualifying application and fee, the Department will notify the applicant in writing of the approval, or denial, of the coverage under the general minor permit. The Department will describe reasons for any denial. ()

04. **Public Notice.** The public notice requirements in Section 231 do not apply to the approval of an application to be covered under the general minor permit. The Department will maintain a record of sources that are covered under a general minor permit, and this information will be made available on the Department's website. ()

05. **Contested Cases.** Finalization of a general minor permit constitutes final agency action on all permit terms and conditions except applicability to an individual source. Approval of coverage for an individual source constitutes final agency action on applicability of the general minor permit to that source. Any challenge of a coverage decision is limited to whether the source meets the general minor permit's applicability criteria. ()

233. – 299. **(RESERVED)**

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-2602 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section [67-5221\(1\)](#), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This rulemaking action is authorized by Sections [39-105](#) and [39-107](#), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Friday, October 2, 2026 10:15 a.m. MT
In Person Conference Room A - DEQ State Office, 1410 N. Hilton, Boise
Microsoft Teams meeting Join: https://teams.microsoft.com/meet/237997550933698?p=BISaxGkXbzc7kAReyk Meeting ID: 237 997 550 933 698 Passcode: uy3yt3pw Need help? System reference Dial in by phone +1 208-985-2810,,402002537# United States, Boise Find a local number Phone conference ID: 402 002 537#

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is intended to update the application and processing fees for new and modified facilities seeking a permit to construct, general permit, permit by rule, or Tier II operating permit. This rulemaking will also add an annual fee for existing non-Title V facilities. The proposed fee revisions are intended to account for inflation and to reduce program reliance on the State General Fund for permitting and compliance activities for non-Title V facilities.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

This proposed rule updates application and processing fees for issuing permits to construct, Tier II operating permits, permits by rule, and general permits to stationary sources requiring permits. This rule adds application fees for facility name and ownership changes, pre-permit construction, and exemption concurrence requests. This also adds an annual fee for existing non-Title V permitted sources based on facility classification.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not applicable.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule only regulates activities that are already regulated by the federal government, and it is not broader in scope or more stringent than existing federal regulations.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. On April 1, 2026, the Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the Idaho Administrative Bulletin, [Volume 26-4 pages 15-16](#). Two public meetings were held during the negotiated rulemaking process.

At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at [Air Quality: Docket No. 58-0101-2602](#) | Idaho Department of Environmental Quality.

INCORPORATION BY REFERENCE: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Aislinn Johns at Aislinn.Johns@deq.idaho.gov or (208) 373-0185.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 2, 2026. Submit written comments to:

Aislinn Johns
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
Aislinn.Johns@deq.idaho.gov

Dated this 2nd day of September, 2026.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
208-373-0165
Diane.Cutler@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 58-0101-2602
(Only Those Sections With Amendments Are Shown.)

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

224. PERMIT TO CONSTRUCT-APPLICATION FEE.

~~All applicants for a permit to construct must submit a permit to construct application fee of one thousand dollars (\$1,000) to the Department at the time of the original submission of the application. The permit to construct application fee is not required to be submitted for:~~ Fees for permits to construct and exemption concurrences, must be paid in accordance with Sections 250 through 253. ~~(3-28-23)()~~

01. Exemption Applicability Determinations. Exemption applicability determinations set forth in Sections 220 through 223; ~~(3-28-23)~~

02. **Typographical Errors.** Changes to correct typographical errors; or (3-28-23)

03. **Name or Ownership Change.** A change in the name or ownership of the holder of a permit to construct when the Department determines no other review or analysis is required. (3-28-23)

225. ~~PERMIT TO CONSTRUCT PROCESSING FEE.~~

~~A permit to construct processing fee, calculated by the Department pursuant to the categories provided in the following table, must be paid to the Department by the person receiving the permit. The applicable processing fee category is determined by adding together the amount of increases of regulated pollutant emissions and subtracting any decreases of regulated pollutant emissions as identified in the permit to construct. The fee calculation does not include fugitive emissions.~~

PERMIT TO CONSTRUCT CATEGORY	FEE
General permit, no facility specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis. General permit facilities may include portable concrete batch plants, portable hot mix asphalt plants and portable rock crushing plants.)	\$500
New source or modification to existing source with increase of emissions of less than one (1) ton per year	\$1,000
New source or modification to existing source with increase of emissions of one (1) to less than ten (10) tons per year	\$2,500
New source or modification to existing source with increase of emissions of ten (10) to less than one hundred (100) tons per year	\$5,000
Nonmajor new source or modification to existing source with increase of emissions of one hundred (100) tons per year or more	\$7,500
New major facility or major modification	\$10,000
Permit modifications where no engineering analysis is required	\$250
Application submittals for exemption applicability determinations, typographical errors, and name and ownership changes as described in Subsections 224.01, 224.02, 224.03	\$0.00

(3-28-23)

226. ~~PAYMENT OF FEES FOR PERMITS TO CONSTRUCT.~~

01. **Fee Submittal.** The permit to construct application fee must be submitted with the application. The permit to construct processing fee is payable upon receipt of an assessment sent to the person receiving a permit by the Department. Information for making payments is available at <http://www.deq.idaho.gov>. (3-28-23)

02. **Delinquency.** No application for a permit to construct will be processed by the Department unless accompanied by a permit to construct application fee. No permit to construct will be issued by the Department until the Department has received the permit to construct processing fee. (3-28-23)

227. ~~RECEIPT AND USAGE OF FEES.~~

~~Permit to construct application and processing fee receipts will be deposited by the Department into a stationary source permit account. Monies from this account will be used solely toward technical, legal and administrative support of the Department's permit to Construct and Tier II permit programs and will not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act. The permit to construct application fee payable under Section 227 will be retained by the Department regardless of whether a permit to construct is issued by the Department in response to an application.~~ (3-28-23)

~~228~~25. -- ~~299~~49. (RESERVED)

250. PERMIT FEES.

Sections 250 through 253 establish fees for a permit by rule, permit to construct, general minor permit, and Tier II operating permit; and establish an annual fee for all permitted facilities not subject to Sections 390 through 397 and Sections 760 through 764. ()

01. Permit by Rule Registration or Application Fee. A permit by rule registration fee or an application fee provided in Section 251 must be paid to the Department at the time of the original submission. ()

02. Processing Fee. A permit processing fee must be paid to the Department by the permittee pursuant to Section 251 through 252. For the purpose of determining processing fees in Sections 250 through 253: ()

a. The pollutants included are: CO, NOx, SO2, PM10, VOC, and HAPs. ()

b. The fee calculation will not include fugitive emissions. ()

c. A permit processing fee is not required if a permit to construct or Tier II operating permit is issued to opt out of a Tier I permit, and the Department's processing costs can be charged against fees collected from the source receiving the permit under Title V of the federal Clean Air Act amendments of 1990. ()

03. Annual Fee. The annual fee is not required for sources that must comply with Sections 390 through 397, and Sections 760 through 764. The source classification used for annual fees classification are defined below: ()

a. B Source- Minor stationary source with: ()

i. Uncontrolled potential to emit less than one hundred (100) tons per year for each criteria air pollutant; and ()

ii. Uncontrolled potential to emit less than ten (10) tons per year individually and less than twenty-five (25) tons per year combined for hazardous air pollutants. ()

b. SM Source- Synthetic minor stationary source, not classified as an SM 80 source, with: ()

i. Uncontrolled potential to emit greater than one hundred (100) tons per year for one (1) or more criteria pollutants and permitted potential to emit less than eighty (80) tons per year for those criteria pollutants; or ()

ii. Uncontrolled potential to emit greater than ten (10) tons per year individually or greater than twenty-five (25) tons per year combined and permitted potential to emit less than eight (8) tons per year individually or less than twenty (20) tons per year combined for hazardous air pollutants. ()

c. SM80 Source- Synthetic minor stationary source, with: ()

i. Uncontrolled potential to emit greater than or equal to one hundred (100) tons per year and permitted potential to emit greater than or equal to eighty (80) tons per year to less than one hundred (100) tons per year for one (1) or more criteria air pollutants; or ()

ii. Uncontrolled potential to emit greater than or equal to eight (8) tons per year to less than ten (10) tons per year individually, or greater than or equal to twenty (20) tons per year to less than twenty-five (25) tons per year combined for hazardous air pollutants. ()

251. PERMIT FEE SCHEDULE.

Fees described in Section 250 are provided in the following table. The following fees are valid for each state fiscal year starting July 1, 2027, through June 30, 2032. The fee structure will be updated every five (5) years. The final

year of fees remain in effect until fees have been updated.

Permit Fee Schedule

<u>Step 1 Application and Registration Fee</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>	<u>FY2031</u>	<u>FY2032</u>
<u>Permit to Construct or Tier II Operating Permit</u>	<u>\$1,500</u>	<u>\$1,550</u>	<u>\$1,600</u>	<u>\$1,650</u>	<u>\$1,700</u>
<u>Permit By Rule Registration</u>	<u>\$500</u>	<u>\$520</u>	<u>\$540</u>	<u>\$560</u>	<u>\$580</u>
<u>General Minor Permit</u>	<u>\$500</u>	<u>\$520</u>	<u>\$540</u>	<u>\$560</u>	<u>\$580</u>
<u>Name or Ownership Change</u>	<u>\$500</u>	<u>\$520</u>	<u>\$540</u>	<u>\$560</u>	<u>\$580</u>
<u>Portable Equipment Relocation Form</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Pre-Permit Construction</u>	<u>\$3,000</u>	<u>\$3,090</u>	<u>\$3,180</u>	<u>\$3,280</u>	<u>\$3,380</u>
<u>Exemption Concurrence Request</u>	<u>\$500</u>	<u>\$520</u>	<u>\$540</u>	<u>\$560</u>	<u>\$580</u>
<u>Typographical errors: Permit changes to correct typographical errors provided in application that do not affect emissions</u>	<u>\$250</u>	<u>\$260</u>	<u>\$270</u>	<u>\$280</u>	<u>\$290</u>
<u>Step 2 Processing Fee</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>	<u>FY2031</u>	<u>FY2032</u>
<u>Permit By Rule</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>General Minor Permit</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Name or Ownership Change</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Typographical errors: Permit changes to correct typographical errors provided in application that do not affect emissions</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Permit revisions where no engineering analysis is required^a</u>	<u>\$375</u>	<u>\$390</u>	<u>\$400</u>	<u>\$410</u>	<u>\$420</u>
<u>Permits to Construct^b:</u>					
<u>☐ New source or modification to existing source with combined pollutant emissions increase of:</u>					
☐ <u>less than 1 ton per year (or a requested decrease in potential emissions)</u>	<u>\$1,500</u>	<u>\$1,550</u>	<u>\$1,600</u>	<u>\$1,650</u>	<u>\$1,700</u>
☐ <u>1 ton per year to less than 10 tons per year</u>	<u>\$3,750</u>	<u>\$3,860</u>	<u>\$3,980</u>	<u>\$4,100</u>	<u>\$4,220</u>
☐ <u>10 tons per year to less than 100 tons per year</u>	<u>\$7,500</u>	<u>\$7,730</u>	<u>\$7,960</u>	<u>\$8,200</u>	<u>\$8,450</u>

Permit Fee Schedule

☐ <u>100 tons per year or more</u>	<u>\$11,250</u>	<u>\$11,590</u>	<u>\$11,940</u>	<u>\$12,300</u>	<u>\$12,670</u>
☐ <u>New major facility or major modification (first 150 hours)</u>	<u>\$15,000</u>	<u>\$15,450</u>	<u>\$15,910</u>	<u>\$16,390</u>	<u>\$16,880</u>
☐ <u>151 hours or more requires an additional hourly fee for service^c for actual expenses incurred</u>	<u>\$hourly</u>	<u>\$hourly</u>	<u>\$hourly</u>	<u>\$hourly</u>	<u>\$hourly</u>
<u>Tier II Operating Permits^b:</u>					
<u>New source and renewal of existing source based on facility-wide potential to emit for combined pollutants; or modification of existing source based on the change in potential to emit for the modification; with potential to emit increase of:</u>					
☐ <u>less than 1 ton per year (or a requested decrease in potential emissions)</u>	<u>\$1,875</u>	<u>\$1,930</u>	<u>\$1,990</u>	<u>\$2,050</u>	<u>\$2,110</u>
☐ <u>1 ton per year to less than 10 tons per year</u>	<u>\$3,750</u>	<u>\$3,860</u>	<u>\$3,980</u>	<u>\$4,100</u>	<u>\$4,220</u>
☐ <u>10 tons per year to less than 100 tons per year</u>	<u>\$7,500</u>	<u>\$7,730</u>	<u>\$7,960</u>	<u>\$8,200</u>	<u>\$8,450</u>
☐ <u>100 tons per year or more</u>	<u>\$15,000</u>	<u>\$15,450</u>	<u>\$15,910</u>	<u>\$16,390</u>	<u>\$16,880</u>
☐ <u>Synthetic minor stationary source with permitted emissions below a major threshold level</u>	<u>\$15,000</u>	<u>\$15,450</u>	<u>\$15,910</u>	<u>\$16,390</u>	<u>\$16,880</u>
<u>Step 3: Annual Fee</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>	<u>FY2031</u>	<u>FY2032</u>
<u>B Source</u>	<u>\$750</u>	<u>\$770</u>	<u>\$790</u>	<u>\$810</u>	<u>\$830</u>
<u>SM Source</u>	<u>\$1,250</u>	<u>\$1,290</u>	<u>\$1,330</u>	<u>\$1,370</u>	<u>\$1,410</u>
<u>SM80 Source</u>	<u>\$3,000</u>	<u>\$3,090</u>	<u>\$3,180</u>	<u>\$3,280</u>	<u>\$3,380</u>
^a For example, including but not limited to, no change of emissions or modeling is evaluated, or no applicability review of state or federal standards.					
^b Fee is based on the total Facility Emission Cap limits for initial permits and renewals.					
^c Fee is based on actual time expended and expenses incurred by the Department following application submittal					

()

252. PAYMENT OF FEES FOR PERMITS.

01. Permit by Rule Registration, Application, and Processing Fees.

()

a. Fee Submittal. The application fee or permit by rule registration fee must be submitted with the application or registration. The processing fee is payable upon receipt of an assessment sent to the permittee by the Department. Information for making payments is available at <https://www.deq.idaho.gov>.

()

b. Delinquency. No permit, registration, or exemption concurrence request will be processed by the Department until the appropriate application or registration fee has been submitted. No permit will be issued until the processing fee has been submitted. ()

02. Annual Fee. ()

a. Fee Submittal. No later than September 15 of each year the Department will issue an annual fee invoice based on the source classification as of July 1 of that year. The annual fee must be paid to and received by the Department no later than October 31 of that same year. Information for making payments is available at <https://www.deq.idaho.gov>. ()

b. Delinquency. No permit, registration, or automatic permit transfers will be processed until all annual fees have been paid. Failure to submit annual fee payment as required may result in a violation. ()

253. RECEIPT AND USAGE OF FEES.

The fees received under Sections 250 through 252 will be deposited by the Department into a stationary source permit account. The application and permit by rule registration fees payable under Section 251 will be retained by the Department regardless of whether a permit is issued, or an exemption concurrence is issued. ()

254. – 299. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

407. TIER II OPERATING PERMIT ~~PROCESSING~~ FEE.

01. Tier II Operating Permit Processing Fee. A Tier II operating permit ~~processing~~ fee, calculated by the Department pursuant to the categories provided in ~~the following table~~ Sections 250 through 253, must be paid to the Department by the person receiving a Tier II permit or permit renewal. ~~The fee calculation will not include fugitive emissions in accordance with Sections 250 through 253.~~

TIER II OPERATING PERMIT CATEGORY	FEE
General permit, no facility specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis.)	\$500
Stationary sources or facilities with permitted emissions of less than one (1) ton per year	\$1,250
Stationary sources or facilities with permitted emissions of one (1) to less than ten (10) tons per year	\$2,500
Stationary sources or facilities with permitted emissions of ten (10) to less than one hundred (100) tons per year	\$5,000
Stationary sources or facilities with permitted emissions of one hundred (100) tons or more per year	\$10,000
Synthetic minor stationary sources with permitted emissions below a major threshold level	\$10,000

(3-28-23)

02. Tier II Operating Permit Processing Fee Not Required. If the Department determines no other review or analysis is required, the Tier II operating permit processing fee is not required to be submitted when:

(3-28-23)

- a. A permit to construct issued within the last five (5) years is rolled into a Tier II permit; (3-28-23)
- b. A change to correct typographical errors is requested; (3-28-23)
- c. A change in the name or ownership of the holder of a Tier II operating permit is requested; or (3-28-23)
- d. A synthetic minor permit is issued and the Department's processing costs can be charged against fees collected from the person receiving the permit under Title V of the federal Clean Air Act amendments of 1990. (3-28-23)

408. PAYMENT OF TIER II OPERATING PERMIT PROCESSING FEE.

01. Fee Submittal. The Tier II operating permit processing fee is payable upon receipt of an assessment sent, along with the final permit or permit renewal, to the person receiving a permit or permit renewal by the Department. Information for making payments is available at <http://www.deq.idaho.gov>. (3-28-23)

02. Delinquency. Failure to submit a Tier II operating permit processing fee within forty-five (45) days of receipt of an assessment by the Department will result in a monthly accrual of interest in the amount of twelve percent (12%) per annum on the outstanding balance until the fee is paid in full. (3-28-23)

409. RECEIPT AND USAGE OF FEES.

Tier II operating permit processing fee and delinquency interest receipts will be deposited by the Department into a stationary source permit account. Monies from this account are used solely toward technical, legal and administrative support of the Department's Permit to Construct and Tier II permit programs and will not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. (3-28-23)

41008. -- 459. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

800. REGISTRATION FEE FOR PERMIT BY RULE.

A registration fee of two hundred fifty dollars (\$250) must be submitted to the Department with each permit by rule registration in accordance with Sections 250 through 253. (3-28-23)()

801. PAYMENT OF FEES FOR PERMITS BY RULE REGISTRATION.

The permit by rule registration fee must be paid in its entirety at the time the required registration form is submitted to the Department. Information for making payments is available at <http://www.deq.idaho.gov>. (3-28-23)

802. RECEIPT AND USAGE OF FEES.

Permit by rule registration fee receipts will be deposited by the Department into a stationary source permit account. Monies from this account will be used solely toward technical, legal and administrative support of the Department's Permit to Construct and Tier II permit programs and will not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. Fees payable under Section 800 will be retained by the Department regardless of whether a permit by rule registration is accepted by the Department in response to a registration request. (3-28-23)

80301. -- 814. (RESERVED)

PROPOSED RULE COST/BENEFIT ANALYSIS

[Section 67-5223\(3\), Idaho Code](#), requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Department of Environmental Quality

Agency Contact: Michael Simon **Phone:** 208-373-0212

Date: July 16, 2026

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

Fee Rule Status: ☒ Proposed ☐ Temporary

Rulemaking Docket Number: 58-0101-2602

STATEMENT OF ECONOMIC IMPACT /REASONABLE ESTIMATED COSTS

The following fees authorized by Idaho Code § 39-115(3) have changed:

Permit To Construct fee outlined in 58.01.01.225.

Tier II operating permit fee outlined in 58.01.01.407.

Registration Fee for Permit by Rule outlined in 58.01.01.800.

Annual Fee for Minor Sources outlined in the proposed rule 58.01.01.225-249.

The proposed rule aims to address an outdated air permitting fee structure that no longer reflects the current cost of administering the air permitting program. These revisions are intended to update the application and processing fees for new and modified facilities seeking a permit to construct, general minor permit, permit by rule, or Tier II operating permit and will add an annual fee for existing non-Title V facilities. The air permitting program currently relies heavily on the State General Fund, increasing vulnerability to state budget fluctuations. The proposed fee revisions are intended to account for inflation and to reduce program reliance on the State General Fund for permitting and compliance activities for non-Title V facilities. The table below shows the cost to run the entire Air Division for Fiscal Year 2026.

Estimated Cost to Implement IDAPA 58.01.01 in FY2026:

Rule Chapter	General Funds	Dedicated Funds	Federal Funds	Total
58.01.01	\$5,748,900	\$1,327,167	\$1,758,400	\$8,834,467

Updating the fees for new and existing non-Title V facilities will increase the permitting fee cost for the regulated community seeking permits. For example, an application fee for a permit to construct is increasing

from \$1000 to \$1,500, and the processing fees are increasing about 50% based on permitted emissions. The estimated cost increase for application and processing fees is approximately \$178,000 from the current total fees collected. In addition, there are approximately 750 permitted sources that would be affected by the proposed annual fee based on facility classification ranging from \$750 for B sources to \$3,000 for SM80 sources. The total annual fee costs are estimated at \$735,000 to industry for FY2028. The total increase from the current fees in fees collected from this proposed rule would be roughly \$913,000. The estimated total amount of fees received if this proposed rule is approved would be \$1,093,125 FY2028. DEQ also proposes an increase in the fees every year for the next five years at a fixed rate to account for inflation. There will also be increased costs for the Department to invoice and process the incoming annual fees, including initial startup costs, to create the software for issuing and tracking invoices. This is estimated to cost \$30,000 to \$60,000. The increase in costs would be covered by the proposed fees in this rule.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-2603

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section [67-5221\(1\)](#), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This rulemaking action is authorized by Sections [39-105](#) and [39-107](#), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Friday, October 2, 2026 11:00 a.m. MT
In Person: Conference Room A - DEQ State Office, 1410 N. Hilton, Boise Microsoft Teams meeting: Join: https://teams.microsoft.com/meet/216923888986998?p=Ipv6gBhEpBRs7jK81C Meeting ID: 216 923 888 986 998 Passcode: VK32yb3d Need help? System reference Dial in by phone +1 208-985-2810,,909775748# United States, Boise Find a local number Phone conference ID: 909 775 748#

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. The Rules for the Control of Air Pollution in Idaho, IDAPA 58.01.01, are updated annually to maintain consistency with federal regulations implementing the Clean Air Act (CAA). This proposed rule updates federal regulations incorporated by reference with the July 1, 2026 Code of Federal Regulations (CFR) effective as of July 1, 2026.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2027 Idaho Legislature, the rule will become effective on July 1, 2027, unless otherwise specified in the concurrent resolution.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not applicable.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of CAA programs. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule only regulates activities that are already regulated by the federal government, and it is not broader in scope or more stringent than existing federal regulations.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Adoption of federal regulations is necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of CAA programs. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference can be obtained at [Air Quality: Docket No. 58-0101-2603](#) | Idaho Department of Environmental Quality.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Aislinn Johns at Aislinn.Johns@deq.idaho.gov or (208) 373-0185.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 2, 2026. Submit written comments to:

Aislinn Johns
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
Aislinn.Johns@deq.idaho.gov

Dated this 2nd day of September, 2026.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-2603
(Only Those Sections With Amendments Are Shown.)

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

107. INCORPORATIONS BY REFERENCE.

01. Requirements for Preparation, Adoption, and Submittal of Implementation Plans. 40 CFR Part 51 revised as of July 1, ~~2025~~ 2026. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, are excluded from incorporation except 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules. (7-1-26)()

02. National Primary and Secondary Ambient Air Quality Standards. 40 CFR Part 50, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

03. Approval and Promulgation of Implementation Plans. 40 CFR Part 52, Subparts A and N and Appendices D and E, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

04. Ambient Air Monitoring Reference and Equivalent Methods. 40 CFR Part 53, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

05. Ambient Air Quality Surveillance. 40 CFR Part 58, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

06. Standards of Performance for New Stationary Sources. 40 CFR Part 60, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

07. National Emission Standards for Hazardous Air Pollutants. 40 CFR Part 61, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

08. Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008. 40 CFR Part 62, Subpart HHH, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

09. Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014. 40 CFR Part 62, Subpart OOO, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

10. National Emission Standards for Hazardous Air Pollutants for Source Categories. 40 CFR Part 63, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

11. Compliance Assurance Monitoring. 40 CFR Part 64, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

12. State Operating Permit Programs. 40 CFR Part 70, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

13. Permits. 40 CFR Part 72, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

14. Sulfur Dioxide Allowance System. 40 CFR Part 73, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

15. Protection of Stratospheric Ozone. 40 CFR Part 82, revised as of July 1, ~~2025~~ 2026. (7-1-26)()

16. Clean Air Act. 42 U.S.C. Sections 7401 through 7671g (1997). (7-1-24)

Overview of Incorporations by Reference for the DEQ Air Quality Division, Docket No. 58-0101-2603

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

Required by Idaho Code § 67-5223(4)

Rulemaking Docket No. 58-0101-2603 describes incorporation by reference of final federal regulations promulgated with effective dates through July 1, 2026.

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 (CFR) in state rule is impractical and costly. Therefore, when possible, 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 new and existing facilities.

- (1) **National Ambient Air Quality Standards Implementation**—If an area in Idaho exceeds a NAAQS for a particular pollutant, 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 [Title 40 Code of Federal Regulations](#) (40 CFR) Parts 50, 51, 52, 53, and 58.
- (2) **Operating Permit Program**— Permit requirements are outlined under 40 CFR Parts 64 and 70. To write these permits in Idaho, DEQ must have the authority to include all of the applicable federal requirements. These requirements are contained in 40 CFR Parts 52, 60, 61, 62, 63, 72, 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 table summarizes the CFR sections the air quality division incorporates by reference.

40 CFR Part	Title	Changes During Past Year?	Impact on Idaho
50	National primary and secondary ambient air quality standards	no	—
51	Requirements for preparation, adoption, and submittal of implementation plans	yes	yes
52	Subparts A and N and Appendices D and E: Approval and promulgation of implementation plans	yes	yes
53	Ambient air monitoring reference and equivalent methods	no	—
58	Ambient air surveillance	no	—
60	Standards of performance for new stationary sources	yes	yes
61	National emission standards for hazardous air pollutants	no	—
62	Subpart OOO: Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014.	no	—
62	Subpart HHH: Federal plan requirements for hospital/medical/infectious waste incinerators constructed on or before December 1, 2008	no	—
63	National emission standards for hazardous air pollutants for source categories	yes	yes
64	Compliance assurance monitoring	no	—
70	State operating permit programs	yes	yes
72	Permits	no	—
73	Sulfur dioxide allowance system	no	—
82	Protection of stratospheric ozone	no	—

These changes are discussed in more detail below. The associated Federal Register notices are denoted in parentheses as hyperlinks.

The following parts were revised:

National Ambient Air Quality Standards (NAAQS) Implementation

The NAAQS implementation rules promulgated by EPA in this time period include updates to state implementation plan (SIP) requirements, the most notable being EPA's approval of Idaho regional haze SIP for the second implementation period. A more detailed summary of the Code of Federal Regulations changes that impact NAAQS implementation is given below.

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

- This section outlines the state implementation plan requirements for state environmental agencies.
- There is one update to this part. EPA extended the SIP due date for the Regional Haze third implementation period ([FR 2026-01-06](#)).

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. This part also includes the prevention of significant deterioration (PSD) program requirements.
- There are two updates to this part. EPA approved Idaho's Regional Haze Plan for the second implementation period ([FR 2026-09-05](#)). The other was EPA's routine notebook update to materials that are incorporated by reference into Idaho's SIP ([FR 2026-05-29](#)).

Operating Permit Program Implementation

A detailed summary of the Code of Federal Regulations' changes impacting DEQ's operating permit program is given below. The updates associated with DEQ's operating permit program do not impact most Idaho facilities. Notable changes include revised methane standards and extended compliance dates for the oil and gas industry, updated requirements for combustion turbines, and reinstatement of operating permit affirmative defense provisions.

Part 60: New Source Performance Standards

- This section describes the permitting requirements for new and modified facilities of specific industries.
- There are four updates to this part. One revised standards and establishes emission guidelines for small municipal solid waste combustors and institutional waste incinerators ([FR 2025-06-30](#)) and another for large municipal waste combustors ([FR 2026-03-10](#)). EPA also established size-based categories and revised NOx limits for new and modified combustion turbines ([FR 2026-01-15](#)). The final changes impacted the oil and gas industry, which extended compliance deadlines ([FR 2025-12-03](#)), and relaxed requirements for flares and vent gas ([FR-2026-04-09](#)).

Part 63: National Emission Standards for Hazardous Air Pollutants (NESHAP)

- This section addresses national emission standards for hazardous air pollutants for specific sources of pollution.

- There are ten updates to this part. EPA conducted technology reviews that impacts several sectors of industry including, iron and steel manufacturing ([FR 2025-12-03](#)), rescinding a compliance extension for coke ovens ([FR 2025-12-05](#)), establishing limits and electronic reporting for chemical manufacturing area sources ([FR 2026-04-01](#)), and hazardous waste combustors ([FR 2026-06-03](#)). Another repealed 2024 mercury and air toxic standards for coal and oil- fired power plants ([FR 2026-02-24](#)). One change removes renewable electricity from the Renewable Fuel Standard program ([FR 2026-04-01](#)). Two changes impacted for polyether polyols production that are used in materials such as foams and adhesives, one removed affirmative defense provisions ([FR 2025-09-02](#)) and the other revised ethylene oxide standards and requirements ([FR 2026-03-18](#)). Other changes updated the code of federal regulations to reflect the congressional review act revocations that restored the 2020 Major-to-Area Source reclassification rule and ([FR 2026-01-02](#)) and removed the 2024 amendments for hazardous air pollutants for the rubber tire manufacturing industry ([FR 2026-06-22](#)).

Part 70: State Operating Permit Programs

- This section describes the minimum requirements for state permitting programs.
- There was one change to this part. EPA reinstated the emergency affirmative defense provisions in state and federal Title V operating permit regulations; Idaho had previously removed these provisions per the 2023 rule ([FR 2026-06-01](#)).

The following parts were not revised:

Part 50: National Primary and Secondary Ambient Air Quality Standards

- This section contains the air quality standards that EPA promulgates for the criteria pollutants: coarse and fine particulate matter (PM₁₀ and PM_{2.5}), ozone, sulfur dioxide (SO₂), nitrogen dioxide (NO₂), lead, and carbon monoxide (CO).

Part 53: Ambient air monitoring reference and equivalent methods

- DEQ is required to implement a NAAQS monitoring program in Idaho. Any updates to approved monitoring methods are included in this section. Approved industrial monitoring methods are also included in this section.

Part 61: National emission standards for hazardous air pollutants

- This section addresses the national emission standards for certain hazardous air pollutants.

Part 62, Subpart OOO: Federal plan requirements for municipal solid waste landfills that commenced construction on or before July 17, 2014 and have not been modified or reconstructed since July 17, 2014

- This section describes the requirements for municipal solid waste landfills. DEQ took delegation of these federal plan requirements.

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 medical 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 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 SO₂ pollutant trading program. Idaho currently does not have any sources participating in a pollutant trading program.