

Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 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.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rulemaking 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).

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. 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.” 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.”

IDEM did not evaluate EJ considerations as part of its SIP submittal; the Clean Air Act and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action 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 E.O. 12898 of achieving EJ for people of color, low-

income populations, and Indigenous peoples.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

Dated: June 14, 2024.

**Debra Shore,**

*Regional Administrator, Region 5.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R10–OAR–2023–0583; FRL–11575–01–R10]

### Air Plan Approval; ID; Revisions to Air Quality Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to approve revisions to the Idaho State Implementation Plan (SIP) submitted on May 8, 2023 and May 13, 2024. The SIP submissions include changes designed to streamline the Idaho air quality regulations by repealing outdated provisions, striking duplicative terms, and simplifying rule language. The submissions also update the adoption by reference of specific Federal standards and reference methods. The EPA proposes to determine that the submitted changes to the Idaho SIP are consistent with Clean Air Act requirements.

**DATES:** Comments must be received on or before July 24, 2024.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R10–OAR–2023–0583, 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 electronically submit 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:

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**SUPPLEMENTARY INFORMATION:** In this document, “we” and “our” mean “the EPA.”

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### I. Background

The EPA has established national ambient air quality standards (NAAQS) for carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide.<sup>1</sup> Each State has a State Implementation Plan (SIP) designed to meet the national ambient air quality standards through various air pollution regulations, control measures and strategies. A SIP contains emission limits, pollution control technology requirements, permitting programs, enforcement mechanisms, and other elements. Each State revises its SIP over time to respond to new Federal requirements and to address changing air quality conditions.

The Clean Air Act requires states to submit SIP revisions to the EPA for review and approval.<sup>2</sup> The EPA takes action through notice and comment rulemaking to approve and incorporate State air quality regulations by reference into the Code of Federal Regulations (CFR). As part of the SIP, State regulations are made enforceable by the EPA and citizens.<sup>3</sup>

### II. Submissions

On May 8, 2023, the Idaho Department of Environmental Quality

<sup>1</sup> See 40 CFR part 50.

<sup>2</sup> See Clean Air Act section 110.

<sup>3</sup> See Clean Air Act sections 113 and 304.

(DEQ) submitted a comprehensive SIP revision to the EPA. The submission was developed in response to a January 16, 2020, Executive Order issued by Governor Brad Little that required Idaho State agencies to review and revise administrative rules to reduce regulatory burden and increase clarity and ease of use.<sup>4</sup> The May 8, 2023, submission included changes to the Rules for the Control of Air Pollution in Idaho, established at IDAPA 58.01.01, and an Attorney General statement certifying that the submitted changes were not intended to be substantive and would not impede the Idaho DEQ's lawful authority to implement EPA-approved Clean Air Act programs. We note that the EPA engaged with the Idaho DEQ early and often in the drafting process to ensure consistency with Clean Air Act requirements. The EPA met with the Idaho DEQ to discuss the intent of the draft rule changes and the EPA reviewed and commented on the draft changes at both the State's negotiated rulemaking stage and public notice and comment stage. The EPA's comment letters and the May 8, 2023, Idaho submission are included in the docket for this action.

On May 13, 2024, the Idaho DEQ submitted an update to the adoption by reference of specific Federal standards and reference methods. Also in the May 13, 2024, submission, the Idaho DEQ corrected two inadvertent issues with the May 8, 2023, submission. The issues and the corrections are described in section III.B. of this preamble. The May 13, 2024, submission may be found in the docket for this action.

### III. Evaluation

The following paragraphs summarize our evaluation of the submitted revisions to the EPA-approved Idaho air quality rules in the Idaho SIP, codified at 40 CFR part 52, subpart N. We have not described corrections to spelling, grammar, and punctuation.

#### A. Overall Readability

Idaho made numerous changes throughout the State air quality rules designed to improve overall readability. For example, the State replaced "which" with "that," "so long as" with "if," and "set forth" with "establish." In addition, the State replaced "shall" with "must" where the rules impose obligations directly on regulated sources, and replaced "shall" with "will" where the rules impose obligations on the Idaho DEQ. The State also reformatted certain regulatory

requirements into tables to promote ease of use. We propose to approve the submitted readability changes.

#### B. Definitions

Idaho made changes to the centralized definitions sections of the air quality rules. For example, the State removed terms and definitions that are already incorporated by reference, repealed those that are considered common knowledge or that were no longer used, combined definitions for related terms, and moved terms from the centralized definitions sections to the implementing rule sections. To facilitate our review, we created a table listing each term and definition repealed from, or moved out of, the centralized definitions sections along with the citation and the reason the definition was repealed or moved. The table, arranged alphabetically, is included in the docket for this action.

The EPA notes that streamlining definitions in the air quality rules may not necessarily align with one of the stated goals of the revisions—to increase clarity and ease of use for the public and regulated community. However, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. The following paragraphs describe our evaluation of the key changes to the centralized definitions sections.

In the submissions, Idaho added language to the centralized definitions section at IDAPA 58.01.01.005 to make clear that key terms defined in Idaho statute and Federal regulation are incorporated by reference as applicable requirements, unless otherwise specified. Idaho incorporates Federal provisions by reference as of a specific date and conducts routine rulemaking updates to ensure that the most recent Federal changes are captured.<sup>5</sup> Where a key term has been incorporated by reference, Idaho repealed that term and definition from the centralized definitions sections in IDAPA 58.01.01.006 and 007.

In the May 8, 2023, submission, Idaho revised IDAPA 58.01.01.005 to make clear that the definitions of "air pollutant/air contaminant," "air pollution," "board," "department," "director," and "person" are defined in Idaho Code 39–103, and stated that the definitions of the same terms in IDAPA 58.01.01.006 were duplicative and may be repealed. However, Idaho did not include, in the May 8, 2023, submission, a request to approve and incorporate by

reference the statutory definitions. Therefore, Idaho included such a request in the May 13, 2024, submission.<sup>6</sup> We propose to approve the repeal of the definitions of "air pollutant/air contaminant," "air pollution," "board," "department," "director," and "person" in IDAPA 58.01.01.006 and also propose to approve, and incorporate by reference into 40 CFR 52.670(c), the same terms and definitions codified at Idaho Code 39.103(1), (2), (3), (6), (7), and (11), State effective July 1, 2010.<sup>7</sup>

In the submissions, Idaho removed the definitions of "adverse impact on visibility," "best available retrofit technology," "BART-eligible source," "deciview," "Federal class I area," "least-impaired days," "most-impaired days," "natural conditions," "regional haze," "visibility impairment" and "visibility in any mandatory Federal class I area" from IDAPA 58.01.01.006 because the terms had the same definitions as those established in the Federal regional haze rules in 40 CFR 51.301, which were already incorporated by reference at IDAPA 58.01.01.107.03.a and therefore redundant. In addition, Idaho removed the term "designated facility" from IDAPA 58.01.01.006 because the corresponding Federal term with the same definition ("major stationary source") is used in the Idaho rules and incorporated by reference at IDAPA 58.01.01.107.03.a.<sup>8</sup> The State also removed from IDAPA 58.01.01.006 and 007 the definitions of "begin actual construction," "innovative control technology," "Indian governing body," and "lowest achievable emission rate (LAER)" because the same Federal terms and definitions are incorporated by reference at IDAPA 58.01.01.107.03.a.<sup>9</sup> We propose to approve these changes.

Idaho repealed certain terms from the centralized definitions sections because they are considered common knowledge. These included: "act" for the State's governing environmental statute; "BTU" for British thermal unit; "Clean Air Act;" "EPA;" "fire hazard;"

<sup>6</sup> See Idaho Code 39–103 in the May 13, 2024, submission in the docket for this action.

<sup>7</sup> *Ibid.*

<sup>8</sup> As defined in 40 CFR 52.21(b)(1)(I)(a) and 51.165(a)(1)(iv)(A). See IDAPA 58.01.01.204 and IDAPA 58.01.01.205.

<sup>9</sup> "Begin actual construction" is defined at 40 CFR 52.21(b)(11) and 51.165(a)(1)(xv). "Fugitive emissions" is defined at 40 CFR 52.21(b)(20) and 51.165(a)(1)(ix). "Innovative control technology" is defined at 40 CFR 52.21(b)(19). "Indian governing body" is defined at 40 CFR 52.21(b)(28). Kraft pulping" is defined in 40 CFR part 60, subpart BB and BBa. "Lowest achievable control technology (LAER)" is defined in 40 CFR 51.165(a)(1)(xiii). See IDAPA 58.01.01.204.02.a.

<sup>4</sup> Executive Order No. 2020–01 Zero Based Regulation, January 16, 2020.

<sup>5</sup> See document in the docket for this action entitled "State Submission Overview of Incorporation by Reference."

“grain elevator;” “grain storage elevator;” and “grain terminal elevator;” hot-mix asphalt plant;” “kraft pulping;” “monitoring;” “odor;” “open burning;” “PPM” for parts per million; “quantifiable;” “radionuclide;” “smoke;” “smoke management plan;” “smoke management program;” and “standard conditions.” We agree that these terms are common knowledge and propose to approve the repeals.

Certain defined terms are no longer used in the Idaho air quality rules and therefore were repealed, including: “air quality criterion;” “atmospheric stagnation advisory;” “collection efficiency;” “member of the public;” “multiple chamber incinerator;” and “wigwam burner.” In addition, Idaho removed the term “operating permit” from the centralized definitions sections in the SIP because this term is not used in the SIP-approved federally enforceable State operating permit program (Tier II permit program) in IDAPA 58.01.01.400 through 409. The repeals of terms no longer used has no effect on the SIP.

Idaho also repealed duplicative terms from the centralized definitions sections because they are already defined elsewhere in Idaho rules. Idaho repealed the term “baseline (area, concentration, date)” because baseline date, area and concentration are defined in IDAPA 58.01.01.579 and the centralized definition had served as a cross-reference only. Idaho removed the term “garbage” because this term is defined in IDAPA 58.01.01.603 and considered common knowledge. Idaho also removed the term “opacity” because the general definition of opacity is considered common knowledge while the specific test methods and procedures for determining opacity for purposes of the Idaho air quality rules are defined in the implementing rule at IDAPA 58.01.01.625. Idaho repealed the term “complete” (with respect to a permit application) because the required materials needed for a complete permit application are defined in the permitting regulations at IDAPA 58.01.01.202 and 402.

Idaho removed the terms “toxic substance;” “toxic air pollutant carcinogenic increments” and “toxic air pollutant non-carcinogenic increments” from the centralized definitions sections because they are related to rules regulating hazardous air pollutants, rather than the criteria pollutants, and such hazardous air pollutant requirements are not part of the Idaho SIP. Idaho also repealed the centralized definition of “permit to construct” because the term is defined in IDAPA 58.01.01.201. We propose to approve

the repeal of these duplicative definitions.

The State removed the term “woodstove curtailment advisory” from the centralized definitions section and all sections where it was used in favor of the term that is used in practice, “air quality advisory.” Idaho removed the term “hazardous waste” from the centralized definitions section because when this term is used in the air quality rules, it points to the definition established in the Idaho rules and standards for hazardous waste.<sup>10</sup> Idaho also repealed the definition of the term “effective dose equivalent.” The radionuclide rules that use the term are not part of the SIP, therefore the repeal of this definition has no effect on the SIP.

Idaho moved a number of definitions from the centralized definitions sections to the implementing rule sections. Specifically, Idaho moved the defined term “noncondensibles” to IDAPA 58.01.01.835. Idaho also removed the term “prescribed fire management burning” and replaced it with a definition of “prescribed fire” at IDAPA 58.01.01.614. The State also moved the definitions of “process weight” and “process weight rate” to IDAPA 58.01.01.700, “salvage operation” to IDAPA 58.01.01.603.01.c, “small fire” to IDAPA 58.01.01.607, and “trade waste” to IDAPA 58.01.01.603.01. The State moved the definition of “pilot plant” to IDAPA 58.01.01.222.01.e and moved the definition of “T-RACT” (reasonably available control technology for toxics) to IDAPA 58.01.01.210.

In the May 8, 2023, submission, Idaho moved the definitions of “breakdown,” “safety measure,” “scheduled maintenance,” “shutdown,” “startup” and “upset” to IDAPA 58.01.01.130 because the terms are primarily used in IDAPA 58.01.01.130 through 136. For the same reason, the Idaho DEQ intended to also move the definition of “excess emissions” to IDAPA 58.01.01.130. However, while Idaho removed the definition of that term from the centralized definitions section, the State inadvertently failed to add it to IDAPA 58.01.01.130. Therefore, the State fixed the error and submitted the fix to the EPA as part of the May 13, 2024, submission. Also in that submission, Idaho reformatted the excess emissions-related definitions in IDAPA 58.01.01.130 to make the rule section easier to read. We propose to approve and incorporate by reference into the SIP the definitions in IDAPA 58.01.01.130.

<sup>10</sup> IDAPA 58.01.05.000 *et seq.*

Idaho also made updates and revisions to several definitions and combined other definitions. The State revised the definition of “actual emissions” at IDAPA 58.01.01.006.03 to clarify that actual emissions as of a particular date are to be calculated as the average rate at which a unit emitted a pollutant in tons per year during the preceding consecutive 24-month period, rather than the preceding 2-year period. This change is consistent with the Federal definition of actual emissions at 40 CFR 51.165(a)(1)(xii) and 51.166(b)(21). Idaho also folded the definition of “construction” into the definition of “commence construction and modification.” This combined definition, which applies for purposes of pre-construction permitting under the minor and nonattainment new source review programs, aligns with the Federal definitions of “construction” and “begin actual construction” at 40 CFR 51.165(a)(1)(xviii) and (xv), respectively. We note that for purposes of the prevention of significant deterioration (PSD) program, Idaho adopts by reference the Federal definitions of “commence,” “construction,” and “begin actual construction” as applied to construction of a major stationary source or major modification in attainment areas at 40 CFR 52.21(b). The State also revised the definition of “emissions unit” to remove the qualifying text that stated the definition does not alter or affect the term “unit” for purposes of the Federal acid rain program. Idaho has no acid rain-related requirements in the SIP, therefore we propose to concur with the Idaho DEQ that this qualifying text is not needed.

The State combined the definitions of “mercury” and “mercury best available control technology (MBACT)”. We find that the combination of these terms is appropriate. Notably, the term “mercury” is only used in the context of MBACT to limit mercury emissions under the Idaho air toxics regulations that are generally not part of the SIP. Idaho also combined the definitions of “primary ambient air quality standard” and “secondary ambient air quality standard” into a new definition of “national ambient air quality standards.” We propose to approve the change because the new definition encompasses the old terms and is consistent with Clean Air Act sections 109 and 110.

Idaho also combined the definitions of “particulate matter,” “particulate matter emissions,” “PM<sub>10</sub>,” “PM<sub>10</sub> emissions,” “PM<sub>2.5</sub>,” and “PM<sub>2.5</sub> emissions” into a single “particulate matter” definition. We propose to

approve this combination of terms. Idaho repealed the definition of the term “total suspended particulates” because the EPA replaced total suspended particulates with PM<sub>10</sub> as an indicator for the particulate matter NAAQS in 1987 (July 1, 1987, 52 FR 24634). Additionally, the State removed the definition of “special fuels” because the relevant language was already included in the definition of “gasoline” in IDAPA 58.01.006 and streamlined the definition of “stage 1 vapor collection” and moved it to IDAPA 58.01.01.592. However, we note that IDAPA 58.01.01.592 is not in the SIP and was not submitted for EPA approval. Additionally, no gasoline dispensing facility rules are in the Idaho SIP. Therefore, the definition of stage 1 vapor collection is not relevant to the SIP. Finally, Idaho reformatted the definition of “significant” to convert the text to a table for readability. The definition remains consistent with the Federal definition of the term at 40 CFR 51.21(b)(23) and 51.165(a)(1)(x)(A). Idaho also reformatted the definition of “significant contribution,” consistent with the Federal definition at 40 CFR 51.165(b)(2), into a table for ease of use.

In conclusion, we propose to approve the submitted changes to the Idaho SIP definitions for the reasons described in section III.B. of this preamble, in the submissions themselves, and in the supporting documentation in the docket for this action.

### C. Incorporations by Reference

To stay up to date with changes to the NAAQS and related planning and monitoring requirements, Idaho incorporates certain Federal regulations by reference into IDAPA 58.01.01.107.03 as of a specific date. Each year, Idaho revises the incorporation by reference citation date and submits the update to the EPA for approval into the Idaho SIP. The most recent citation update, to incorporate Federal regulations as of July 1, 2023, was included in the May 13, 2024, submission. The specific Federal regulations currently incorporated by reference into the SIP at IDAPA 58.01.01.107.03 are: the National Primary and Secondary Ambient Air Quality Standards, 40 Code of Federal Regulations (CFR) part 50; the Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR part 51, with the exception of certain visibility-related requirements; the Approval and Promulgation of Implementation Plans, 40 CFR part 52, subparts A and N, and appendices D and E; the Ambient Air Monitoring Reference and Equivalent

Methods, 40 CFR part 53; and the Ambient Air Quality Surveillance, 40 CFR part 58.

Between the current SIP-approved adoption date of July 1, 2021 and the revised adoption date of July 1, 2023, the EPA made no changes to 40 CFR parts 50, 53, and 58. The EPA did, however, make certain corrections to the new source review (NSR) regulations in 40 CFR parts 51 and 52, (86 FR 37918, July 19, 2021). In the NSR correction action, the EPA fixed typographical and grammatical errors, removed vacated rule language, removed or updated outdated or incorrect cross references, adjusted certain provisions to conform to changes contained in the 1990 Clean Air Act Amendments, and removed outdated grandfathering or transitional exemptions. The EPA also revised 40 CFR part 51 to correct and update regulations for source testing of emissions under various rules (88 FR 18396, March 29, 2023). In addition, the EPA revised 40 CFR part 52 subpart N to approve changes to the Idaho SIP, including the approved removal of the motor vehicle inspection and maintenance program (88 FR 39177, June 15, 2023), updates to the incorporation by reference of EPA regulations (87 FR 31429, May 24, 2022; 88 FR 18426, March 29, 2023), an update to the State board composition requirements (88 FR 34091, May 26, 2023), and the approved redesignation of the West Silver Valley fine particulate matter nonattainment area to attainment (86 FR 63315, November 16, 2021).

We note that Idaho streamlined and renumbered the paragraphs in IDAPA 58.01.01.107. Specifically, Idaho struck the prior general introductory language and reference material information in paragraphs 01 and 02 and renumbered the incorporation of Federal provisions in paragraphs 03—from 03.a through 03.p to 01 through 16. We propose to find that this streamlining and renumbering makes no substantive changes to the rule.

In conclusion, Idaho’s revisions to IDAPA 58.01.01.107 have the effect of incorporating into the Idaho SIP the revisions described in section III.C. of this preamble. We propose to approve the updates as consistent with Clean Air Act requirements.

### D. Permitting Regulations

The Idaho SIP includes a permit to construct program designed to regulate emissions from new and modified industrial sources and a non-title V operating permit program (called the Idaho Tier II operating permit program) to permit the operation of certain stationary sources. The submitted

revisions streamline these permitting rules by removing redundant language, clarifying requirements, and repealing obsolete provisions. For example, Idaho repealed obsolete air quality model language from both the permit to construct and Tier II operating permit rules, at IDAPA 58.01.01.202 and 402 respectively.<sup>11</sup> Specifically, Idaho deleted outdated references to the EPA’s September 1984 Interim Procedures for Evaluating Air Quality Models. The State incorporates by reference the EPA’s Guidelines on Air Quality Models at 40 CFR part 51, appendix W into the SIP and those guidelines include the most up-to-date requirements for the use of substitute air quality models.<sup>12</sup> We propose to approve the submitted changes because they remove outdated requirements.

Idaho struck duplicative language from the public notice and comment section of the State rules at IDAPA 58.01.01.209. Idaho removed language stating that the Idaho DEQ will notify the public of a permit action when a permit application includes fluid modeling or field studies. This same language is spelled out in IDAPA 58.01.01.514 (renumbered to section 512 in this submission) and does not need to be repeated. In addition, Idaho combined the compliance requirements in IDAPA 58.01.01.212 and IDAPA 58.01.01.406 into a new rule section at IDAPA 58.01.01.108. The change continues to require that receipt of a permit or registration under an air quality permitting program does not relieve any owner or operator of the responsibility to comply with all applicable local, State and Federal statutes, rules and regulations.

Idaho clarified IDAPA 58.01.01.213 to make clear that only minor sources are eligible for pre-permit construction approval from the Idaho DEQ. In addition, at the EPA’s request, the State submitted the permit to construct fee requirements at IDAPA 58.01.01.226 and IDAPA 58.01.01.227 for approval into the SIP. We propose to approve and incorporate by reference these permit to construct fee provisions because they support the requirement for each SIP to address CAA section 110(a)(2)(L).

In the submissions, Idaho removed language from the optional Tier II

<sup>11</sup> These permit programs require that all estimates of ambient concentrations are based on applicable air quality models and other requirements in the EPA’s Guideline on Air Quality Models at 40 CFR part 51, appendix W and state that the use of a substitute air quality model is subject to EPA written approval.

<sup>12</sup> Idaho incorporates by reference the EPA’s Guidelines on Air Quality Models at 40 CFR part 51, appendix W at IDAPA 58.01.01.107.03.a.

permit rule section at IDAPA 58.01.01.401.01.a. that referenced the option for a source to request alternative emission limits or “bubbles” as laid out in IDAPA 58.01.01.440. Bubbles are not a required element of a SIP and the implementing rule at IDAPA 58.01.01.440 is not part of the SIP. Therefore, Idaho repealed IDAPA 58.01.01.440 and all cross references to it. Also, in IDAPA 58.01.01.401, Idaho struck redundant language from paragraph 02.a.i. The language that was struck (requiring a source to obtain a Tier II permit if the source is not subject to title V but has a permit to construct with a different emission standard from those in the Idaho air quality rules) is redundant with language in IDAPA 58.01.01.401.03.a. We propose to approve the changes.

IDAPA 58.01.01.402 requires, among other things, that when applying for a permit to construct, an owner or operator must ensure all estimates of ambient concentrations are based on applicable air quality models and other requirements set forth in 40 CFR part 51, appendix W (Guideline on Air Quality Models). Where an air quality model in the EPA guideline is inappropriate, a substitute model may be used, subject to written approval from the EPA. In the submission, Idaho repealed language from IDAPA 58.01.01.402 related to such non-standard models. The repealed language re-states the requirements of the EPA guideline, which is already incorporated by reference into the SIP, therefore, we propose to approve the change.

In addition, Idaho clarified the procedures for issuing permits at IDAPA 58.01.01.404. The State removed language from paragraph 01.c. that duplicates language in section 404.02.b. related to the public availability of information. Idaho also streamlined the registration requirements for portable sources in IDAPA 58.01.01.500 by deleting the obsolete provisions from paragraph 01 that phased in original requirements from when the rule was first established, and by moving the regulatory text in paragraph 02 to IDAPA 58.01.01.108. We propose to approve the changes as not altering the meaning of the rules.

In the submissions, Idaho revised IDAPA 58.01.01.580 (Classification of prevention of significant deterioration areas) by striking the area classifications spelled out in the rule and making clear that the same classifications are listed in 40 CFR 52.21(e), incorporated by reference in IDAPA 58.01.01.107. The State also combined rule text governing stack height and dispersion techniques at IDAPA 58.01.01.510 and 511 into

section 510 and added new language to make clear that the definitions of terms used in the stack height rules are found in the Federal regulations at 40 CFR 51.100, incorporated by reference at IDAPA 58.01.01.107. Because the definitions are incorporated by reference, Idaho repealed the stack height definitions section at IDAPA 58.01.01.512 and renumbered the rule section series. We propose to approve the stack height rules changes as non-substantive.

Idaho made significant changes to certain sections of the nonmetallic mineral processing plant permit by rule requirements at IDAPA 58.01.01.011 and 58.01.01.790 through 799. First, Idaho repealed the dedicated definitions section for the non-metallic mineral processing plant rules at IDAPA 58.01.01.011. The terms defined in this section include: “best management practice;” “control strategy trigger;” “nonmetallic mineral processing plant;” “NSPS regulated facility;” “permit by rule;” “progressive control strategy;” and “site of operations.” We propose to approve the repeal of IDAPA 58.01.01.011 because the listed terms were either moved to the implementing rules at IDAPA 58.01.01.790 through 799, are no longer used in the implementing rules, or are commonly understood and do not need to be defined.

Next, Idaho repealed the definitions of several terms in the implementing rules at IDAPA 58.01.01.799 including: “transfer point;” “belt conveyor;” “conveying system;” “bucket elevator;” “screening operation;” “capture system;” “control device;” “vent;” “crusher;” “grinding mill;” “initial crusher;” “stockpile;” and “truck dumping.” The definitions are considered common knowledge, therefore, we propose to approve the repeal of IDAPA 58.01.01.011 and the submitted revisions to IDAPA 58.01.01.101, 58.01.01.790 and 58.01.01.799.

Finally, the State clarified at IDAPA 58.01.01.797 that, to register for the nonmetallic mineral processing plant permit by rule, a registrant must use forms furnished by the Idaho DEQ or by other means approved by the Idaho DEQ. We propose to approve this change.

#### *E. Smoke and Visibility Requirements*

In the submissions, the open burning rules were streamlined in a number of ways. First, Idaho clarified the list of materials not to be burned. Specifically, Idaho revised IDAPA 58.01.01.603 to indicate that “garbage” is defined in the solid waste rules at IDAPA 58.01.06,

“hazardous waste” is classified according to the hazardous waste rules at IDAPA 58.01.05, and “treated lumber” includes timbers coated with preservatives, paints or other protective materials. The State also removed the term “suffer” from IDAPA 58.01.01.603 because it was deemed to be archaic language. In the submission, Idaho stated that the revisions were made to clarify current requirements and are not intended to change the scope of the rule. We propose to approve the revisions.

Second, Idaho streamlined the rule sections addressing the various forms of allowable open burning. Specifically, the State moved the definition of “small fire” from the centralized definitions sections to the recreational and warming fires section at IDAPA 58.01.01.607. In the weed control fires section at IDAPA 58.01.01.608, Idaho clarified that burning weeds within a rock pile is regulated as a weed control fire and is not categorized as crop residue burning. In the training fires section at IDAPA 58.01.01.609, Idaho made clear that both fire departments and land management agencies must notify the Idaho DEQ prior to igniting a training fire and must ensure it does not smolder after the training session. We note that in the rule section addressing residential yard waste fires, IDAPA 58.01.01.611, Idaho removed the terms “solid waste” and “rubbish” to reference the definition of yard waste in the Idaho State solid waste rules at IDAPA 58.01.06.

In addition, the State streamlined the orchard fire and heater requirements at IDAPA 58.01.01.613. Specifically, Idaho removed obsolete text and outdated opacity and emission limits for orchard heating devices, because open burning is no longer used in Idaho to protect orchards from frost damage, per the Idaho State Department of Agriculture.<sup>13</sup> We propose to approve the changes as SIP strengthening because they remove orchard heating devices from the allowable forms of open burning.

Idaho removed the definition of “prescribed fire management burning” from the centralized definitions sections and added a definition of “prescribed fire” to the implementing rule section at IDAPA 58.01.01.614. Idaho also made minor changes to the definition to be consistent with the Idaho Department of Lands definition of the same term in IDAPA 20.02.01. The State made minor changes to characterize several previously-allowed types of prescribed fire as “land management activities,” which we are proposing to approve

<sup>13</sup> See the May 8, 2023, submission in the docket for this action.

because the changes do not substantively impact the rule.

The State streamlined the permit by rule for crop residue disposal requirements in IDAPA 58.01.01.617 through 625. Idaho revised section 618 in a number of ways. The State struck language that stated, “All persons shall be deemed to have a permit by rule if they comply with all the provisions of Sections 618 through 624.” This language was struck to make clear that all persons burning crop residue must receive a permit prior to burning. We propose to approve this clarification as strengthening the rule.

Idaho added the word “pasture” to section 618 as interchangeable with “crop residue” to clarify that open burning of pastures has always been allowed under the crop residue burning program. Idaho stated in the submission that this clarification does not change the meaning of the rules. Specifically, the submission stated that in 2008, the Idaho DEQ determined that pastures were an allowable crop types to be burned under the crop residue rules. The Natural Resources Conservation Service issued a letter that stated harvesting of crops can be achieved by animals as well as machines. Therefore, it was determined that the residue remaining in the pasture after harvest by animals met the definition of crop residue. Idaho DEQ also explicitly analyzed the burning of pasture residue in the crop residue burning SIP revision approved by the EPA in 2018 (83 FR 28382). We propose to approve the change.

The State removed from section 618 the following language: “The permit by rule does not relieve the applicant from obtaining all other required permits and approvals required by other State and local fire agencies or permitting authorities.” Idaho determined that this language was redundant because it repeated the same language in IDAPA 58.01.01.601. We propose to approve the submitted changes to section 618.

Idaho updated the permit by rule registration requirements at IDAPA 58.01.01.619 for the technology used by the Idaho DEQ to review and approve registration information. The submissions state that the Idaho DEQ uses only the latitude and longitude to plot the area to be burned using an online mapping tool, therefore the State no longer requires the street address of the property and the plot plan. The submissions also clarified that at the time of registration, the crop type, total acres and location are the only information needed. This is because the other fuel characteristics generally change from the time of registration to

the time of the actual burn and are therefore not useful information to be included with the registration. We propose to approve these changes because it is appropriate to require only those materials needed by the State at the time of registration.

Idaho updated the burn approval section at IDAPA 58.01.01.621 to make clear that permittees must obtain final approval from the Idaho DEQ on the morning of the requested burn—not simply confirm with the Idaho DEQ that the burn is approved. This change obviates the need to retain language stating that the Idaho DEQ may shorten the approval time to less than 12 hours prior to the proposed burn based on meteorological or other conditions. The current SIP-approved rule does not require permittees to request approval near the time of the proposed burn, meaning there is a greater possibility that conditions could change between the time of the request and the actual burn time. The EPA believes this risk is largely eliminated by the revised requirement to require approval the morning of the burn. Therefore, we propose to approve the submitted changes to section 621 because they strengthen the SIP.

Idaho clarified in the general provisions section of IDAPA 58.01.01.622 that all persons must complete a grower training prior to their first burn and at least once every five years thereafter. The State also removed redundant language noting that tires and other restricted material described in IDAPA 58.01.01.603.01 may not be burned. In IDAPA 58.01.01.624, the State replaced the term “agriculture” with the term “crop” for consistency. Finally, Idaho removed language related to wigwam burners in IDAPA 58.01.01.625 and 58.01.01.626 since wigwam burners are no longer allowed under the SIP-approved rules. We propose to approve the changes because we have made the preliminary determination that they will strengthen the SIP.

The SIP-approved Idaho regional haze rules are established in IDAPA 58.01.01.665 through 668. Idaho revised IDAPA 58.01.01.665 to make clear that the rules are intended to address the Federal visibility requirements of 40 CFR 51.301, 51.307 and 51.308, which are incorporated by reference in IDAPA 58.01.01.107. The State also replaced most of the language in IDAPA 58.01.01.666 related to reasonable progress goals and IDAPA 58.01.01.667 related to the regional haze long-term strategy, with the statement that the Idaho DEQ will submit to the EPA a long-term strategy that meets the

requirements in 40 CFR 51.308(d)(3) and (f)(2). Idaho also repealed the first round regional haze planning requirements in IDAPA 58.01.01.668 that implemented best available retrofit technology (BART) requirements. Because the first round of regional haze planning and BART requirements have been implemented and the submission included an Attorney General statement certifying that the submitted changes are not intended to be substantive and will not impede the Idaho DEQ’s lawful authority to implement EPA-approved Clean Air Act programs, we propose to approve the regional haze rules revisions.

#### F. Repeals

This section of the preamble serves to highlight where Idaho has repealed entire rule sections from the State air quality rules. First, Idaho repealed IDAPA 58.01.01.004, a rule section stating that catchlines within the Idaho air quality rules should not be used to interpret the rules themselves. A catchline is a short summary of each section, part, rule, or title of the code that follows the section, part, rule or title reference.<sup>14</sup> Catchlines are used in the Idaho air quality rules and in most regulations written by states and the EPA. We propose to determine that catchlines are commonly used to aid the reader, therefore, it is appropriate to repeal the catchlines rule at section 004.

The State repealed IDAPA 58.01.01.011, listing the definitions for use in the non-metallic mineral processing plants rules. Please see section III.D. of this preamble for a detailed discussion. Idaho also repealed IDAPA 58.01.01.106 which is a centralized section of abbreviations used in the toxic air pollutant rules (IDAPA 58.01.01.585 and 586). All of the defined abbreviations were either moved to the implementing regulations, are already in the implementing regulations, or are considered common knowledge, therefore, we propose to approve the repeal of the abbreviations rule sections. We note that the toxic air pollutant rules are not part of the Idaho SIP and were not included in the submissions.

Idaho repealed IDAPA 58.01.01.124 (truth, accuracy and completeness of documents) because it was considered redundant with the requirement in IDAPA 58.01.01.123 to certify that statements and information in all documents submitted to the Idaho DEQ are true, accurate and complete. We agree and propose to approve the repeal.

<sup>14</sup> See <https://www.lawinsider.com/dictionary/catchline>.

The State also repealed IDAPA 58.01.01.127, requiring that all responses and information submitted to the Idaho DEQ be provided in an approved format. In the submission, the Idaho DEQ stated that it requires the use of specific forms and provides those forms on its website where needed. We propose to approve the repeal.

Idaho repealed IDAPA 58.01.01.160, which requires compliance with the test methods and procedures in IDAPA 58.01.01.157. The State indicated that section 160 establishes no new requirements and is duplicative of section 157. We agree and propose to approve the repeal. The State also repealed IDAPA 58.01.01.162 which stated that more restrictive emission limits may be set for facilities where terrain and/or other physical conditions limit the dispersion of air pollutants. The submission indicates that the Idaho permit to construct program already requires regulated facilities to use modeling and other information to demonstrate that emissions will not cause an exceedance of applicable air quality standards. Such modeling analyses include potential impacts from terrain and other physical conditions and therefore, IDAPA 58.01.01.162 is not necessary. We agree and propose to approve the repeal.

Idaho repealed IDAPA 58.01.01.163 (source density) which stated that Idaho may set more restrictive emission limits in areas where each individual source is meeting the Idaho air rules but ambient air quality standards and still being exceeded. In the submission, the State asserted that this rule section is not needed because: (1) the Idaho SIP-approved permitting program requires analyses that include background air quality conditions and that assess the impacts of co-contributing sources; and (2) Idaho maintains a wide array of authorities to address attainment issues in a particular area, such as more restrictive emission limits on individual sources, to bring the area into attainment. The EPA proposes to approve the State's change.

Idaho repealed IDAPA 58.01.01.406, stating that, "Receiving a Tier II operating permit shall not relieve any owner or operator of the responsibility to comply with all applicable local, State and Federal rules and regulations." The submission states that this language has been moved to IDAPA 58.01.01.108 and is therefore redundant. We propose to approve the state's repeal.

We note that Idaho repealed a number of rule sections as part of an overall reformatting of the SIP-approved emergency episode rules. The

streamlining and formatting changes consolidate most of the existing requirements into IDAPA 58.01.01.550, 556, 557, 558, and 562 and repeal IDAPA 58.01.01.551, 552, 553, 559, 560, and 561. However, we note that one substantive requirement was removed from the emergency episode rules. Specifically, Idaho removed the requirement that certain places of employment immediately cease operations when a Stage 4 air emergency is declared in coordination with the Governor (IDAPA 58.01.01.561.04.c). These rules were originally promulgated in the 1970s when carbon monoxide air emergencies were a concern and the rules sought to cease operations of the general economy and keep the public home.

Contemporary air quality episodes that reach emergency levels are most often related to wildfires, dust storms, and other natural events. Consistent with the emergency episode requirements of the Clean Air Act at section 110(a)(2)(G), Idaho Code Section 112 continues to provide the Idaho DEQ Director with emergency order authority comparable to that of Clean Air Act section 303 which 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." This statutory authority and the revised version of IDAPA 58.01.01.550 through 561 together continue to meet CAA section 110(a)(2)(G) requirements, therefore we propose to approve the removal of the above-described requirements from IDAPA 58.01.01.561.<sup>15</sup>

The State also repealed IDAPA 58.01.01.578, a rule section that describes procedures for designating attainment, unclassifiable, and nonattainment areas. The Idaho DEQ determined this rule section was never used and that the State recognizes the Federal designations, therefore the Idaho air quality rules were revised to point to the EPA's codification of area designations in 40 CFR part 81. We find the change acceptable.

In the submissions, Idaho repealed IDAPA 58.01.01.610 related to industrial flares that burn combustible gases. The rule section states that such flares are subject to the permitting program requirements in IDAPA 58.01.01.200 through 223. We propose to approve the repeal of this rule because it imposes no requirements

other than those already prescribed in the permitting program and therefore makes no substantial changes to the SIP.

In addition, the State repealed a rule governing emissions from a type of wood scrap and saw dust burning device called a beehive burner<sup>16</sup> (IDAPA 58.01.01.626). The rule was repealed because this type of burner was phased out of the wood products industry long ago and no such burners exist in Idaho. We propose to approve the repeal of this rule because it provided beehive burners with a startup exemption to the general opacity standard rule at IDAPA 58.01.01.625. Therefore, the repeal of this rule strengthens the SIP.

Idaho repealed the rules for control of particulate matter emissions from incinerators at IDAPA 58.01.01.785 through 787. The incinerator rules limited particulate matter emissions to two tenths (0.2) pounds of particulates per one hundred (100) pounds of refuse burned. We propose to approve this change because the emission limit established in the incinerator rules was less stringent than the limit in the process weight rate rules in IDAPA 58.01.01.700 through 703 and therefore the repeal of the incinerator rules does not weaken the SIP.

Idaho repealed the rules for the control of particulate matter emissions from hot mix asphalt plants (IDAPA 58.01.01.805 through 808). The hot mix asphalt plant rules required compliance with the process weight rate rules in IDAPA 58.01.01.700 through 703 and the satisfactory control of fugitive dust. We propose to approve the repeal because the hot mix asphalt plant rules added no particulate matter control requirements that weren't already applicable under the process weight rate rules in IDAPA 58.01.01.700 through 703 and the fugitive dust rules in IDAPA 58.01.01.651, therefore, the repeal does not weaken the SIP. We propose to find that these repeals will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Clean Air Act.

#### IV. Proposed Action

The EPA is proposing to approve, and incorporate by reference into 40 CFR 52.670(c), the revisions to the Idaho Rules for the Control of Air Pollution submitted by Idaho on May 8, 2023 and May 13, 2024. The following paragraphs detail the regulatory provisions.

<sup>15</sup> See EPA Guidance on Infrastructure State Implementation Plan (SIP) Elements, dated September 13, 2013, in the docket for this action.

<sup>16</sup> Formerly known as a "wigwam" burner.



*A. IDAPA Provisions for Approval and Incorporation by Reference*

Upon final action, the Idaho SIP will incorporate the following sections of the Idaho Rules for the Control of Air Pollution (IDAPA 58.01.01), State effective March 28, 2023, unless otherwise specified:

- IDAPA 58.01.01.001 Title and scope (describing the title and general scope);
- IDAPA 58.01.01.005 Definitions (referencing the terms defined in State statute and Federal regulations to be used in the Idaho air quality regulations);
- IDAPA 58.01.01.006 General definitions (defining centralized terms used in the Idaho air quality regulations), except 006.49, 006.50, 006.51, 006.66, 006.67, 006.68.b, 006.116, and 006.118;
- IDAPA 58.01.01.007 Definitions for the purposes of sections 200 through 228 and 400 through 461 (defining centralized terms used in the major and minor source permitting programs);
- IDAPA 58.01.01.107 Incorporations by reference (listing the codes, rules and standards incorporated by reference into the Idaho air quality regulations), except 107.06 through 107.16, State effective July 1, 2024;
- IDAPA 58.01.01.108 Obligation to comply (requiring that receiving a permit or certificate of registration does not relieve the owner or operation of the obligation to comply with all applicable regulations);
- IDAPA 58.01.01.121 Compliance requirements by department (detailing actions to ensure compliance with the air quality rules);
- IDAPA 58.01.01.122 Information orders by the department (establishing how information may be obtained in implementing the air quality rules);
- IDAPA 58.01.01.123 Certification of documents (requiring documents submitted to be certified as true, accurate and complete);
- IDAPA 58.01.01.125 False statements (prohibiting false statements, representation, or certification);
- IDAPA 58.01.01.126 Tampering (prohibiting interference with monitoring device, method, rule or order);
- IDAPA 58.01.01.130 Startup, shutdown, scheduled maintenance, safety measures, upset and breakdown (defining startup, shutdown, upset and scheduled maintenance), State effective July 1, 2024;
- IDAPA 58.01.01.131 Excess emissions (establishing enforcement discretion criteria in the event of excess emissions);

- IDAPA 58.01.01.132 Correction of condition (requiring appropriate action to correct conditions causing an excess emissions event);
- IDAPA 58.01.01.133 Startup, shutdown and scheduled maintenance requirements (prescribing notifications, recordkeeping, reporting and other actions related to modes of operation);
- IDAPA 58.01.01.134 Upset, breakdown and safety requirements (identifying safety requirements and measures to minimize excess emissions during upsets);
- IDAPA 58.01.01.135 Excess emissions reports (detailing required data to be reported about excess emissions events);
- IDAPA 58.01.01.136 Excess emissions records (requiring records retention related to excess emissions);
- IDAPA 58.01.01.155 Circumvention (prohibiting the concealment of emissions);
- IDAPA 58.01.01.157 Test methods and procedures (establishing procedures for source test methods);
- IDAPA 58.01.01.164 Polychlorinated biphenyls (PCBs) (prohibiting the burning or selling of PCBs);
- IDAPA 58.01.01.175 Procedures and requirements for permits establishing a facility emissions cap (setting uniform procedures for a source to seek a facility emissions cap);
- IDAPA 58.01.01.176 Facility emissions cap, except provisions relating to hazardous air pollutants (establishing applicability and definitions for facility emissions cap requirements);
- IDAPA 58.01.01.178 Standard contents of permits establishing a facility emissions cap (listing the required contents of a permit establishing a facility emissions cap);
- IDAPA 58.01.01.179 Procedures for issuing permits establishing a facility emissions cap (identifying the procedures to be followed in issuing a facility emissions cap);
- IDAPA 58.01.01.180 Revisions to permits establishing a facility emissions cap (requiring changes to permit terms and conditions under certain circumstances);
- IDAPA 58.01.01.181 Notice and record-keeping of estimates of ambient concentrations (prescribing the process to make allowable changes to a facility emissions cap);
- IDAPA 58.01.01.200 Procedures and requirements for permits to construct (establishing uniform procedures for issuing permits to construct);
- IDAPA 58.01.01.201 Permit to construct required (requiring owners

and operators of certain facilities to obtain permits to construct unless otherwise covered by a general permit or permit by rule);

- IDAPA 58.01.01.202 Application procedures (requiring a certified application using approved forms when applying for a permit to construct);
- IDAPA 58.01.01.203 Permit requirements for new and modified stationary sources, except paragraph 03 (stating that no permit will be issued unless a source complies with applicable emission limits and does not cause or contribute to a violation of an ambient air quality standard);
- IDAPA 58.01.01.204 Permit requirements for new major facilities or major modifications in nonattainment areas (requiring LAER and offsets for new major facilities and major modifications in nonattainment areas);
- IDAPA 58.01.01.205 Permit requirements for new major facilities or major modifications in attainment or unclassifiable areas (requiring new major facilities and major modifications meet certain requirements to construct in attainment areas);
- IDAPA 58.01.01.206 Optional offsets for permits to construct (offering the option to offset emissions using credits);
- IDAPA 58.01.01.208 Demonstration of net air quality benefit (establishing how to demonstrate net air quality benefit for emissions trades);
- IDAPA 58.01.01.209 Procedure for issuing permits (laying out application, public process and approval procedures for issuing permits);
- IDAPA 58.01.01.211 Conditions for permits to construct (conditioning permits to include monitoring, performance testing, cancellation);
- IDAPA 58.01.01.212 Relaxation of standards or restrictions (spelling out major preconstruction permitting requirements when a limit has been relaxed);
- IDAPA 58.01.01.213 Pre-permit construction (specifying when certain minor sources may request to construct before obtaining the permit);
- IDAPA 58.01.01.220 General exemption criteria for permit to construct exemptions (detailing exemptions from the requirements to obtain a permit to construct);
- IDAPA 58.01.01.221 Category I exemption (specifying exemptions for sources below regulatory concern);
- IDAPA 58.01.01.222 Category II exemption (detailing exemptions for sources such as laboratory equipment, pilot plants, mobile engines, retail gasoline facilities, etc.);
- IDAPA 58.01.01.226 Payment of fees for permits to construct (requiring



application and processing fee payment for permits to construct);

- IDAPA 58.01.01.227 Receipt and usage of fees (requiring received fees to be used to administer the permit to construct and Tier II operating permit programs)

- IDAPA 58.01.01.400 Procedures and requirements for Tier II operating permits (stating the purpose of the Tier II operating permit rules);

- IDAPA 58.01.01.401 Tier II operating permit, except paragraphs 01.a and 04 (laying out optional and required Tier II operating permits);

- IDAPA 58.01.01.402 Application procedures (laying out how to apply for a Tier II operating permit);

- IDAPA 58.01.01.403 Permit requirements for Tier II sources (requiring that no permit be issued unless it would include all applicable emission limits and ambient air quality standards);

- IDAPA 58.01.01.404 Procedure for issuing permits (general procedures for issuing Tier II permits);

- IDAPA 58.01.01.405 Conditions for Tier II operating permits (laying out permit terms, performance test requirements, and other conditions);

- IDAPA 58.01.01.460

Requirements for emission reduction credit (establishing the conditions that constitute a creditable emission reduction);

- IDAPA 58.01.01.461

Requirements for banking emission reduction credits (ERC's) (setting out how emission reduction credits may be banked);

- IDAPA 58.01.01.500 Registration procedures and requirements for portable equipment (requiring all portable equipment to be registered);

- IDAPA 58.01.01.510 Stack heights and dispersion techniques (establishing criteria for good engineering practice related to stack heights and dispersion techniques);

- IDAPA 58.01.01.511

Requirements (providing that the required degree of emission control must not be affected by the amount of stack height that exceeds good engineering practices);

- IDAPA 58.01.01.512 Opportunity for public hearing (providing an opportunity for a public hearing where a stack height would exceed good engineering practices);

- IDAPA 58.01.01.513 Approval of field studies and fluid models (requiring approval of field studies and fluid models by the EPA);

- IDAPA 58.01.01.514 No restriction on actual stack height (providing that these rules do not restrict actual stack height);

- IDAPA 58.01.01.550 Air quality episodes (defining requirements in the event of episodes of poor air quality);

- IDAPA 58.01.01.556 Criteria for declaring air quality episodes (identifying alert, warning and emergency episode stages);

- IDAPA 58.01.01.557

Requirements during air quality episodes (prescribing actions to be taken during air quality episode stages);

- IDAPA 58.01.01.558 Notification of air quality episode (defining what information will be provided to the public in the event of an air quality episode);

- IDAPA 58.01.01.562 Specific air quality episode abatement plans for stationary sources (requiring specific sources to adopt and implement their own abatement plans in the event of an air quality episode);

- IDAPA 58.01.01.579 Baselines for prevention of significant deterioration (establishing the baseline dates to be used in the PSD permitting program);

- IDAPA 58.01.01.580 Classification of prevention of significant deterioration areas (listing procedures for redesignating PSD areas);

- IDAPA 58.01.01.581 Prevention of significant deterioration (PSD) increments (establishing the allowable degree of deterioration for areas that have air quality better than the ambient standards);

- IDAPA 58.01.01.600 Rules for control of open burning (establishing rule to protect human health and the environment from air pollutants resulting from open burning);

- IDAPA 58.01.01.601 Fire permits, hazardous materials, and liability (stating that a person is not exempt from other laws and ordinances related to open burning);

- IDAPA 58.01.01.602

Nonpreemption of other jurisdiction (stating that these rules are not intended to interfere with the rights of other agencies to provide equal or more stringent open burning controls);

- IDAPA 58.01.01.603 General requirements (prescribing the general open burning restrictions);

- IDAPA 58.01.01.606 Categories of allowable burning (listing the categories of allowable open burning);

- IDAPA 58.01.01.607 Recreational and warming fires (describing the campfires, barbecues, ceremonial fires and small handwarming fires that are allowed);

- IDAPA 58.01.01.608 Weed control fires (describing the weed abatement fires that are allowed);

- IDAPA 58.01.01.609 Training fires (describing the fire and land

management training fires that are allowed);

- IDAPA 58.01.01.611 Residential yard waste fires (describing the yard waste disposal fires that are allowed);

- IDAPA 58.01.01.612 Solid waste facility fires (describing when solid waste disposal fires may be allowed);

- IDAPA 58.01.01.613 Orchard fires (describing orchard clipping disposal fires that are allowed);

- IDAPA 58.01.01.614 Prescribed fires (describing the prescribed fire that may be allowed under certain conditions);

- IDAPA 58.01.01.615 Dangerous material fires (describing allowable fires ignited under the direction of a public or military fire chief to dispose of dangerous materials);

- IDAPA 58.01.01.616 Infectious waste burning (describing allowable infectious waste fires conducted under the direction of a public health officer);

- IDAPA 58.01.01.617 Crop residue disposal (establishing requirements for crop residue disposal fires);

- IDAPA 58.01.01.618 Permit by rule (requiring that no person may conduct an open burn of crop residue without the applicable permit by rule);

- IDAPA 58.01.01.619 Registration (establishing registration requirements for crop residue burn permit by rule);

- IDAPA 58.01.01.620 Burn fee (setting fee payment deadline for crop residue burns);

- IDAPA 58.01.01.621 Burn approval (establishing the criteria for crop residue burn approval);

- IDAPA 58.01.01.622 General provisions (listing the requirements for persons conducting crop residue burns);

- IDAPA 58.01.01.623 Public notification (indicating that the Idaho DEQ will notify the public of burn or no-burn days);

- IDAPA 58.01.01.624 Spot and baled crop residue burn and propane flaming requirements (detailing the requirements for spot burns, baled burns and propane flaming);

- IDAPA 58.01.01.625 Visible emissions (establishing opacity limits and test methods);

- IDAPA 58.01.01.650 Rules for control of fugitive dust (requiring that all reasonable precautions be taken to prevent fugitive dust);

- IDAPA 58.01.01.651 General rules (establishing general requirements to limit the generation of fugitive dust);

- IDAPA 58.01.01.665 Regional haze rules (addressing visibility impairment in mandatory Class I Federal areas);

- IDAPA 58.01.01.666 Reasonable Progress goals (establishing goals for reasonable progress toward natural visibility conditions);

- IDAPA 58.01.01.667 Long-term strategy for regional haze (establishing long-term strategy requirements);
- IDAPA 58.01.01.675 Fuel burning equipment—particulate matter (establishing particulate matter standards for fuel burning equipment);
- IDAPA 58.01.01.676 Standards for new sources (setting particulate limits for new fuel burning equipment);
- IDAPA 58.01.01.677 Standards for minor and existing sources (setting particulate limits for minor and existing fuel burning equipment);
- IDAPA 58.01.01.678 Combinations of fuels (addressing particulate limits when two or more types of fuel are burned concurrently);
- IDAPA 58.01.01.679 Averaging period (establishing the appropriate averaging period for determining particulate emissions from fuel burning equipment);
- IDAPA 58.01.01.680 Altitude correction (addressing how to correct standard conditions for the altitude of a source);
- IDAPA 58.01.01.681 Test methods and procedures (setting the appropriate test method for measuring fuel burning particulate emissions);
- IDAPA 58.01.01.700 Particulate matter—process weight limitations (establishing particulate matter emission limitations for process equipment);
- IDAPA 58.01.01.701 Particulate matter—new equipment process weight limitations (listing emission standards for new process equipment);
- IDAPA 58.01.01.702 Particulate matter—existing equipment process weight limitations (listing emission standards for existing process equipment);
- IDAPA 58.01.01.703 Particulate matter—other processes (establishing process weight limitations for equipment used to dehydrate sugar beet pulp or alfalfa);
- IDAPA 58.01.01.725 Rules for sulfur content of fuels (establishing limits on the sulfur content of fuels);
- IDAPA 58.01.01.791 General control requirements (prohibiting owners and operators of rock crushers from injuring human health, welfare, property and other requirements);
- IDAPA 58.01.01.793 Emissions standards for nonmetallic mineral processing plants not subject to 40 CFR part 60, subpart OOO (requiring compliance with emissions and opacity standards);
- IDAPA 58.01.01.794 Permit requirements, except paragraph 04 (setting rock crusher permit by rule eligibility);
- IDAPA 58.01.01.795 Permit by rule requirements (establishing rock crusher permit by rule requirements);

- IDAPA 58.01.01.796 Applicability (establishing permit by rule and permit applicability);
- IDAPA 58.01.01.797 Registration for permit by rule (identifying how to register for the rock crusher permit by rule);
- IDAPA 58.01.01.798 Electrical generators (listing the fuel and operation requirements for electrical generators used to provide power to rock crushers);
- IDAPA 58.01.01.815 Rules for control of kraft pulp mills (establishing emission standards and reporting requirements for recovery furnaces at kraft pulp mills); and
- IDAPA 58.01.01.818 Kraft pulp mill LVHC and HVLC gas venting notification and reporting (requiring excess emissions notification and reporting by subject sources).

#### *B. Idaho Code for Approval and Incorporation by Reference*

Upon final action, the Idaho SIP at 40 CFR 52.670(c) will include the following provisions of Idaho statute, State effective July 1, 2010:

- Idaho Code 39.103 Definitions, except (4), (5), (8), (9), (10), (12), (13), (14), (15), (16), (17), and (18).

#### *C. IDAPA Provisions To Be Removed From Incorporation by Reference*

The EPA is also proposing to approve Idaho's request to remove from incorporation by reference in 40 CFR 52.670(c) the following regulations:

- IDAPA 58.01.01.004 Catchlines (stating that catchlines are not to be used to interpret regulations), State effective May 1, 1994;
- IDAPA 58.01.01.106 Abbreviations (spelling out the abbreviations used in the Idaho air quality regulations), State effective May 1, 1994;
- IDAPA 58.01.01.124 Truth, accuracy and completeness of documents (requiring documents submitted to the State to be true, accurate and complete), State effective May 1, 1994;
- IDAPA 58.01.01.127 Format of responses (requiring documents to be submitted to meet state-specified formatting requirements), State effective May 1, 1994;
- IDAPA 58.01.01.160 Provisions governing specific activities and conditions (regarding toxic air pollutants and polychlorinated biphenyls), State effective April 5, 2000;
- IDAPA 58.01.01.162 Modifying physical conditions (addressing conditions that affect the dispersion of pollutants), State effective May 1, 1994;
- IDAPA 58.01.01.163 Source density (addressing situations where a

number of sources are located in proximity to each other), State effective May 1, 1994;

- IDAPA 58.01.01.212 Obligation to comply (requiring compliance with all applicable local, state and Federal statutes, rules, and regulations), State effective May 1, 1994;
- IDAPA 58.01.01.406 Obligation to comply (requiring compliance with all applicable local, state and Federal statutes, rules, and regulations), State effective May 1, 1994;
- IDAPA 58.01.01.515 Approval of field studies and fluid models (requiring EPA approval of field studies and fluid models), State effective May 1, 1994;
- IDAPA 58.01.01.516 No restrictions on actual stack height (addressing actual stack height), State effective May 1, 1994;
- IDAPA 58.01.01.551 Episode criteria (listing air quality episode criteria), State effective May 1, 1994;
- IDAPA 58.01.01.552 Stages (defining air quality episode stages), State effective March 15, 2002;
- IDAPA 58.01.01.553 Effects of stages (addressing the effects of reaching episode stages), State effective March 15, 2002;
- IDAPA 58.01.01.559 Manner and frequency of notification (addressing the manner and frequency of episode announcements), State effective May 1, 1994;
- IDAPA 58.01.01.560 Notification to sources (requiring significant sources be notified), State effective April 11, 2006;
- IDAPA 58.01.01.561 General rules (establishing the general control requirements for each episode stage), State effective April 11, 2006;
- IDAPA 58.01.01.575 Air quality standards and area classification (establishing state ambient air quality standards), State effective April 11, 2006;
- IDAPA 58.01.01.576 General provisions for ambient air quality standards (addressing general standards), State effective May 1, 1994;
- IDAPA 58.01.01.578 Designation of attainment, unclassifiable, and nonattainment areas (listing steps for state designation of areas), State effective May 1, 1994;
- IDAPA 58.01.01.610 Industrial flares (addressing industrial flares as open burning), State effective March 21, 2003;
- IDAPA 58.01.01.626 General restrictions on visible emissions from wigwam burners (setting opacity limits for wigwam burners), State effective April 5, 2000;
- IDAPA 58.01.01.668 BART requirements for regional haze

(outlining the process of establishing best available retrofit technology requirements for sources), State effective March 30, 2007;

- IDAPA 58.01.01.785 Rules for control of incinerators (establishing incinerator particulate matter limits), State effective May 1, 1994;
- IDAPA 58.01.01.786 Emission limits (limiting particulate matter emissions from incinerators), State effective April 5, 2000;
- IDAPA 58.01.01.787 Exceptions (exempting wigwam burners from incinerator emission limits), State effective March 23, 1998;
- IDAPA 58.01.01.805 Rules for control of hot mix asphalt plants (limiting particulate matter emissions from hot mix asphalt plants), State effective May 1, 1994;
- IDAPA 58.01.01.806 Emission limits (requiring compliance with the process weight rate limitations), State effective May 1, 1994;
- IDAPA 58.01.01.807 Multiple stacks (establishing that total emissions from all stacks are to be compared to the emission limit), State effective May 1, 1994; and
- IDAPA 58.01.01.808 Fugitive dust control (requiring fugitive dust control systems), State effective May 1, 1994.

## V. Incorporation by Reference

In this document, the EPA is proposing to include in a final rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the provisions described in section IV. of this preamble. The EPA has made, and will continue to make, these documents 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).

The EPA is also proposing to remove from incorporation by reference the provisions described in section IV. of this preamble.

## VI. 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, 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 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 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.

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 proposed rule would not have Tribal implications and would not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 submission; 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 the action being taken here, this action 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 proposed 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.

## List of Subjects in 40 CFR Part 52

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

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

Dated: June 13, 2024.

**Casey Sixkiller,**

*Regional Administrator, Region 10.*

[FR Doc. 2024-13587 Filed 6-21-24; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 60 and 63

[EPA-HQ-OAR-2023-0509; FRL-11625-01-OAR]

RIN 2060-AW16

### Removal of Affirmative Defense Provisions From Specified New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing amendments to several New Source Performance Standards (NSPS) and