

TABLE TO § 3.317—LONG-TERM HEALTH EFFECTS POTENTIALLY ASSOCIATED WITH INFECTIOUS DISEASES—Continued

| A | B Disease |
|--|---|
| | <ul style="list-style-type: none"> • Fatigue, inattention, amnesia, and depression. • Guillain-Barré syndrome. • Hepatic abnormalities, including granulomatous hepatitis. • Multifocal choroiditis. • Myelitis-radiculoneuritis. • Nummular keratitis. • Papilledema. • Optic neuritis. • Orchioepididymitis and infections of the genitourinary system. • Sensorineural hearing loss. • Spondylitis. • Uveitis. |
| <i>Campylobacter jejuni</i> | <ul style="list-style-type: none"> • Guillain-Barré syndrome <i>if manifest within 2 months of the infection.</i> |
| <i>Coxiella burnetii</i> (Q fever) | <ul style="list-style-type: none"> • Reactive Arthritis <i>if manifest within 3 months of the infection.</i> • Uveitis <i>if manifest within 1 month of the infection.</i> |
| Malaria | <ul style="list-style-type: none"> • Chronic hepatitis. • Endocarditis. • Osteomyelitis. • post-Q-fever chronic fatigue syndrome. • Vascular infection. • Demyelinating polyneuropathy. • Guillain-Barré syndrome. • Hematologic manifestations (particularly anemia after falciparum malaria and splenic rupture after vivax malaria). • Immune-complex glomerulonephritis. • Neurologic disease, neuropsychiatric disease, or both. • Ophthalmologic manifestations, particularly retinal hemorrhage and scarring. • <i>Plasmodium falciparum.</i> • <i>Plasmodium malariae.</i> • <i>Plasmodium ovale.</i> • <i>Plasmodium vivax.</i> |
| <i>Mycobacterium tuberculosis</i> | <ul style="list-style-type: none"> • Renal disease, especially nephrotic syndrome. • Active tuberculosis. • Long-term adverse health outcomes due to irreversible tissue damage from severe forms of pulmonary and extrapulmonary tuberculosis and active tuberculosis. |
| Nontyphoid <i>Salmonella</i> | <ul style="list-style-type: none"> • Reactive Arthritis <i>if manifest within 3 months of the infection.</i> |
| <i>Shigella</i> | <ul style="list-style-type: none"> • Hemolytic-uremic syndrome <i>if manifest within 1 month of the infection.</i> |
| Visceral leishmaniasis | <ul style="list-style-type: none"> • Reactive Arthritis <i>if manifest within 3 months of the infection.</i> • Delayed presentation of the acute clinical syndrome. • Post-kala-azar dermal leishmaniasis <i>if manifest within 2 years of the infection.</i> |
| West Nile virus | <ul style="list-style-type: none"> • Reactivation of visceral leishmaniasis in the context of future immunosuppression. • Variable physical, functional, or cognitive disability. |

(e) *Service.* For purposes of this section:

(1) The term *Persian Gulf veteran* means a veteran who served on active military, naval, or air service in the Southwest Asia theater of operations.

(2) The *Southwest Asia theater of operations* refers to Iraq, Kuwait, Saudi Arabia, the neutral zone between Iraq and Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, the Gulf of Aden, the Gulf of Oman, the Persian Gulf, the Arabian Sea, the Red Sea, and the airspace above these locations during the Persian Gulf War.

Authority: 38 U.S.C. 1117, 1118.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2008-0482; FRL-9128-3]

Approval and Promulgation of Implementation Plans; Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve numerous revisions to the Idaho State Implementation Plan (SIP) that were submitted to EPA by the State of Idaho

on May 22, 2003, April 2, 2004, July 13, 2005, May 5, 2006, April 16, 2007, May 12, 2008, and June 8, 2009. The revisions were submitted in accordance with the requirements of section 110 and part D of the Clean Air Act (hereinafter the Act or CAA). EPA is taking no action in this rulemaking on a number of submitted rule revisions that are unrelated to the purposes of the implementation plan.

DATES: Comments must be received on or before April 19, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2008-0482, by any of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail: R10-Public Comments@epa.gov.*

- *Mail:* Donna Deneen, EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

- *Hand Delivery/Courier:* EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. *Attention:* Donna Deneen, Office of Air, Waste and Toxics, AWT-107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R10-OAR-2008-0482. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured

and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Office of Air, Waste and Toxics EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Donna Deneen at telephone number: (206) 553-6706, *e-mail address:* deneen.donna@epa.gov, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we", "us" or "our" are used, we mean EPA. Information is organized as follows:

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I. Purpose of Proposed Action

The purpose of this action is to propose approval of multiple revisions to Idaho's SIP that were submitted to EPA by the State of Idaho Department of Environmental Quality (IDEQ) on May 22, 2003, April 2, 2004, July 13, 2005, May 5, 2006, April 16, 2007, May 12, 2008 and June 8, 2009. The SIP submittals revise and amend IDEQ's Rules for the Control of Air Pollution in Idaho (IDAPA 58.01.01) currently in the federally approved Idaho SIP (Code of Federal Regulations Part 52, subpart N). This action will update the federally approved SIP to reflect changes to IDAPA 58.01.01 that were made by IDEQ and reviewed and deemed approvable into the SIP. The proposed SIP revisions are explained in more detail below along with our evaluation of how these rules comply with the requirements for SIPs and the basis for our action.

II. Background for Proposed Action

Title I of the CAA, as amended by Congress in 1990, specifies the general requirements for states to submit SIPs to attain and/or maintain the National Ambient Air Quality Standards (NAAQS) and EPA's actions regarding approval of those SIPs. With this action we are proposing approval of multiple SIP submittals and further background for each one is provided in the section below. We are taking no action on some of the provisions in some submittals because they are not related to the criteria pollutants regulated under title I of the Act or the requirements for SIPs under section 110 of the Act.

III. Idaho SIP Revisions

Table 1 includes a list of each SIP submittal including the submittal date, title and sections of IDAPA 58.01.01 that are revised. The paragraphs that follow Table 1 include further information for each SIP submittal including a summary of the submittal with relevant background information and analysis to support our action.

TABLE 1—IDEQ SIP SUBMITTALS ADDRESSED IN THIS ACTION

| Date of submittal | Title (with IDEQ Docket No.) | Sections of IDAPA 58.01.01 revised or amended |
|-------------------------------|--|---|
| 05/22/2003 ¹ | Soil Vapor Extraction (58-0101-0102) | 58.01.01.210. |
| | 2001 IBR of Federal Regulations (58-0101-0103) | 58.01.01.008 and 107. |
| | Hospital/Medical/Infectious Waste Incinerators (58-0101-0103). | 58.01.01.861. |

TABLE 1—IDEQ SIP SUBMITTALS ADDRESSED IN THIS ACTION—Continued

| Date of submittal | Title (with IDEQ Docket No.) | Sections of IDAPA 58.01.01 revised or amended |
|-------------------------------|--|--|
| | Permit Clarification (58–0101–0202) | 58.01.01.209, 213, 228, 313, 317, 395, 410, 511, 581, 700 and 710–724. |
| | 2002 IBR of Federal Regulations (58–0101–0202) | 58.01.01.008 and 107. |
| | Permitting Fees (58–0101–0104) | 58.01.01.01.006, 007, 200–202, 209, 224–228, 400–402, 404, 407–410, 470, 800–802. |
| | Title V Operating Permit Fees (58–0101–0203) | 58.01.01.387–399. |
| 04/02/2004 | 2003 IBR of Federal Regulations (58–0101–0301) | 58.01.01.008 and 107. |
| 07/13/2005 | New Source Review (58–0101–0304) | 58.01.01.006, 200, 202, 204, 205, 206, 209, 225 and 401. |
| | Permit to Construct Exemptions (58–0101–0401) | 58.01.01.220 and 222. |
| | 2004 IBR of Federal Regulations (58–0101–0402) | 58.01.01.008, 107, 200, 204 and 205. |
| 05/05/2006 ² | Regulated Air Pollutants (58–0101–0503) | 58.01.01.006–008, 133–135, 155, 213, 220, 440–442, 460, 511–513, 560–561, 575, 581, and 679. |
| | 2005 IBR of Federal Regulations (58–0101–0505) | 58.01.01.008, 107, 200, 204 and 205. |
| | Procedure for Transfer of Permit to Construct and Tier II permits (58–0101–0506) | 58.01.01.006, 007, 209, and 404. |
| | Permit to Construct Exemptions (58–0101–0507) | 58.01.01.222. |
| 04/16/2007 | 2006 IBR of Federal Regulations (58–0101–0602) | 58.01.01.008, 107, 200, 204, 205. |
| | Mercury (58–0101–0603) | 58.01.01.199. |
| 05/12/2008 | 2007 IBR of Federal Regulations (58–0101–0701) | 58.01.01.008, 107, 200, 204, 205. |
| 06/08/2009 ¹ | Sulfur Content of Fuels (58–0101–0703) | 58.01.01.725. |
| | 2008 IBR of Federal Rules (58–0101–0802) | 58.01.01.008 and 107. |

¹ The May 22, 2003 and June 8k 2009 SIP submittals included IDEQ SIP revisions for the control of nonmetallic mineral processing plants (IDEQ Docket 58–0101–0002 and a portion of Docket 58–0101–0002), which will be acted on in a separate action.

² The May 6, 2006 submittal included IDEQ's SIP revision for the facility emissions cap (IDEQ Docket 58–0101–0508) which will be acted on in a separate action.

A. Annual Incorporation by Reference (IBR) of Federal Regulations

IDAPA 58.01.01 incorporates by reference various portions of Federal regulations codified in the Code of Federal Regulations (CFR). However, when a Federal regulation originally incorporated by reference into IDAPA 58.01.01 on a specific date is subsequently changed, IDAPA 58.01.01 becomes out of date and, in some cases, inconsistent with the revised version of the Federal regulation. To avoid potential inconsistencies and keep IDAPA 58.01.01 up to date with changes in Federal regulations, IDEQ submits a revision to its SIP on an annual basis updating the IBR citations in IDAPA 58.01.01 so they reflect any changes made to the Federal regulations during that year.

Annual Incorporation of Federal Regulations by Reference SIPs for the years 2001 through 2008 were submitted to EPA on May 22, 2003, April 2, 2004, July 13, 2005, May 5, 2006, April 16, 2007, May 12, 2008 and June 8, 2009, respectively. Because the most recent annual IBR submittals of May 12, 2008 (including the 2007 Annual IBR) and June 8, 2009 (including the 2008 Annual IBR) supersede the Annual IBR updates for 2001 through 2006, they are the most recent and only versions of certain sections of IDAPA 58.01.01 that need to be incorporated into the SIP. The 2007 Annual IBR changed the way Federal regulations are incorporated by reference into IDAPA 58.01.01.200, 204

and 205. Specifically, rather than listing the IBR of Federal regulations in each of these three sections, IDAPA 58.01.01.200, 204 and 205 now include language stating that the applicable Federal regulations are incorporated by reference into the rules at section 107. This revision simplifies future annual IBR updates by minimizing the sections of IDAPA 58.01.01 that need to be revised each year. The 2008 Annual IBR includes the most recent revisions to IDAPA 58.01.01.107 incorporating Federal regulations updated as of July 1, 2008.

The 2007 Annual IBR was subject to a public hearing on September 6, 2007, adopted by the Board of Environmental Quality on October 10, 2007, and became effective on April 2, 2008. The revisions to IDAPA 58.01.01.200, 204 and 205 with the effective date of April 2, 2008 are proposed for incorporation into the SIP. The 2008 Annual IBR was subject to a public hearing on September 9, 2008, adopted by the Board of Environmental Quality on October 9, 2008, and became effective on May 8, 2009. The revisions to IDAPA 58.01.01.107 with an effective date of May 8, 2009 are proposed to be approved into the SIP with the exception of subsections 107.03 (g) through (n) and (p) which are not related to the criteria pollutants regulated under title I of the Act or the requirements for SIPs under section 110 of the Act (see prior discussion in 67 FR 52666). Similarly, the revisions to IDAPA 58.01.01.008 are not being acted

on since they are related to Idaho's Tier I Operating Permit Program required under title V of the Act and are not part of the SIP.

B. New Source Review (NSR) Regulations

Parts C and D of title I of the CAA, 42 U.S.C. 7470–7515, set forth preconstruction review and permitting programs applicable to new and modified stationary sources of air pollutants regulated under the CAA, known as “major New Source Review” or “major NSR.” The major NSR programs of the CAA include a combination of air quality planning and air pollution control technology program requirements. States adopt major NSR programs as part of their SIP. Part C is the “Prevention of Significant Deterioration” or “PSD” program, which applies in areas that meet the NAAQS (*i.e.*, “attainment” areas) as well as in areas for which there is insufficient information to determine whether the area meets the NAAQS (*i.e.*, “unclassifiable” areas). Part D is the “Nonattainment New Source Review” or the “NNSR” program, which applies in areas that are not in attainment of the NAAQS (*i.e.*, “nonattainment areas”). EPA regulations implementing these programs are contained in 40 CFR 51.165, 51.166, 52.21, 52.24, and part 51, appendix S.

On December 31, 2002, EPA published final rule changes to the PSD and NNSR programs (67 FR 80186) and on November 7, 2003, EPA published a

notice of final action on the reconsideration of the December 31, 2002 final rule changes (68 FR 63021). In the November 7, 2003 final action, EPA added the definition of “replacement unit,” and clarified an issue regarding plantwide applicability limitations (PALs). The December 31, 2002 and the November 7, 2003 final actions, are collectively referred to as the “2002 NSR Reform Rules.”

The 2002 NSR Reform Rules made changes to five areas of the major NSR programs. In summary, the 2002 Rules: (1) Provide a new method for determining baseline actual emissions; (2) adopt an actual-to-projected-actual methodology for determining whether a major modification has occurred; (3) allow major stationary sources to comply with PALs to avoid having a significant emissions increase that triggers the requirements of the major NSR program; (4) provide a new applicability provision for emissions units that are designated clean units; and (5) exclude pollution control projects (PCPs) from the definition of “physical change or change in the method of operation.”

After the 2002 NSR Reform Rules were finalized and effective (March 3, 2003), various petitioners challenged numerous aspects of the 2002 NSR Reform Rules, along with portions of EPA’s 1980 NSR Rules (45 FR 5276, August 7, 1980). On June 24, 2005, the DC Circuit Court issued a decision on the challenges to the 2002 NSR Reform Rules. See *New York v. United States*, 413 F.3d 3 (DC Cir. 2005). In summary, the DC Circuit Court vacated portions of the 2002 NSR Reform Rules pertaining to clean units and PCPs, remanded a portion of the rules regarding recordkeeping (40 CFR 52.21(r)(6) and 40 CFR 51.166(r)(6)), and either upheld or did not comment on the other provisions included as part of the 2002 NSR Reform Rules. On June 13, 2007 (72 FR 32526), EPA took final action to revise the 2002 NSR Reform Rules to remove from Federal law all provisions pertaining to clean units and the PCP exemption that were vacated by the DC Circuit Court.

With regard to the remanded portions of the 2002 NSR Reform Rules related to recordkeeping, on December 21, 2007, EPA took final action to establish that a “reasonable possibility” applies where source emissions equal or exceed 50 percent of the CAA NSR significance levels for any pollutant (72 FR 72607). The “reasonable possibility” provision identifies for sources and reviewing authorities the circumstances under which a major stationary source

undergoing a modification that does not trigger major NSR must keep records.

The 2002 NSR Reform Rules require that State agencies adopt and submit revisions to their SIP permitting programs implementing the minimum program elements of the 2002 NSR Reform Rules no later than January 2, 2006. On July 13, 2005, IDEQ submitted revisions to its NSR rules to incorporate EPA’s NSR reform provisions. Specifically, IDAPA 58.01.01.006, 200, 202, 204, 205, 206, 209, 225 and 401 were revised to incorporate EPA’s major NSR reform measures into the existing rules. The revisions were subject to a public hearing on June 8, 2004, adopted by the Board of Environmental Quality on October 20, 2004, and became effective in Idaho on April 6, 2005. Idaho developed these latest revisions by comparing the Federal major NSR regulations in 40 CFR parts 51 and 52 to the existing State rules. The primary sections revised include IDAPA 58.01.01.204 and 205. Rather than delineate the entire Federal major NSR rules, Idaho chose to incorporate by reference the appropriate NSR reform portions of the Federal program requirements maintaining the remainder of its previously approved NSR rules not affected by the NSR reform. As noted in section III.A above, IDEQ submits an annual update to its rules that IBR Federal regulations, thus keeping the State’s rules up to date with changes in the Federal rules.

For a discussion of our approval of IDEQ’s NSR rules not changed by IDEQ’s NSR Reform SIP revision, see EPA’s January 16, 2003 approval of IDEQ’s NSR rules (68 FR 2217). A discussion of IDEQ’s July 13, 2005 SIP revisions to IDAPA 58.01.01.006, 200, 202, 204, 205, 206, 209, 225 to meet the specific requirements of NSR reform measures follows. IDAPA 58.01.01.006 General Definitions, was revised to remove definitions for Major Facility and Major Modification from the General Definitions and IDAPA 58.01.01.200 Procedures and Requirements for Permits to Construct, was revised to specify that a Major Facility is a Major Stationary Source as defined in 40 CFR 52.21(b) and a Major Modification is a Major Modification as defined in 40 CFR 52.21(b). IDAPA 58.01.01.202 Application Procedures, was revised to remove the exceptions for Major Facilities and Major Modifications consistent with the definitional changes in 58.01.01.200. IDAPA 58.01.01.204 Permit Requirements for New Major Facilities or Major Modifications in Nonattainment Areas, was revised to expressly state the intent of the rule is

to incorporate the Federal nonattainment NSR rule requirements and includes a table of the sections of 40 CFR 51.165 and 52.21, as revised through November 7, 2003¹ that are incorporated by reference including²: 40 CFR 51.165(a)(1) regarding definitions; 40 CFR 51.165(a)(2)(ii) through 51.165(a)(3) regarding applicability³; 40 CFR 51.165(a)(6)(i)–(iv) regarding applicability; and 40 CFR 52.21(aa) regarding Actual PALs, which meets the provisions of 51.165(f). IDAPA 58.01.01.205 Permit Requirements for New Major Facilities or Major Modifications in Attainment or Unclassifiable Areas, was revised to expressly state that the intent of the rule is to incorporate the Federal PSD rule requirements and includes a table of the sections of 40 CFR 52.21, as revised through November 7, 2003⁴ that are incorporated by reference including⁵:

¹ IDEQ annually submits updates to its IBR of Federal rules. Subsequent to the July 13, 2005 SIP revisions, annual IBR updates have occurred as outlined in section III.A, making Idaho’s rules consistent with the changes that have occurred in the Federal rules though July 2007.

² The July 13, 2006 submittal also incorporated by reference 40 CFR 165(c) regarding Clean Unit Test for Emission Units that are Subject to LAER (Lowest Achievable Emissions Rate), 40 CFR 165(d) regarding Clean Unit Provisions for Emission Units that Achieve an Emission Limitation Comparable to LAER and 40 CFR 52.21(z)(1)–(3) and (5) regarding PCP Exclusion Procedural Requirements. However, on July 24, 2006, IDEQ amended the July 13, 2005 SIP revision requesting that EPA not act on the clean unit and PCP provisions since these provisions were being removed from the State rule consistent with the vacature of these provisions from the Federal rule.

³ Note this IBR citation was incorrectly cited in the SIP revision submitted to EPA on July 13, 2005, and IDEQ has confirmed that that reference was intended to incorporate by reference 40 CFR 51.165(a)(2)(ii)(A) through 51.165(a)(3)(ii)(J). Section 51.165(a)(2)(ii) includes sub-paragraphs (A) through (F) and state plans must also include the provisions in 165(a)(3)(i) and (ii) (A) through (J). On September 15, 2008, IDEQ submitted a letter to EPA stating that the reference in IDAPA 58.01.01.204 to 40 CFR 51.165(a)(2)(ii)(A)–(J) in IDEQ’s original submittal was in error and had been administratively corrected to incorporate by reference 40 CFR 51.165(a)(2)(ii) through 51.165(a)(3).

⁴ IDEQ annually submits updates to its IBR of Federal rules. Subsequent to the July 13, 2005 SIP revisions, annual IBR updates have occurred as outlined in section III.A above making Idaho’s rules consistent with the changes that have occurred in the Federal rules through July 2007.

⁵ The July 13, 2006 submittal also incorporated by reference 40 CFR 52.21(x) Clean Unit Test for Emissions Units that are Subject to Best Available Control Technology (BACT) or LAER, 40 CFR 52.21(y) Clean Unit Provisions for Emissions Units that Achieve an Emission Limitation Comparable to BACT and 40 CFR 52.21(z)(1)–(3) and (6) PCP Exclusion Procedural Requirements. However, on July 24, 2006 IDEQ amended the July 13, 2005 SIP revision by requesting that EPA not act on the clean unit and PCP provisions since these provisions were being removed from the State rule consistent with the vacature of these provisions from the Federal rule.

40 CFR 52.21(a)(2) Applicability Procedures; 40 CFR 52.21(b) Definitions; 40 CFR 52.21(i) Exemptions; 40 CFR 52.21(j) Control Technology Review; 40 CFR 52.21(k) Source Impact Analysis; 40 CFR 52.21(r) Source Obligation; 40 CFR 52.21(v) Innovative Control Technology; 40 CFR 52.21(w) Permit Rescission; and 40 CFR 52.21(aa) Actuals PALs. IDAPA 58.01.01.205.02 specifies, where appropriate, those section of incorporated 40 CFR 52.21 where the use of the word “Administrator” means the “Department” and IDAPA 58.01.01.205.03 specifies existing requirements for non-major sources that are exempted or excluded from 40 CFR 52.21. IDAPA 58.01.01.206 Optional Offsets for Permits to Construct, was revised to change cross-references to subsections for consistency with the above changes. IDAPA 58.01.01.209 Procedures for Issuing Permits, was revised to remove the exceptions for Major Facilities and Major Modifications consistent with the definitional changes in IDAPA 58.01.01.200. IDAPA 58.01.01.225 Permit to Construct Processing Fee, was revised for consistency with definitional changes in IDAPA 58.01.01.205. And IDAPA 58.01.01.401 Tier II Operating Permit, was revised for consistency with changes to IDAPA 58.01.01.204.

Idaho’s major NSR SIP submission meets the EPA NSR reform requirements for SIP-approved NSR programs in 40 CFR 51.165 and 166 and 40 CFR 52.21. The revised rules address baseline actual emissions, actual-to-projected actual applicability tests, PALs, and other currently applicable provisions of EPA’s 2002 NSR Reform Rules. In fact, the majority of the Federal NSR Reform provisions in 40 CFR 51.165 and 52.21 are incorporated by reference directly into Idaho regulations and, as noted in section III.A above, IDEQ annually updates its IBR of Federal rules to keep the State’s rules consistent with changes to the Federal NSR rules and the most recent IBR update revision includes citations to Federal NSR regulations revised as of July 1, 2007 with a State effective date of April 2, 2008.

C. Permit To Construct Exemptions

EPA last approved revisions to Idaho’s Permit to Construct⁶ Exemptions on January 16, 2003 (68 FR 2217) and we provided a detailed discussion of our analysis in the August 13, 2002 Proposed Rule (67 FR 52666). In brief, when we approved IDEQ’s minor NSR exemption provisions in

IDAPA 58.01.01.220 through 222, we noted that we based our approval on our determination that the emission levels and source categories specified in the rules are appropriately exempted from minor NSR. While IDAPA 58.01.01.220.01.a.iii included additional provisions that required modeling the impact of a source’s uncontrolled potential to emit to be exempt from minor NSR permitting in Idaho, we specifically noted that our approval was not based on the requirement for modeling since such modeling is part of the permitting process itself and, therefore, not typically included as criteria a source must meet to qualify for an exemption from the permitting process. Our August 13, 2002 Proposed Rule (67 FR 52666) and January 16, 2003 Final Rule (68 FR 2217) also noted that the “director’s discretion” provisions in IDAPA 58.01.01.222.03 and 222.01.f do not meet the requirements of section 110 of the CAA and, therefore, we did not approve these provision into the SIP.

In response to our actions in the prior rulemaking (67 FR 52666 and 68 FR 2217) discussed above, IDEQ removed the modeling requirements from IDAPA 58.01.01.220 and the “director’s discretion” provisions from IDAPA 58.01.01.222 and submitted two separate SIP revisions to its Permit to Construct Exemption Rules IDAPA 58.01.01.220 and 222 for approval into the SIP on July 13, 2005 and May 5, 2006. The July 13, 2005 revisions were subject to a public hearing on October 4, 2004, adopted by the Board of Environmental Quality on November 18, 2004, and became effective on April 6, 2005. The May 5, 2006 revisions were subject to a public hearing on October 11, 2005, adopted by the Board of Environmental Quality on November 17, 2005, and became effective on April 11, 2006.

The July 13, 2005 and May 5, 2006 SIP submittals revised IDAPA 58.01.01.220 to strike-out the modeling provisions included in IDAPA 58.01.01.220.01.a.iii and revised 58.01.01.222 to strike out the “director’s discretion” provisions in IDAPA 58.01.01.222.01.f and 222.03. IDEQ’s May 5, 2006 SIP also revised 58.01.01.222.1.d to change the criteria for internal combustion engines operating for emergency purposes from operating for less than 200 hours to operating less than 500 hours and revised IDAPA 58.01.01.222.2.c to add biogas as an allowable fuel for fuel-burning equipment with capacity less than 50 million BTU per hour used for indirect heating and heating or reheating furnaces, providing that the

hydrogen sulfide concentration is below 200 parts per million by volume. In addition, three new paragraphs were added to exempt additional sources. IDAPA 58.01.01.222.2.i exempts multiple chamber crematories providing they use natural gas exclusively, have a maximum average charge capacity of 200 pounds or remains per hour and minimum secondary combustion chamber temperature of 1500 degrees Fahrenheit; IDAPA 58.01.01.222.2.j exempts petroleum environmental remediation source by vapor extraction providing the operation life is less than five years and the short term adjustment factor for air toxics (IDAPA 58.01.01.210.15) is not used if source is within 500 feet of a sensitive receptor; and IDAPA 58.01.01.222.2.k exempts dry cleaning facilities providing they are not major under, but are subject to, 40 CFR part 63 subpart M.

IDEQ’s July 13, 2005 and May 5, 2006 rule revisions address the “directors discretion” and modeling issues previously raised by EPA (67 FR 52666, 68 FR 2217) and are proposed to be approved into the SIP. IDEQ’s May 5, 2006 revisions expanding the Permit to Construct Exemptions for certain sources are also proposed to be approved into the SIP.

It is important to note that in order for any source to qualify for a source-category exemption under IDAPA 58.01.01.222, it must first satisfy the criteria set forth in IDAPA 58.01.01.220 which includes the general exemption criteria for permits to construct, further limiting the scope of IDEQ’s source-category exemptions. IDAPA 58.01.01.220.01.a requires that the maximum capacity of a source to emit an air pollutant under its physical and operational design without consideration of limitations on emission such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed would not equal or exceed one hundred (100) tons per year of any regulated air pollutant and would not cause an increase in the emissions of a major facility that equals or exceeds the significant emissions rates. In addition, IDEQ retains the legal authority pursuant to IDAPA 58.01.01.401.03 to require a source to obtain an air quality permit to ensure compliance with applicable rules, including the NAAQS.

D. Permitting Fees

On May 22, 2003 IDEQ, submitted revisions to IDAPA 58.01.01.224 through 228, 407 through 410, 470 and 800 through 802 revising its regulations pertaining to permit fees associated with

⁶NSR permits are referred to as “permits to construct” or “PTC”s in Idaho.

IDEQ's Permit to Construct and Tier I and II Operating Permits programs. The revisions were subject to a public hearing on October 9, 2001, adopted by the Board of Environmental Quality on November 8, 2001, and became effective on July 1, 2002. While IDEQ submitted the permit fee rules to EPA, it specifically noted the revisions that establish or revise permitting fees were only included in the SIP submittal for informational purposes and that IDEQ did not intend that EPA include the fee related rules into the SIP. We are proposing to take no action on IDAPA 58.01.01.224–228, 408–410 and 800–802 which deal with the collection of various fees associated with IDEQ's Permit to Construct and Tier I and II Operating Permits. The Tier I permits are not related to the criteria pollutants regulated under title I of the CAA or to the requirements for SIPs under section 110 of the Act. While the fee provisions associated with Permits to Construct and Tier II permits are related to criteria pollutant programs under title I of the Act, IDEQ has requested that these provisions not be included in the SIP because of the frequency of revisions to the fee rules.

IDEQ's May 22, 2003 SIP submittal included minor editorial changes IDAPA 58.01.01.006, 007, 200–202, 209, 400–402 and 404, that were made concurrent with the revisions to the fee rules. We reviewed the editorial changes to IDAPA 58.01.01.006, 007, 200–202, 209, 400–402 and 404 and found them to be appropriate and we propose to approve them into the SIP to update the SIP which includes previously approved versions of these rules. In addition, the revision to IDAPA 58.01.01.470 strikes the existing fee language making IDAPA 58.01.01.470 a reserved paragraph and we propose to approve this change in the SIP.

E. Soil Vapor Extraction

On May 22, 2003 IDEQ submitted revisions to IDAPA 58.01.01.210 to add paragraph 16.c, which allows IDEQ to waive the requirements of IDAPA 58.01.01.513 for any environmental remediation source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product. The revisions were subject to a public hearing on February 6, 2001, adopted by the Board of Environmental Quality on October 18, 2001, and became effective on March 15, 2002. This portion of the May 22, 2003 SIP submittal deals with IDEQ's air toxic regulations and is not currently in the Idaho SIP. Because this regulation does not relate to the criteria pollutants regulated under title I of the CAA or to

the requirements for SIPs under section 110 of the Act, EPA is proposing to take no action on this provision.

F. Hospital/Medical/Infectious Waste Incinerators

On May 22, 2003 IDEQ submitted revisions to IDAPA 58.01.01.861, Standards of Performance of Hospital/Medical/Infectious Waste Incinerators, to clarify that owners or operators of hospital/medical/infectious waste incinerators subject to IDAPA 58.01.01.861 must comply with the provisions of section 39–128. The revisions were subject to a public hearing on August 8, 2001, adopted by the Board of Environmental Quality on October 18, 2001, and became effective on March 15, 2002. Although this portion of the May 22, 2003 SIP submittal rule is an important part of IDEQ's overall air program, IDAPA 58.01.01.861 is not currently in the Idaho SIP and is not related to requirements for SIPs under section 110 of the Act. Therefore, EPA is not taking any action on these provisions.

G. Permit Clarifications

On May 22, 2003 IDEQ submitted its Permit Clarification SIP submittal including revisions to IDAPA 58.01.01.209, 213, 228, 313, 317, 395, 410, 511, 581, 700, and 710–724 to update and clarify the rules. The revisions were subject to a public hearing on October 8, 2002, adopted by the Board of Environmental Quality on November 13, 2002, and became effective on May 3, 2003. The revisions to IDAPA 58.01.01.209.01.c, 700.01 and 710–724 reversed earlier revisions IDEQ made to these particulate matter process weight limitations in response to EPA's determination that the earlier revisions were less stringent than those currently in the SIP. In effect, the revisions to IDAPA 58.01.01.209.01.c, 701.01 and 710–724 change the regulatory language in these rules back to reflect the existing language in the SIP approved rules. To maintain consistency between the federally approved rules and State rules, specifically regarding the State rule effective dates, IDAPA 58.01.01.700 with a State effective date of May 3, 2003 is proposed to be approved into the SIP. The revisions to IDAPA 58.01.01.313 and 317 revise the Tier I operating permit rules and the revisions to IDAPA 58.01.01.228, 395 and 410 revise the timeframes, from 30 to 35 days, for appealing fees associated with Permits to Construct and Tier I and II Operating Permits. We are proposing to take no action on IDAPA 58.01.01.313, 317, 228, 395, and 410 as these rules deal with IDEQ's Tier I operating permit

program and the collection of various fees associated with IDEQ's Permit to Construct and Tier I and II Operating Permits. As noted in III.D above, the Tier I permits are not related to the criteria pollutants regulated under title I of the CAA or to the requirements for SIPs under section 110 of the Act and, while the fee provisions associated with Permits to Construct and Tier II permits are related to criteria pollutant programs under title I of the Act, IDEQ has requested that these fee provisions not be included in the SIP because of the frequency of revisions to the fee rules.

IDEQ's May 22, 2003 Permit Clarification SIP submittal also included editorial revisions to IDAPA 58.01.01.213 and 511 and 581 for clarification and to correct cross-referencing section numbers. We reviewed the editorial changes to IDAPA 58.01.01.213 and 511 and 581, found them to be appropriate and propose to approve these revisions with the State effective date of May 3, 2003 into the SIP, thereby updating the SIP to reflect the revised State rules.

H. Title V Operating Permit Fees

On May 22, 2003, IDEQ submitted its title V Operating Permit Fees SIP including revisions to IDAPA 58.01.01.387–399. The revisions were subject to a public hearing on October 8, 2002, adopted by the Board of Environmental Quality on November 13, 2002, and became effective on April 2, 2003. In its submittal IDEQ clarified that it was submitting these rule revisions to EPA for informational purposes only and it did not intend to have the title V Operating Permit Fee rules incorporated into the SIP. We are proposing to take no action on IDAPA 58.01.01.387–399 as these rules deal with IDEQ's Tier I operating permit program and the collection of various fees associated with IDEQ's Tier I Operating Permits. The IDEQ's Tier I permit program is the operating permit program required under title V of the Act and is not part of the criteria pollutants regulated under title I of the CAA or the requirements for SIPs under section 110 of the Act.

I. Regulated Air Pollutants

On May 5, 2006 IDEQ submitted revisions to IDAPA 58.01.01.006–008, 133–135, 155, 213, 220, 440–442, 460, 511–513, 560–561, 575, 581, and 679 to incorporate a new definition for “regulated air pollutant” to be consistent with Federal requirements with respect to the treatment of fugitive emissions in determining applicability for operating permits and permits to construct. The revisions were subject to a public

hearing on September 7, 2005, adopted by the Board of Environmental Quality on November 17, 2005, and became effective on April 11, 2006. A separate public hearing was held on December 5, 2005, regarding changes to Idaho Code 39–115 that were part of the SIP revision containing the regulatory changes to IDAPA 58.01.01. The specific regulatory changes that EPA is proposing to approve into the SIP are discussed below.

IDAPA 58.01.01.006 was revised to modify the definition of “regulated air pollutant” to be consistent with Federal rules and to modify the definition of “modification” by adding language stating that “fugitive emissions shall not be considered in determining whether a permit is required for a modification unless required by federal law.” The revisions make the treatment of fugitive emissions in determining major source and major modification thresholds consistent with Federal major NSR rules. On December 19, 2008, EPA promulgated its final rulemaking regarding its reconsideration of the inclusion of fugitive emissions in the NSR program (73 FR 77882). In this rulemaking, EPA made the treatment of fugitive emissions for determining major modifications consistent with the treatment of fugitive emissions for determining major source thresholds. In brief, this rulemaking requires that fugitive emissions be included in determining whether a physical change or change in operation results in a major modification only for sources in source categories designated through rulemaking pursuant to section 302(j) of the Act (*i.e.*, “listed sources”). The change to the treatment of fugitive emissions became effective in the Federal NSR program on January 20, 2009 and became effective in the Federal PSD program on February 17, 2009. However, on February 17, 2009, EPA received a petition from the Natural Resources Defense Council to reconsider and stay the December 19, 2008, final fugitive emissions final rule. EPA granted the petition on April 24, 2009 and published a **Federal Register** notice on September 30, 2009 establishing a three-month administrative stay of the rule (74 FR 50115). Because IDEQ’s program now treats fugitive emissions in the same manner as “required by federal law,” these changes are also effective in the IDEQ major NSR.

It is important to note that in its final rulemaking on the reconsideration of fugitive emissions (73 FR 77882), EPA noted that a state has considerable latitude to customize its minor NSR program regarding the treatment of

fugitive emissions and that state authorities should explicitly indicate how fugitive emissions are to be accounted for in all aspects of the state’s minor NSR (*see* page 77890). The definition of “major modification” used in IDEQ’s major NSR rules is distinctly different from the revised definition for modification in IDAPA 58.01.01.006 which applies to IDEQ’s “minor” NSR rules. The statement in IDEQ’s definition of “regulated air pollutant” that “fugitive emissions shall not be considered in determining whether a permit is required for a modification unless required by federal law” therefore created a potential lack of clarity regarding the treatment of fugitive emissions in Idaho’s minor source program. EPA therefore requested that IDEQ clarify this issue. On September 25, 2009 IDEQ, submitted additional information to EPA explicitly stating that fugitive emissions in IDEQ’s minor source program are treated the same way they are in its major NSR program, *i.e.*, fugitive emissions at minor sources of listed source categories are included in determining the source’s potential to emit and whether there is a modification. In light of IDEQ’s clarification regarding the treatment of fugitive emissions in its minor NSR program, EPA proposes to approve the revisions to IDAPA 58.01.01.006 with the exception of subsection (b) of the definition of “modification” (codified as IDAPA 58.01.01.006.55.b in this submission, and subsequently renumbered). This subparagraph (b) in the definition of “modification” pertains to the “state only” toxics air pollutant program and is not related to the criteria pollutants regulated under title I of the CAA or to the requirements for SIPs under section 110 of the Act. Therefore, EPA is not taking any action on this subparagraph.

The May 5, 2006 SIP included additional editorial revisions to IDAPA 58.01.01.006, 007, 133, 134, 135, 155, 213, 220, 460, 511, 512, 513, 560, 561, 575, 581, and 679 to make those sections consistent with the definitional changes to “modification” and “regulated air pollutant.” EPA reviewed these changes and proposes to approve them. Similar editorial changes were also made to sections IDAPA 58.01.01.008, 440 and 441; however, EPA is taking no action on IDAPA 58.01.01.008, 440 and 441. The rationale is provided in detail in our previous action on Idaho’s SIP (67 FR 52666).

J. Procedure for Transfer of Permits To Construct and Tier II Operating Permits

On May 5, 2006 IDEQ submitted revisions to IDAPA 58.01.01.006, 007,

209 and 404 modifying definitions for its major and minor source air quality permitting programs and submitted two new rule subsections allowing for the transfer of permits to construct and Tier II operating permits. The revisions were subject to a public hearing on September 7, 2005, adopted by the Board of Environmental Quality on October 12, 2005, and became effective on April 11, 2006. The specific regulatory changes that EPA is proposing to approve into the SIP are discussed below.

The revisions to IDAPA 58.01.01.006 change the definition of “modification” to refer to an “emissions increase” as defined in IDAPA 58.01.01.007. The revisions to IDAPA 58.01.01.007 include new definitions for “baseline actual emissions,” “begin actual construction,” “emissions increase,” and “projected actual emissions,” as well as editorial revisions to other definitions to maintain consistency with the new definitions. The revisions to IDAPA 58.01.01.209 add a new section IDAPA 58.01.01.209.06 titled, Transfer of Permits to Construct, which includes the requirements for transferring a permit to construct to a new owner or operator of the source. Similarly, the revisions to IDAPA 58.01.01.404 add a new section IDAPA 58.01.01.404.05 titled, Transfer of Tier II Permits, which includes the requirements for transferring a Tier II permit to a new owner or operator of the source. The definition revisions in IDAPA 58.01.01.006 and 007 are consistent with and, in many instances, identical to the definitions in 40 CFR 52.21(b) (definitions for Federal PSD program) and we are proposing to approve these revisions into Idaho’s SIP. The new procedures for the transfer of permits in IDAPA 58.01.01.209.6 and 58.01.01.404.5 clarify existing practices and we propose to approve these revisions into the SIP as well.

K. Mercury

On April 16, 2007, IDEQ submitted a new section IDAPA 58.01.01.199 requiring that no owner or operator shall construct or operate an electric generating unit, as defined in 40 CFR 60.24, with a potential to emit mercury emissions. The rule was subject to a public hearing on November 3, 2006, adopted by the Board of Environmental Quality on November 16, 2006, and became effective on March 30, 2007. While this rule is an important part of IDEQ’s air program, IDAPA 58.01.01.199 is not related to the criteria pollutants regulated under title I of the CAA or to the requirements for SIPs under section

110 of the Act and, therefore, EPA is not taking any action on this provision.

L. Sulfur Content of Fuels

On June 8, 2009 IDEQ submitted revisions to IDAPA 58.01.01.725 thru 729 reorganizing and clarifying the existing rules for the sulfur content of fuels. The revisions were subject to a public hearing on June 10, 2008, adopted by the Board of Environmental Quality on October 9, 2008, and became effective on May 8, 2009. IDAPA 58.01.01.725 thru 729 were combined into a single section 58.01.01.725 Rules for the Sulfur Content of Fuels. Section 726 was revised to become paragraph

725.01 while retaining all of the relevant definitions specific to sections 725 thru 729. Sections 727, 728 and 729 were revised to become paragraphs 725.02, 725.03, and 725.04, while retaining all of the relevant provisions for residual fuel oils, distillate fuel oils and coal, respectively. The revisions simplify the existing regulations and we propose to approve these revisions into the SIP.

IV. EPA's Proposed Action

Consistent with the discussion above, EPA proposes to approve most of the submitted SIP provisions and to take no action on certain other provisions, as discussed below. This action will result

in proposed changes to the Idaho SIP in 40 CFR part 52, subpart N.

A. Rules To Approve Into SIP

EPA proposes to approve into the SIP at 40 CFR part 52, subpart N, the Idaho regulations listed in Table 2. It is important to note that in those instances where IDEQ submitted multiple revisions to a single section of IDAPA 58.01.01, the most recent version of that section (based on state effective date) is proposed to be incorporated into the SIP since it supersedes all previous revisions.

TABLE 2—IDAHO REGULATIONS FOR PROPOSED APPROVAL

| State citation | Title/subject | State effective date | Explanation |
|---|--|----------------------|--|
| 58.01.01—Rules for the Control of Air Pollution in Idaho | | | |
| 006 | General Definitions | 4/11/2006 | Except Section 006.66(b) (re: state air toxics in definition of “modification”). |
| 007 | Definitions for the Purposes of Sections 200 through 225 and 400 through 461. | 4/11/2006 | |
| 107 | Incorporations by Reference | 5/8/2009 | Except Section 107.03(g) through (n) and (p). |
| 200 | Procedures and Requirements for Permits to Construct | 4/2/2008 | |
| 133 | Start-up, Shutdown and Scheduled Maintenance Requirements | 4/11/2006 | Except 401.01.a (bubbles) and 401.04 (compliance date extension). |
| 134 | Upset, Breakdown and Safety Requirements | 4/11/2006 | |
| 135 | Excess Emission Reports | 4/11/2006 | |
| 155 | Circumvention | 4/11/2006 | |
| 201 | Permit to Construct Required | 7/1/2002 | |
| 202 | Application Procedures | 4/6/2005 | |
| 204 | Permit Requirements for New Major Facilities or Major Modifications in Nonattainment Areas. | 4/2/2008 | |
| 205 | Permit Requirements for New Major Facilities or Major Modifications in Attainment or Unclassifiable Areas. | 4/2/2008 | |
| 206 | Optional Offsets for Permits to Construct | 4/6/2005 | |
| 209 | Procedures for Issuing Permits | 4/11/2006 | |
| 213 | Pre-Permit Construction | 4/11/2006 | |
| 220 | General Exemption Criteria for Permit to Construct Exemptions | 4/11/2006 | |
| 222 | Category II Exemptions | 4/11/2006 | |
| 400 | Procedures and Requirements for Tier II Operating Permits | 7/1/2002 | |
| 401 | Tier II Operating Permit | 4/6/2005 | |
| 402 | Application Procedures | 7/1/2002 | More recent state rule effective date. |
| 404 | Procedure for Issuing Permits | 4/11/2006 | |
| 460 | Requirements for Emission Reduction Credits | 4/11/2006 | |
| 511 | Applicability | 4/11/2006 | |
| 512 | Definitions | 4/11/2006 | |
| 513 | Requirements | 4/11/2006 | |
| 560 | Notification to Sources | 4/11/2006 | |
| 561 | General Rules | 4/11/2006 | |
| 575 | Air Quality Standards and Area Classification | 4/11/2006 | |
| 581 | Prevention of Significant Deterioration (PSD) Increments | 4/11/2006 | |
| 679 | Averaging Period | 4/11/2006 | |
| 700 | Particulate Matter Process Weight Limitations | 5/3/2003 | |
| 725 | Rules for Sulfur Content of Fuels | 5/8/2009 | |

B. Rules on Which No Action Is Taken

58.01.01.008, Definitions for Purposes of Section 300 through 386
 58.01.01.199, Electric Generating Unit Construction Prohibition

58.01.01.210, Demonstration of Preconstruction Compliance with Toxic Standards
 58.01.01.225, Permit to Construct Processing Fee

58.01.01.228, Appeals
 58.01.01.313, 317, 387–399, 395, Procedures and Requirements for Tier I Operating Permits
 58.01.01.410, Appeals

- 58.01.01.175–181, Procedures and Requirements for Permits Establishing a Facility Emissions Cap
- 58.01.01.861, Standards of Performance of Hospital/Medical/Infectious Waste Incinerators

C. Scope of Proposed Action

Idaho has not demonstrated authority to implement and enforce IDAPA Chapter 58 within “Indian Country” as defined in 18 U.S.C. 1151.⁷ Therefore, EPA proposes that this SIP approval not extend to “Indian Country” in Idaho. See CAA sections 110(a)(2)(A) (SIP shall include enforceable emission limits), 110(a)(2)(E)(i) (State must have adequate authority under State law to carry out SIP), and 172(c)(6) (nonattainment SIPs shall include enforceable emission limits). This is consistent with EPA’s previous approval of Idaho’s PSD program, in which EPA specifically disapproved the program for sources within Indian Reservations in Idaho because the State had not shown it had authority to regulate such sources. See 40 CFR 52.683(b). It is also consistent with EPA’s approval of Idaho’s title V air operating permits program. See 61 FR 64622, 64623 (December 6, 1996) (interim approval does not extend to Indian Country); 66 FR 50574, 50575 (October 4, 2001) (full approval does not extend to Indian Country).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements

⁷ “Indian country” is defined under 18 U.S.C. 1151 as: (1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation. (2) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Under this definition, EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation. In Idaho, Indian country includes, but is not limited to, the Coeur d’Alene Reservation, the Duck Valley Reservation, the Reservation of the Kootenai Tribe, the Fort Hall Indian Reservation, and the Nez Perce Reservation as described in the 1863 Nez Perce Treaty.

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 Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Dated: March 3, 2010.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2010–5965 Filed 3–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 263, 264, 265, 266, 268, and 270

[EPA–RCRA–2008–0678; FRL–9127–8]

RIN 2050–AG52

Hazardous Waste Technical Corrections and Clarifications Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is proposing a number of technical changes that would correct or clarify several parts of the hazardous waste regulations that relate to hazardous waste identification, manifesting, the hazardous waste generator requirements, the standards for owners and operators of hazardous waste treatment, storage and disposal facilities, the standards for the management of specific types of hazardous waste and specific types of hazardous waste management facilities, the land disposal restrictions program and the hazardous waste permit program.

DATES: Written comments must be received by May 3, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2008–0678, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- *E-mail:* rcra-docket@epa.gov and oleary.jim@epa.gov. Attention Docket ID No. EPA–HQ–RCRA–2008–0678.
- *Fax:* 202–566–9744. Attention Docket ID No. EPA–HQ–RCRA–2008–0678.
- *Mail:* RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–RCRA–2008–0678. Please include a total of 2 copies.
- *Hand Delivery:* EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–RCRA–2008–0678. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any