



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2015-0397; FRL-9950-58-Region 10]

### Approval and Promulgation of Implementation Plans; Idaho:

### Stationary Source Permitting Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving, and incorporating by reference, revisions to the Idaho State Implementation Plan (SIP) submitted on May 21, 2015. In the submission, Idaho revised stationary source permitting rules, including the addition of facility-wide emission limits and nonmetallic mineral processing plant regulations. Idaho also added an alternative method for stationary sources to comply with sulfur content of fuels limits, and updated provisions to account for changes to federal air quality regulations. The EPA is approving the submitted revisions, with the exception of certain provisions that are inappropriate for SIP approval.

**DATES:** This final rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2015-0397. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information the disclosure of which is restricted by

statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available at <http://www.regulations.gov> or at EPA Region 10, Office of Air and Waste, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kristin Hall, Air Planning Unit, Office of Air and Waste (AWT-150), Environmental Protection Agency – Region 10, 1200 Sixth Ave., Seattle, WA 98101; telephone number: (206) 553-6357; email address: [hall.kristin@epa.gov](mailto:hall.kristin@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

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### **I. Background**

On May 21, 2015, Idaho submitted revisions to the Idaho State Implementation Plan. On June 19, 2016, the EPA proposed to approve the submitted revisions, with the exception of certain provisions that are inappropriate for SIP approval (81 FR 37170). Please see our proposed rulemaking for further explanation and the basis for our finding. The public comment period for this proposal ended on July 11, 2016. We received no comments on the proposal.

## II. Final Action

The EPA is approving, and incorporating by reference, the following revisions to the Idaho SIP submitted on May 21, 2015:

- IDAPA 58.01.01.006 *General Definitions*, except .49, .50, .51, .66, .67, .68.b, .116 (renumbered from .114), and .118 (renumbered from .116) (State effective 4/11/2014);
- IDAPA 58.01.01.011 *Definitions for the Purposes of Sections 790 through 799* (State effective 3/15/2002);
- IDAPA 58.01.01.107 *Incorporations by Reference*, except .03.f through .n, and with respect to .a, the incorporation by reference of 40 CFR 51.165 (State effective 4/11/2015);
- IDAPA 58.01.01.157 *Test Methods and Procedures* (State effective 4/11/2015);
- IDAPA 58.01.01.175 *Procedures and Requirements for Permits Establishing a Facility Emissions Cap* (State effective 4/11/2015);
- IDAPA 58.01.01.176 *Facility Emissions Cap*, except for provisions relating to hazardous air pollutants (State effective 4/11/2015);
- IDAPA 58.01.01.177 *Application Procedures* (State effective 4/11/2015);
- IDAPA 58.01.01.178 *Standard Contents of Permits Establishing a Facility Emissions Cap* (State effective 4/11/2015);
- IDAPA 58.01.01.179 *Procedures for Issuing Permits Establishing a Facility Emissions Cap* (State effective 4/11/2015);

- IDAPA 58.01.01.180 *Revisions to Permits Establishing a Facility Emissions Cap* (State effective 4/11/2015);
- IDAPA 58.01.01.181 *Notice and Record-Keeping of Estimates of Ambient Concentrations* (State effective 4/11/2015);
- IDAPA 58.01.01.201 *Permit to Construct Required* (State effective 4/11/2006);
- IDAPA 58.01.01.202 *Application Procedures* (State effective 4/11/2015);
- IDAPA 58.01.01.401 *Tier II Operating Permit*, except .01.a and .04, (State effective 4/11/2006);
- IDAPA 58.01.01.579 *Baselines for Prevention of Significant Deterioration* (State effective 4/11/2015);
- IDAPA 58.01.01.725 *Rules for Sulfur Content of Fuels* (State effective 4/11/2015);
- IDAPA 58.01.01.790 *Rules for the Control of Nonmetallic Mineral Processing Plants* (State effective 3/15/2002);
- IDAPA 58.01.01.791 *General Control Requirements*, (State effective 3/15/2002);
- IDAPA 58.01.01.793 *Emissions Standards for Nonmetallic Mineral Processing Plants not Subject to 40 CFR 60, Subpart OOO* (State effective 3/15/2002);
- IDAPA 58.01.01.794 *Permit Requirements*, except .04 (State effective 4/11/2015);
- IDAPA 58.01.01.795 *Permit by Rule Requirements* (State effective 3/15/2002);
- IDAPA 58.01.01.796 *Applicability* (State effective 3/15/2002);
- IDAPA 58.01.01.797 *Registration for Permit by Rule* (State effective 3/15/2002);
- IDAPA 58.01.01.798 *Electrical Generators* (State effective 3/15/2002); and

- IDAPA 58.01.01.799 *Nonmetallic Mineral Processing Plan Fugitive Dust Best Management Practice* (State effective 3/15/2002).

### **III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference as described in the amendments to 40 CFR part 52 set forth below. These materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference by the Director of the **Federal Register** in the next update to the SIP compilation.<sup>1</sup> The EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and/or at the EPA Region 10 Office (please contact the person identified in the FOR FURTHER INFORMATION CONTACT section of this preamble).

### **IV. Statutory and Executive Orders Review**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those

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<sup>1</sup> 62 Fed. Reg. 27968 (May 22, 1997).

imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and

- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 25, 2016.

Dennis J. McLerran,  
Regional Administrator,  
Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

**PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart N - Idaho**

2. In § 52.670, the table in paragraph (c) is amended by:

a. Revising entries 006, 107, 157, 201, 202, 401, 579, and 725.

b. Adding entries 011, 175, 176, 177, 178, 179, 180, 181, 790, 791, 793, 794, 795, 796, 797, 798, and 799 in numerical order.

The revisions and additions read as follows:

**§ 52.670 Identification of plan.**

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(c) \* \* \*

**EPA-APPROVED IDAHO REGULATIONS AND STATUTES**

State citation	Title/subject	State effective date	EPA approval date	Explanations
<b>Idaho Administrative Procedures Act (IDAPA) 58.01.01—Rules for the Control of Air Pollution in Idaho</b>				
*	*	*	*	*
006	General Definitions	4/11/2015, 4/4/2013, 3/30/2007, 4/11/2006, 7/1/2002, 4/5/2000,	<b>[Insert <u>Federal Register</u> publication date],</b> <b>[Insert <u>Federal Register</u> citation]</b>	Except Section 006.49, 006.50, 006.51, 006.66, 006.67, 006.68.b, 006.116, and 006.118.

		3/20/1997, 5/1/1994		
*	*	*	*	*
011	Definitions for the Purposes of Sections 790 through 799	3/15/2002	<b>[Insert <u>Federal Register</u> publication date],</b> <b>[Insert <u>Federal Register</u> citation]</b>	
*	*	*	*	*
107	Incorporation by Reference	4/11/2015, 3/20/2014, 3/30/2007, 7/1/1997, 5/1/1994	<b>[Insert <u>Federal Register</u> publication date],</b> <b>[Insert <u>Federal Register</u> citation]</b>	Except Section 107.03.f through 107.03.p.
*	*	*	*	*
157	Test Methods and Procedures	4/11/2015	<b>[Insert <u>Federal Register</u> publication date],</b> <b>[Insert <u>Federal Register</u> citation]</b>	
*	*	*	*	*
175	Procedures and Requirements for Permits Establishing a Facility Emissions Cap	4/11/2015	<b>[Insert <u>Federal Register</u> publication date],</b> <b>[Insert <u>Federal Register</u> citation]</b>	
176	Facility Emissions Cap	4/11/2015	<b>[Insert <u>Federal Register</u> publication date],</b> <b>[Insert <u>Federal Register</u> citation]</b>	Except for provisions relating to hazardous air pollutants.

177	Application Procedures	4/11/2015	[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]	
178	Standard Contents of Permits Establishing a Facility Emissions Cap	4/11/2015	[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]	
179	Procedures for Issuing Permits Establishing a Facility Emissions Cap	4/11/2015	[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]	
180	Revisions to Permits Establishing a Facility Emissions Cap	4/11/2015	[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]	
181	Notice and Record-Keeping of Estimates of Ambient Concentrations	4/11/2015	[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]	
	* * *	* * *	* * *	* * *
201	Permit to Construct Required	4/11/2006	[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]	
202	Application Procedures	4/11/2015	[Insert <u>Federal Register</u> publication date],	

			<b>[Insert Federal Register citation]</b>	
*	*	*	*	*
401	Tier II Operating Permit	4/11/2015	<b>[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]</b>	Except Section 401.01.a and 401.04.
*	*	*	*	*
579	Baselines for Prevention of Significant Deterioration	4/11/2015	<b>[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]</b>	
*	*	*	*	*
725	Rules for Sulfur Content of Fuels	4/11/2015	<b>[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]</b>	
*	*	*	*	*
790	Rules for the Control of Nonmetallic Mineral Processing Plants	3/15/2002	<b>[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]</b>	
791	General Control Requirements	3/15/2002	<b>[Insert <u>Federal Register</u> publication date], [Insert Federal</b>	

			<b>Register citation]</b>	
793	Emissions Standards for Nonmetallic Mineral Processing Plants not Subject to 40 CFR 60, Subpart OOO	3/15/2002	<b>[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]</b>	
794	Permit Requirements	4/11/2015	<b>[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]</b>	Except Section 794.04.
795	Permit by Rule Requirements	3/15/2002	<b>[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]</b>	
796	Applicability	3/15/2002	<b>[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]</b>	
797	Registration for Permit by Rule	3/15/2002	<b>[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]</b>	
798	Electrical Generators	3/15/2002	<b>[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]</b>	
799	Nonmetallic Mineral Processing Plan Fugitive Dust Best Management Practice	3/15/2002	<b>[Insert <u>Federal Register</u> publication date], [Insert Federal Register citation]</b>	

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\* \* \* \* \*

3. Section 52.683 is amended by revising paragraph (a) to read as follows:

**§ 52.683 Significant deterioration of air quality.**

(a) The State of Idaho Rules for Control of Air Pollution in Idaho, specifically, IDAPA 58.01.01.005 through 007 (definitions), IDAPA 58.01.01.107.03.a, .b, .c (incorporations by reference), IDAPA 58.01.01.200 through 222 (permit to construct rules); IDAPA 58.01.01.510 through 516 (stack height rules); and IDAPA 58.01.01.575 through 581 (standards, increments and area designations) (except IDAPA 58.01.01.577), are approved as meeting the requirements of title I, part C, subpart 1 of the Clean Air Act for preventing significant deterioration of air quality.

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[FR Doc. 2016-19122 Filed: 8/11/2016 8:45 am; Publication Date: 8/12/2016]