

on July 6, 2019. If necessary due to inclement weather on July 6th, it will be enforced from 8 p.m. to 10:30 p.m. on July 7, 2019.

(3) Paragraph (a)(3) of this section will be enforced from 8 p.m. to 10:30 p.m. on July 6, 2019. If necessary due to inclement weather on July 6th, it will be enforced from 8 p.m. to 10:30 p.m. on July 7, 2019.

Dated: April 2, 2019.

**Joseph B. Loring,**

*Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2018-0766; FRL-9991-85-Region 10]

### Air Plan Approval; Idaho: Infrastructure Requirements for the 2015 Ozone Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** Whenever a new or revised National Ambient Air Quality Standard (NAAQS) is promulgated, the Clean Air Act requires each State to submit a plan for the implementation, maintenance, and enforcement of the standard, commonly referred to as infrastructure requirements. The Environmental Protection Agency (EPA) is proposing to approve the Idaho State Implementation Plan (SIP), submitted on September 27, 2018, as meeting infrastructure requirements for the 2015 ozone NAAQS.

**DATES:** Comments must be received on or before May 9, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2018-0766, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to

make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Matthew Jentgen at (206) 553-0340, or [jentgen.matthew@epa.gov](mailto:jentgen.matthew@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 October 26, 2015 (80 FR 65292) the EPA published a rule revising the 8-hour ozone NAAQS from 0.075 parts per million (ppm) to a new, more protective level of 0.070 ppm. After a new or revised standard is promulgated, the Clean Air Act (CAA) requires each State to submit a plan for the implementation, maintenance, and enforcement of the standard, commonly referred to as an infrastructure SIP. On September 27, 2018, the Idaho Department of Environmental Quality (IDEQ) submitted a SIP revision to meet the 2015 ozone NAAQS infrastructure requirements.<sup>1</sup>

#### II. Infrastructure Elements

CAA section 110(a)(1) provides the procedural and timing requirements for SIP submissions after a new or revised NAAQS is promulgated. CAA section 110(a)(2) lists specific elements that each State must meet related to a newly established or revised NAAQS. The EPA has issued guidance to help States address these requirements, most recently on September 13, 2013, (2013 Guidance).<sup>2</sup> As noted in the 2013

<sup>1</sup> The September 27, 2018, submission also addressed all interstate transport requirements at CAA section 110(a)(2)(D) for the 2015 ozone NAAQS. However, this publication proposes action on only a portion of those requirements, specifically CAA sections 110(a)(2)(D)(i)(II) and 110(a)(2)(D)(ii). We intend to address the remainder of the interstate transport requirements in a separate, future action. See section 110(a)(2)(D) below.

<sup>2</sup> Stephen D. Page, Director, Office of Air Quality Planning and Standards. “Guidance on

Guidance, to the extent an existing SIP already meets the CAA section 110(a)(2) requirements, States may certify that fact in their submissions to the EPA. The requirements, with corresponding CAA subsections, are listed below:

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.
- 110(a)(2)(D): Interstate transport.
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.
- 110(a)(2)(J): Consultation with government officials; public notification; and Prevention of Significant Deterioration (PSD) and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

#### III. EPA Approach To Review of Infrastructure SIP Submissions

The EPA’s 2013 Guidance restated our interpretation that two elements are not governed by the three-year submission deadline in CAA section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are due on separate schedules, pursuant to CAA section 172 and the various pollutant-specific subparts 2 through 5 of part D. These are submissions required by: (i) CAA section 110(a)(2)(C), to the extent that subsection refers to a permit program as required in part D, title I of the CAA, and (ii) CAA section 110(a)(2)(I). As a result, this action does not address CAA section 110(a)(2)(C) with respect to nonattainment new source review (NSR) or CAA section 110(a)(2)(I). The EPA has also determined that the CAA section 110(a)(2)(J) provision on visibility is not triggered by a new NAAQS because the visibility requirements in part C, title I of the CAA are not changed by a new NAAQS.

Due to ambiguity in some of the language of CAA section 110(a)(2), the EPA believes that it is appropriate to

Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).” Memorandum to EPA Air Division Directors, Regions 1–10, September 13, 2013 (available at <https://www.epa.gov/air-quality-implementation-plans/infrastructure-sip-requirements-and-guidance>).

interpret these provisions in the specific context of acting on infrastructure SIP submissions. The EPA has previously provided comprehensive guidance on the application of these provisions in the 2013 Guidance and through regional actions on infrastructure submissions.<sup>3</sup> Unless otherwise noted below, we are following that existing approach in acting on this submission. In addition, in the context of acting on such infrastructure submissions, the EPA evaluates the submitting State's SIP for facial compliance with statutory and regulatory requirements, not for the State's implementation of its SIP.<sup>4</sup> The EPA has other authority to address any issues concerning a state's implementation of the rules, regulations, consent orders, etc. that comprise its SIP.

#### IV. EPA Evaluation

##### *110(a)(2)(A): Emission Limits and Other Control Measures*

CAA section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of the CAA.

*State submission:* The submission cites an overview of the Idaho air quality laws and regulations, including portions of the Idaho Environmental Protection and Health Act (EPIA) and the Rules for the Control of Air Pollution located at IDAPA 58.01.01. Relevant laws cited include Idaho Code Section 39–105(3)(d) which provides Idaho DEQ authority to supervise and administer a system to safeguard air quality, Idaho Code Section 39–115 which provides Idaho DEQ with specific authority for the issuance of air quality permits, and Idaho Code Section 39–116 which provides Idaho DEQ authority to establish compliance schedules for air quality regulatory standards. Relevant regulations include IDAPA 58.01.01.107.03 (incorporation by reference of federal regulations), IDAPA 58.01.01.200–228 (permit to construct

rules), IDAPA 58.01.01.400–410 (operating permit rules), IDAPA 58.01.01.600–624 (control of open burning), IDAPA 58.01.01.625 (visible emissions requirements and testing), IDAPA 58.01.01.725 (rules for sulfur content of fuels), and IDAPA 58.01.01.460–461 (banking of emissions).

*EPA analysis:* The State regulations identified above were previously approved by the EPA into the Idaho SIP and demonstrate that the Idaho SIP includes enforceable emission limits and other control measures to implement the 2015 ozone NAAQS. We recently approved updates to the IDAPA regulations to account for the 2015 ozone NAAQS (83 FR 42033, August 20, 2018). Idaho has no areas designated nonattainment for the 2015 ozone NAAQS. We note, as stated earlier, that the EPA does not consider SIP requirements triggered by the nonattainment area mandates in part D, title I of the CAA to be governed by the submission deadline of CAA section 110(a)(1). Regulations and other control measures for purposes of attainment planning under part D, title I of the CAA are due on a different schedule than infrastructure SIPs.

Idaho regulates emissions of ozone precursors through, among other things, its SIP-approved new source review (NSR) permitting program. The EPA most recently approved revisions to Idaho's major and minor NSR permitting programs on May 12, 2017 (82 FR 22083) and August 12, 2016 (81 FR 53290). Idaho's NSR rules incorporate by reference the Federal nonattainment NSR regulations and Federal PSD regulations at IDAPA 58.01.204 and IDAPA 58.01.01.205 respectively. In addition to NSR permitting regulations, Idaho's Tier II operating permit regulations at IDAPA 58.01.01.400–410 require that to obtain an operating permit, the applicant must demonstrate the source will not cause or significantly contribute to a violation of any ambient air quality standard. IDAPA 58.01.01.401.03 provides that Idaho DEQ will require a Tier II source operating permit if Idaho DEQ determines emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable PSD increment.

In addition to permitting provisions, Idaho's SIP contains rules that limit emissions of nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC) as precursors to ozone formation. These rules include requirements to reduce pollutants that reduce visibility and contribute to regional haze (IDAPA 58.01.01.665–668) and emission limits

for hot mix asphalt plants (IDAPA 58.01.01.805–808) and other industries. As a result, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(A) for the 2015 ozone NAAQS.

##### *110(a)(2)(B): Ambient Air Quality Monitoring/Data System*

CAA section 110(a)(2)(B) requires SIPs to include provisions to provide for establishment and operation of ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to the EPA upon request.

*State submission:* The submission references IDAPA 58.01.01.107 and IDAPA 58.01.01.576.05 in response to this requirement. These rules incorporate by reference 40 CFR part 50 National Primary and Secondary Air Quality Standards, 40 CFR part 52 Approval and Promulgation of Implementation Plans, 40 CFR part 53 Ambient Air Monitoring Reference and Equivalent Methods, and 40 CFR part 58 Appendix B Ambient Air Quality Surveillance Quality Assurance Requirements for Prevention of Significant Deterioration. The Idaho submission certifies that under these rules Idaho meets the infrastructure requirement to implement ambient air monitoring surveillance systems in accordance with the requirements of the CAA.

The Idaho submission references the 2017 Idaho Annual Ambient Air Monitoring Network Plan, approved by the EPA on November 8, 2017. The Idaho submission also references the website where the Idaho DEQ provides the network plan, air quality monitoring summaries, a map of the monitoring network and real-time air monitoring data.

*EPA analysis:* A comprehensive air quality monitoring plan, intended to meet the requirements of 40 CFR part 58 was submitted by Idaho on January 15, 1980 (40 CFR 52.670) and approved by the EPA on July 28, 1982. The plan includes statutory and regulatory authority to establish and operate an air quality monitoring network, including ozone monitoring. Idaho's SIP-approved regulations in IDAPA 58.01.01.200–228 (permit to construct rules) and IDAPA 58.01.01.400–410 (operating permit rules) govern source-specific monitoring and emissions testing for ozone precursors in accordance with federal reference methods. Idaho regularly assesses the adequacy of the state monitoring network and submits that assessment to the EPA for review. In practice, Idaho operates a comprehensive monitoring network,

<sup>3</sup> The EPA explains and elaborates on these ambiguities and its approach to address them in its 2013 Guidance, as well as in numerous agency actions, including the EPA's prior action on Idaho's infrastructure SIP submission to address the 2010 nitrogen dioxide and 2010 sulfur dioxide NAAQS (August 11, 2014, 79 FR 46707). Please see our associated April 17, 2014, proposed rule for this discussion (79 FR 21669, at page 21670).

<sup>4</sup> See U.S. Court of Appeals for the Ninth Circuit decision in *Montana Environmental Information Center v. EPA*, No. 16–71933 (Aug. 30, 2018).

including ozone monitoring, compiles and analyzes collected data, and submits the data to the EPA's Air Quality System on a quarterly basis. Based on the foregoing, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(B) for the 2015 ozone NAAQS.

*110(a)(2)(C): Program for Enforcement of Control Measures*

CAA section 110(a)(2)(C) requires each State to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources, including a program to meet PSD and nonattainment NSR requirements.

*State submission:* The submission refers to Idaho Code Section 39–108 which provides Idaho DEQ with both administrative and civil enforcement authority with respect to the Idaho EPHA, or any rule, permit or order promulgated pursuant to the EPHA. Criminal enforcement is authorized at Idaho Code Section 39–109. Emergency order authority, similar to that under section 303 of the CAA, is located at Idaho Code Section 39–112. The Idaho submission also refers to laws and regulations related to air quality permits at IDAPA 58.01.01.200–228 (permit to construct rules).

The submission also cites the annual incorporation by reference (IBR) rulemaking which updates Idaho's SIP to include Federal changes to the NAAQS and PSD program. Idaho's submission certifies that the annual IBR updates along with IDAPA sections 200–228 (permit to construct rules) and 575–587 (air quality standards and area classification) meets the CAA infrastructure requirement to implement the PSD program.

*EPA analysis:* With regard to the requirement to have a program providing for enforcement of all SIP measures, we are proposing to find that the Idaho provisions described above provide Idaho DEQ with authority to enforce the Idaho EPHA, air quality regulations, permits, and orders promulgated pursuant to the EPHA. Idaho DEQ staffs and maintains an administrative enforcement program to ensure compliance with SIP requirements. Idaho DEQ may issue emergency orders to reduce or discontinue emission of air contaminants where air emissions cause or contribute to imminent and substantial endangerment. Enforcement cases may be referred to the State Attorney General's Office for civil or criminal enforcement. Therefore, we are

proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(C) related to enforcement for the 2015 ozone NAAQS.

To generally meet the requirements of CAA section 110(a)(2)(C) with regard to the regulation of construction of new or modified stationary sources, a State is required to have PSD, nonattainment NSR, and minor NSR permitting programs adequate to implement the 2015 ozone NAAQS. Idaho's SIP-approved PSD program is codified in IDAPA 58.01.01.200–228 (permits to construct) and governed by IDAPA 58.01.01.205 (permit requirements for new major facilities or major modifications in attainment or unclassifiable areas). We most recently approved revisions to Idaho's PSD program on August 20, 2018 (83 FR 42033), May 12, 2017 (82 FR 22083) and August 12, 2016 (81 FR 53290). The SIP-approved program incorporates by reference certain Federal PSD program requirements at 40 CFR 52.21 as of July 1, 2017, and implements the 2015 ozone NAAQS. As a result, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(C) with regard to PSD for the 2015 ozone NAAQS.

Turning to minor NSR, the EPA approved a consolidated pre-construction permitting program, including minor NSR, into the Idaho SIP on June 23, 1986 (51 FR 22810). Over the years, we have approved revisions to the program as consistent with the CAA and Federal minor NSR requirements codified at 40 CFR 51.160 through 40 CFR 51.164, most recently on August 12, 2016 (81 FR 53290). We have determined that the program regulates construction of new and modified minor sources for purposes of the 2015 ozone NAAQS.

Based on the foregoing, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(C) for the 2015 ozone NAAQS.

*110(a)(2)(D): Interstate Transport*

CAA section 110(a)(2)(D)(i) addresses four separate elements, or “prongs.” CAA section 110(a)(2)(D)(i)(I) requires SIPs to contain adequate provisions prohibiting emissions which will contribute significantly to nonattainment of the NAAQS in any other State (prong 1), and adequate provisions prohibiting emissions which will interfere with maintenance of the NAAQS by any other State (prong 2). CAA section 110(a)(2)(D)(i)(II) requires SIPs to contain adequate provisions prohibiting emissions which will

interfere with any other State's required measures to prevent significant deterioration (PSD) of its air quality (prong 3), and adequate provisions prohibiting emissions which will interfere with any other State's required measures to protect visibility (prong 4).

CAA section 110(a)(2)(D)(ii) states SIPs must include provisions ensuring compliance with the applicable requirements of CAA sections 126 and 115 (relating to interstate and international pollution abatement). CAA section 126 requires notification to neighboring States of potential impacts from a new or modified major stationary source and specifies how a State may petition the EPA when a major source or group of stationary sources in a State is thought to contribute to certain pollution problems in another State. CAA section 115 governs the process for addressing air pollutants emitted in the United States that cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare in a foreign country.

*State submission:* The submission addresses all interstate transport requirements of the CAA. This proposed action, however, addresses only CAA sections 110(a)(2)(D)(i)(II), and 110(a)(2)(D)(ii). We intend to address the remainder of the interstate transport requirements in a separate, future action.

For purposes of CAA 110(a)(2)(D)(i)(II), the submission referenced Idaho's SIP-approved PSD program and Idaho's Regional Haze SIP submitted to the EPA on October 25, 2010. Idaho also cites IDAPA 58.01.01.209 that provides notice and comment procedures for various permit actions with regard to the public and to appropriate federal, state, international, and local agencies. CAA section 110(a)(2)(D)(ii) is discussed below.

*EPA analysis:* The EPA believes that the PSD sub-element of CAA section 110(a)(2)(D)(i)(II) (prong 3) is satisfied where major new and modified stationary sources in attainment and unclassifiable areas are subject to a SIP-approved PSD program. We most recently approved revisions to Idaho's SIP-approved PSD program on August 20, 2018 (83 FR 42033), May 12, 2017 (82 FR 22083), and August 12, 2016 (81 FR 53290). Idaho's SIP-approved PSD program is up-to-date with current Federal requirements, including implementing the 2015 ozone NAAQS. Therefore, we are proposing to approve the Idaho SIP as meeting CAA section 110(a)(2)(D)(i)(II) prong 3 with respect to PSD for the 2015 ozone NAAQS.

The EPA believes, as noted in the 2013 Guidance, where a State's regional

haze plan has been approved as meeting all current obligations, a State may rely upon those provisions in support of its demonstration that it satisfies CAA section 110(a)(2)(D)(i)(II) as it relates to visibility (prong 4). On June 9, 2011, we approved a SIP revision which provides Idaho DEQ authority to address regional haze and to implement best available retrofit technology (BART) requirements (76 FR 33651). Subsequently on June 22, 2011, we approved portions of the Idaho Regional Haze SIP, including the requirements for BART (76 FR 36329). Finally, on November 8, 2012, we approved the remainder of the Idaho Regional Haze SIP, including those portions that address CAA provisions that require states to set Reasonable Progress Goals for their Class I areas, and to develop a Long-Term Strategy to achieve these goals (77 FR 66929). Because we approved the Idaho plan as meeting regional haze requirements, we are proposing to approve the Idaho SIP as meeting CAA section 110(a)(2)(D)(i)(II) prong 4 visibility requirements with respect to the 2015 ozone NAAQS.

IDAPA 58.01.01.209 provides an opportunity for appropriate Federal, State, international, and local agencies to participate and identify any concerns in the permitting process. Idaho issues notice of its draft permits and neighboring states consistently receive copies of those drafts. Idaho also has no pending obligations under CAA section 115 or 126(b) of the CAA. Therefore, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(D)(ii) for the 2015 ozone NAAQS.

#### *110(a)(2)(E): Adequate Resources*

CAA section 110(a)(2)(E) requires each State to provide (i) necessary assurances that the State will have adequate personnel, funding, and authority under State law to carry out the SIP (and is not prohibited by any provision of Federal or State law from carrying out the SIP or portion thereof), (ii) requirements that the State comply with the State board provisions under CAA section 128 and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any SIP provision, the State has responsibility for ensuring adequate implementation of such SIP provision.

*State submission:* The submission refers to Idaho Code Section 39–106, which gives the Idaho DEQ Director authority to hire personnel to carry out duties of the department. In addition, the submission references Idaho Code

39–107, which establishes the State's Board of Environmental Quality, and Executive Order 2016–07 which addresses composition requirements of the Idaho Board of Environmental Quality. Finally, the Idaho submission references Idaho Code Section 39–129, which authorizes Idaho DEQ to enter into binding agreements with local governments that are enforceable as orders.

*EPA analysis:* We are proposing to find that the above-referenced provisions provide Idaho with adequate authority to carry out SIP obligations with respect to the 2015 ozone NAAQS as required by CAA section 110(a)(2)(E)(i). With regard to CAA section 110(a)(2)(E)(ii), we previously approved a revision to the Idaho SIP for purposes of meeting CAA section 128 and CAA section 110(a)(2)(E)(ii) on October 24, 2013 (78 FR 63394). Idaho renewed the Executive Order addressing certain board requirements for an additional four years on December 14, 2016 (Executive Order No. 2016–07).<sup>5</sup> We note that the Idaho Code Title 59 Chapter 7 (Ethics in Government Act), relied on for previous SIP Infrastructure actions, was relocated to Idaho Code Title 74 Chapter 4. Importantly, the relevant, substantive components of the law, approved for purposes of SIP authority, were retained.<sup>6</sup> Finally, we are proposing to find that Idaho has provided necessary assurances that, where Idaho has relied on a local or regional government, agency, or instrumentality for the implementation of any SIP provision, Idaho has responsibility for ensuring adequate implementation of the SIP with regard to the 2015 ozone NAAQS as required by CAA section 110(a)(2)(E)(iii). Therefore, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(E) for the 2015 ozone NAAQS.

#### *110(a)(2)(F): Stationary Source Monitoring System*

CAA section 110(a)(2)(F) requires (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the State agency with any emission limitations or standards

established pursuant to the CAA, which reports shall be available at reasonable times for public inspection.

*State submission:* The submission states that the statutes and rules governing air quality permits provide Idaho DEQ with the ability to monitor stationary source emissions for compliance purposes and make data available to the public. The submission references the following provisions:

- IDAPA 58.01.01.157, which includes source testing methods and procedures for source testing and reporting to the Idaho DEQ;
- IDAPA 58.01.01.122, which provides Idaho DEQ authority to issue information orders and orders to conduct source emissions monitoring, record keeping, reporting and other requirements;
- IDAPA 58.01.01.211, which contains conditions for permits to construct;
- IDAPA 58.01.01.209, which contains procedures for issuing permits to construct, including public processes;
- IDAPA 58.01.01.404, which contains procedures for issuing Tier II operating permits, including public processes;
- IDAPA 58.01.01.405, which contains conditions for Tier II operating permits, including sampling ports, instrumentation to monitor and record, and performance testing; and
- Idaho Code 9–342A and IDAPA 58.01.21 which address public records.

The Idaho submission also states that Idaho reports emissions data for the six criteria pollutants to the EPA's National Emissions Inventory, which is updated every three years.

*EPA analysis:* The provisions cited in the submission establishes compliance requirements for sources subject to major and minor source permitting to monitor emissions, keep and report records, and collect ambient air monitoring data. The provisions cited also provide Idaho DEQ authority to issue orders to collect additional information as needed for Idaho DEQ to ascertain compliance. In addition, IDAPA 58.01.01.211 (conditions for permits to construct) and 58.01.01.405 (conditions for tier II operating permits) provide Idaho DEQ authority to establish permit conditions requiring instrumentation to monitor and record emissions data, and instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility. This information is made available to the public through public processes outlined at IDAPA

<sup>5</sup> Letter to EPA from John Tippits, Director of Department of Environmental Quality "SIP Elements for State Boards Under Clean Air Act Section 110(a)(1)–(2). January 3, 2017.

<sup>6</sup> See Idaho House Bill 90, effective July 1, 2015.

58.01.01.209 (procedures for issuing permits) for permits to construct and 58.01.01.404 (procedures for issuing permits) for Tier II operating permits.

Additionally, the State is required to submit emissions data to the EPA for purposes of the National Emissions Inventory (NEI). The NEI is the EPA's central repository for air emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through the EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and their associated precursors—nitrogen oxides, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. The EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the website <https://www.epa.gov/air-emissions-inventories/national-emissions-inventory-nei>.

Idaho's SIP and practices are adequate for the stationary source monitoring systems related to the 2015 ozone NAAQS. The statutes and rules provide Idaho DEQ with the ability to monitor stationary source emissions for compliance purposes and make data publicly available. Based on the analysis above, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(F) for the 2015 ozone NAAQS.

#### *110(a)(2)(G): Emergency Episodes*

CAA section 110(a)(2)(G) requires States to provide for authority to address activities causing imminent and substantial endangerment to public health, including adequate contingency plans to implement the emergency episode provisions in their SIPs.

*State submission:* The Idaho submission cites Idaho Code 39–112 which provides emergency order authority comparable to that in CAA section 303. In addition, the submission cites the Idaho Air Pollution Emergency Rules (IDAPA 58.01.01.550–562).

*EPA analysis:* CAA section 303 provides authority to the EPA Administrator to restrain any source from causing or contributing to emissions which present an “imminent and substantial endangerment to public health or welfare, or the environment.” We find that Idaho Code Section 112 provides the Idaho DEQ Director with comparable authority.

The Idaho air pollution emergency rules at IDAPA 58.01.01.550–562 were

previously approved by the EPA on January 16, 2003 (68 FR 2217). Idaho's air pollution emergency rules include ozone, establish stages of episode criteria, provide for public announcement whenever any episode stage has been determined to exist, and specify emission control actions to be taken at each episode stage, consistent with the EPA emergency episode SIP requirements set forth at 40 CFR part 51 subpart H (prevention of air pollution emergency episodes, sections 51.150 through 51.153) for ozone. Therefore, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(G) for the 2015 ozone NAAQS.

#### *110(a)(2)(H): Future SIP Revisions*

CAA section 110(a)(2)(H) requires that SIPs provide for revision of a State plan (i) from time to time as may be necessary to take account of revisions of a national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining the standard, and (ii), except as provided in paragraph 110(a)(3)(C), whenever the Administrator finds that the SIP is substantially inadequate to attain the NAAQS which it implements or to otherwise comply with any additional requirements under the CAA.

*State submission:* The submission refers to Idaho Code Sections 39–105(2) and (3)(d) which provide Idaho DEQ with broad authority to revise rules, in accordance with Idaho administrative procedures for rulemaking, to meet national ambient air quality standards as incorporated by reference in IDAPA 58.01.01.107.

*EPA analysis:* We find that Idaho has adequate authority to regularly update the SIP to take into account revisions of the NAAQS and other related regulatory changes. In practice, Idaho regularly updates the SIP for purposes of NAAQS revisions and other related regulatory changes. We most recently approved revisions to the Idaho SIP on August 20, 2018 (83 FR 422033). Idaho has incorporated by reference the 2015 ozone NAAQS into the Idaho SIP. Therefore, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(H) for the 2015 ozone NAAQS.

#### *110(a)(2)(I): Nonattainment Area Plan Revision Under Part D*

There are two elements identified in CAA section 110(a)(2) not governed by the three-year submission deadline of CAA section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are due on nonattainment area plan schedules

pursuant to section 172 and the various pollutant-specific subparts 2 through 5 of part D. These are submissions required by: (i) CAA section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D, title I of the CAA, and (ii) section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, title I of the CAA. As a result, this action does not address CAA section 110(a)(2)(C) with respect to nonattainment NSR or CAA section 110(a)(2)(I).

#### *110(a)(2)(J): Consultation With Government Officials*

CAA section 110(a)(2)(J) requires States to provide a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements pursuant to CAA section 121. CAA section 110(a)(2)(J) further requires States to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances. Lastly, CAA section 110(a)(2)(f) requires States to meet applicable requirements of part C, title I of the CAA related to prevention of significant deterioration and visibility protection.

*State submission:* The submission refers to laws and regulations relating to public participation processes for SIP revisions and permitting programs. The submission refers to IDAPA 58.01.01.209, 364, and 404 which provide for public processes related to new source construction permits and operating permits. The submission also refers to Idaho Code Section 39–105(3)(c) which promotes outreach with local governments and Idaho Code Section 39–129 which provides authority for Idaho DEQ to enter into agreements with local governments. In addition, the Idaho submission references the Idaho transportation conformity rules and regional haze rules which provide for consultation processes. With regard to public notification, the Idaho submission states that Idaho DEQ submits information to EPA's AIRNOW program and provides daily air quality index scores for many locations throughout Idaho. Finally, with regard to PSD, the submission references the Idaho rules for major source permitting at IDAPA 58.01.01.200 through 223, including PSD requirements for sources in attainment and unclassifiable areas.

*EPA analysis:* The Idaho SIP includes specific provisions for consulting with local governments and Federal Land Managers as specified in CAA section 121, including the Idaho rules for major

source PSD permitting. The EPA most recently approved Idaho permitting rules at IDAPA 58.01.01.209 and 58.01.01.404, which provide opportunity and procedures for public comment and notice to appropriate Federal, State and local agencies, on November 26, 2010 (75 FR 47530). We most recently approved Idaho's rules that define transportation conformity consultation on April 12, 2001 (66 FR 18873), and Idaho's regional haze rules on June 9, 2011 (76 FR 33651). In practice, Idaho DEQ routinely coordinates with local governments, states, Federal Land Managers and other stakeholders on air quality issues including permitting action, transportation conformity, and regional haze. Therefore, we are proposing to find that the Idaho SIP meets the requirements of CAA section 110(a)(2)(J) for consultation with government officials for the 2015 ozone NAAQS.

CAA section 110(a)(2)(J) also requires the public be notified if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances. The EPA calculates an air quality index for five major air pollutants regulated by the CAA: Ground-level ozone, particulate matter, carbon monoxide, sulfur dioxide, and nitrogen dioxide. The EPA AIRNOW program provides this air quality index daily to the public, including health effects and actions members of the public can take to reduce air pollution. Idaho actively participates and submits information to the AIRNOW program, in addition to the EPA's Enviroflash Air Quality Alert program. Idaho DEQ also provides the daily air quality index to the public on the DEQ website at <http://www.deq.idaho.gov/air-quality/monitoring/daily-reports-and-forecasts.aspx>, as well as measures that can be taken to prevent exceedances. Therefore, we are proposing to find that the Idaho SIP meets the requirements of CAA section 110(a)(2)(J) for public notification for the 2015 ozone NAAQS.

Turning to the requirement in CAA section 110(a)(2)(J) that the SIP meet the applicable requirements of part C of title I of the CAA, we have evaluated this requirement in the context of CAA section 110(a)(2)(C) with respect to permitting. The EPA most recently approved revisions to Idaho's PSD program on August 20, 2018 (83 FR 42033). Please see our discussion at section 110(a)(2)(C). Therefore, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(J) with respect to PSD for the 2015 ozone NAAQS.

With regard to the applicable requirements for visibility protection, the EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the CAA. In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new applicable requirement relating to visibility triggered under CAA section 110(a)(2)(J) when a new NAAQS becomes effective. Based on the above analysis, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(J) for the 2015 ozone NAAQS.

*110(a)(2)(K): Air Quality and Modeling/Data*

CAA section 110(a)(2)(K) requires that SIPs provide for (i) the performance of air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a NAAQS, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.

*State submission:* The submission states that air quality modeling is conducted during development of revisions to the SIP, as appropriate for Idaho to demonstrate attainment with required air quality standards. Idaho cites IDAPA 58.01.01.202.02 and IDAPA 58.01.01.402.03 which address permit to construct and Tier II operating permit application procedures and modeling requirements for estimating ambient concentrations, respectively. Modeling is also addressed in Idaho's source permitting process as discussed at section 110(a)(2)(A) above. Estimates of ambient concentrations are based on requirements specified in 40 CFR part 51, Appendix W (Guidelines on Air Quality Models) which is incorporated by reference at IDAPA 58.01.01.107.

*EPA analysis:* We most recently approved IDAPA 58.01.01.107 (incorporations by reference) on August 20, 2018 (83 FR 42033). This rule incorporates by reference the following EPA regulations: Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR part 51; National Primary and Secondary Ambient Air Quality Standards, 40 CFR part 50; Approval and Promulgation of Implementation Plans, 40 CFR part 52; Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR part 53; and Ambient Air Quality Surveillance, 40 CFR part 58 revised as of July 1, 2015.

Idaho's incorporation by reference of 40 CFR part 51 as of July 1, 2017 captures the EPA's recent changes to the Federal Guidelines on Air Quality Models codified in 40 CFR part 51, appendix W (Appendix W) (January 17, 2017, 82 FR 5182). Idaho's SIP requires modeled estimates of ambient concentrations based on the current version of Appendix W, consistent with the EPA's implementing regulations in 40 CFR part 51. Therefore, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(K) for the 2015 ozone NAAQS.

*110(a)(2)(L): Permitting Fees*

CAA section 110(a)(2)(L) directs SIPs to require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit.

*State submission:* The submission refers to IDAPA 58.01.01.387–397, which set the requirements for the annual registration of Tier I (title V) sources and the annual assessment and payment of fees to support the Tier I permitting program. The EPA approved Idaho's title V permitting program on October 4, 2001 (66 FR 50574). The submission also references IDAPA 58.01.01.407–409 which set the requirements for Tier II operating permit processing fees and usage.

*EPA analysis:* We approved Idaho's title V program on October 4, 2001 (66 FR 50574) with an effective date of November 5, 2001. While Idaho's operating permit program is not formally approved into the State's SIP, it is a legal mechanism the State can use to ensure that Idaho DEQ has sufficient resources to support the air program, consistent with the requirements of the SIP. Before the EPA can grant full approval, a state must demonstrate the ability to collect adequate fees. Idaho's title V program included a demonstration the State will collect a fee from title V sources above the presumptive minimum in accordance with 40 CFR 70.9(b)(2)(i). Idaho regulations require permitting fees for major sources subject to new source review, as specified at IDAPA 58.01.01.224–227. Therefore, we are proposing to conclude that Idaho has satisfied the requirements of CAA section 110(a)(2)(L) for the 2015 ozone NAAQS.

*110(a)(2)(M): Consultation/Participation by Affected Local Entities*

CAA section 110(a)(2)(M) requires States to provide for consultation and participation in SIP development by



local political subdivisions affected by the SIP.

**State submission:** The submission references IDAPA 58.01.01.209, 364 and 404 which provide for the public processes related to developing and issuing air quality permits. In addition, the submission references the transportation conformity consultation and public processes at IDAPA 58.01.01.563—574. Finally, the submission references the consultation and participation process outlined in 40 CFR 51.102, incorporated by reference at IDAPA 58.01.01.107.

**EPA analysis:** The EPA most recently approved IDAPA 58.01.01.107 (incorporations by reference), which incorporates by reference EPA regulations at 40 CFR part 51—Requirements for Preparation, Adoption, and Submittal of Implementation Plans on August 20, 2018 (83 FR 42033). In addition, we most recently approved Idaho permitting rules at IDAPA 58.01.01.209 and 58.01.01.404, which provide opportunity and procedures for public comment and notice to appropriate federal, state and local agencies, on November 26, 2010 (75 FR 47530). Finally, we approved the State rules that define transportation conformity consultation on April 12, 2001 (66 FR 18873). Therefore, we are proposing to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(M) for the 2015 ozone NAAQS.

## V. Proposed Action

The EPA is proposing to find that the Idaho SIP meets the following CAA section 110(a)(2) infrastructure elements for the 2015 ozone NAAQS: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). This action is being taken under section 110 of the CAA.

## VI. 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 proposed 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 proposed 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);

- 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 it 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 and 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).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: March 27, 2019.

**Chris Hladick,**

*Regional Administrator, Region 10.*

[FR Doc. 2019–06873 Filed 4–8–19; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R08–OAR–2018–0735; FRL–9991–83–Region 8]

### Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Revisions to the Utah Division of Administrative Rules; R307–101–3

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Utah Division of Administrative Rules (DAR), specifically R307–101–3 submitted by the State of Utah on October 13, 2016. This submittal requests a State Implementation Plan (SIP) revision to change the date of the referenced Code of Federal Register (CFR) from July 1, 2014 to July 1, 2015. This action is being taken under section 110 of the Clean Air Act (CAA or Act).

**DATES:** Written comments must be received on or before May 9, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R08–OAR–2018–0735, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit