



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2022-0753, FRL-10190-02-R10]

Air Plan Approval; ID; State Board Composition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Idaho State Implementation Plan (SIP) submitted on August 9, 2022. The revision was submitted to meet the state board composition requirements of the Clean Air Act.

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-2022-0753. 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.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we” or “our” is used, it means the EPA.

Table of Contents

- I. Background
- II. Final Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

I. Background

On August 9, 2022, Idaho submitted a SIP revision to meet the state board composition requirements of Clean Air Act section 128(a)(1). On February 17, 2023, we proposed to approve the submitted SIP revision (88 FR 10256). The reasons for our proposed approval are included in the proposal and will not be restated here. The public comment period closed on March 20, 2023. We received one anonymous comment in support of our proposed action, therefore we are finalizing our action as proposed.

II. Final Action

The EPA is approving and incorporating by reference a revision to the Idaho SIP submitted on August 9, 2022. Upon the effective date of this action, the Idaho SIP will include Idaho Code section 39-107(1)(a), state effective July 1, 2022. This provision establishes the composition requirements for the Idaho Board of Environmental Quality.

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, we are finalizing the incorporation by reference of the Idaho statutory provision described in section II of this preamble and set forth in the amendments to 40 CFR part 52 in this document. 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 Clean Air Act as

of the effective date of the final rule of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act 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 Clean Air Act. 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);
- 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

¹ 62 FR 27968 (May 22, 1997).

28355, May 22, 2001); and

- 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 Clean Air Act.

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The air agency did not evaluate environmental justice considerations as part of its SIP submittal; the Clean Air Act and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of this action, it is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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 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).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, 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: May 17, 2023.

Casey Sixkiller,
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:

a. The table in paragraph (c) is amended by adding the entry “Idaho Code section 39-107(1)(a)” at the end of the table; and

b. The table in paragraph (e) is amended by removing entry “Idaho State Board SIP Revision; Executive Order 2013–06; dated June 26, 2013”.

The addition reads 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
*	*	*	*	*
State Statutes				
*	*	*	*	*
Idaho Code section 39-107(1)(a)	Board — Composition — Officers — Compensation — Powers — Subpoena — Depositions — Review — Rules.	7/1/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	To satisfy the requirements of CAA section 128(a)(1) and CAA section 110(a)(2)(E)(ii) for all criteria pollutants.

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[FR Doc. 2023-11261 Filed: 5/25/2023 8:45 am; Publication Date: 5/26/2023]