



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2019-0401; FRL-10016-18-Region 10]

### Air Plan Approval; ID, Incorporation by Reference Updates and Rule Revisions

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) revisions submitted by Idaho on June 5, 2019 and May 27, 2020. The submitted revisions update the incorporation by reference of specific Federal requirements and clarify source permitting requirements. The EPA finds that the changes are consistent with Clean Air Act requirements.

**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-2019-0401. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., 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 will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Kristin Hall (15-H13), EPA Region 10, 1200 Sixth Avenue (Suite 155), Seattle WA, 98101, (206) 553-6357, [hall.kristin@epa.gov](mailto:hall.kristin@epa.gov).

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

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## **I. Background**

On June 5, 2019 and May 27, 2020, Idaho submitted SIP revisions to update the incorporation by reference of Federal regulations and clarify permitting requirements. We proposed to approve the revisions on September 11, 2020 (85 FR 56196). The reasons for our proposed approval are included in the proposal and will not be restated here. The public comment period for our proposal closed on October 13, 2020. We received no public comments and are finalizing our action as proposed.

## **II. Final Action**

The EPA is approving and incorporating by reference revisions to the Idaho SIP submitted on June 5, 2019, and May 27, 2020. Once effective, the Idaho SIP will include the following regulations:

- IDAPA 58.01.01.006.108, definition of “Significant” (State effective 4/11/2019);
- IDAPA 58.01.01.107, Incorporation by Reference, except section 107.03.f through 107.03.p (State effective 3/30/2020);
- IDAPA 58.01.01.221, Category I Exemption (State effective 4/11/2019);
- IDAPA 58.01.01.222, Category II Exemption (State effective 4/11/2019); and
- IDAPA 58.01.01.404, Procedure for Issuing Permits (State effective 4/11/2019).

The EPA is also approving Idaho’s request to remove the following regulations from the Idaho SIP:

- IDAPA 58.01.01.845, Rules for Control of Sulfur Oxide Emissions from Sulfuric Acid Plants (State effective 5/1/1994);
- IDAPA 58.01.01.846, Emission Limits (State effective 4/5/2000);
- IDAPA 58.01.01.847, Monitoring and Testing (State effective 5/1/1994); and
- IDAPA 58.01.01.848, Compliance Schedule (State effective 4/5/2000).

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

In this document, 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 of Idaho regulatory provisions as described in section II of this preamble. Also, in this document, the EPA is removing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the removal of Idaho regulatory provisions from incorporation by reference as described in section II of this preamble. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, 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 in the next update to the SIP compilation.<sup>1</sup>

### **IV. Statutory and Executive Order Reviews**

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 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);

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

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 (Pub. L. 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 application of those requirements would be inconsistent with the CAA; 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).

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 and it will not impose substantial direct costs on tribal governments or preempt tribal law 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 2, 2020.

Christopher Hladick,  
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. Amend § 52.670, in the table in paragraph (c) by:

a. Revising the entries “006”, “107”, “221”, “222”, and “404”; and

b. Removing the entries “845”, “846”, “847”, and “848”.

The revisions 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	4/11/2019, 4/11/2015, 4/4/2013, 3/30/2007, 4/11/2006, 7/1/2002, 4/5/2000, 3/20/1997, 5/1/1994	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	Except Section 006.49, 006.50, 006.51, 006.66, 006.67, 006.68.b, 006.116, and 006.118.
*	*	*	*	*
107	Incorporation by Reference	3/20/2020	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	Except Section 107.03.f through 107.03.p.
*	*	*	*	*
221	Category I Exemptions	4/11/2019	[Insert date of publication in the	

			<b><u>Federal Register</u></b> , <b><u>[Insert Federal Register citation]</u></b>	
222	Category II Exemptions	4/11/2019	<b><u>[Insert date of publication in the Federal Register]</u></b> , <b><u>[Insert Federal Register citation]</u></b>	
*	*	*	*	*
404	Procedure for Issuing Permits	4/11/2019	<b><u>[Insert date of publication in the Federal Register]</u></b> , <b><u>[Insert Federal Register citation]</u></b>	
*	*	*	*	*

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[FR Doc. 2020-24692 Filed: 11/18/2020 8:45 am; Publication Date: 11/19/2020]