

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1101

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of a fully approved state implementation plan under Section 110 of the Clean Air Act.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

February 7, 2011, 3:30 p.m.

**Department of Environmental Quality
Conference Room B
1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to incorporate by reference the final rule for Prevention of Significant Deterioration (PSD) for Particulate Matter Less than 2.5 Micrometers (PM_{2.5} Rule) adopted by EPA with an effective date of December 20, 2010 and published in the Federal Register on October 20, 2010. DEQ annually initiates rulemaking to update citations to federal regulations incorporated by reference into the Idaho Rules for the Control of Air Pollution in Idaho. The PM_{2.5} Rule was not adopted in time to be included in DEQ's annual update of citations to federal regulations incorporated by reference.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the April 2011 Board meeting for adoption as a pending and temporary rule. If adopted by the Board, the temporary rule will become effective on April 27, 2011. The pending rule is expected to be final upon adjournment of the 2012 legislative session if approved by the Legislature.

It is necessary to incorporate by reference the PM_{2.5} Rule as a temporary rule as it is needed to fully implement essential elements of the PSD program for new sources and modifications to existing sources with PM_{2.5} emissions.

Members of the regulated community who may be subject to Idaho's air quality rules, special interest groups, public officials, and members of the public who have an interest in the regulation of air emissions from sources in Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Incorporation by reference is necessary to ensure that the state rules are consistent with federal regulations. An electronic copy of the federal regulations incorporated by reference can be obtained at <http://www.gpoaccess.gov/fr/index.html>.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Michael Simon at (208) 373-0212 or michael.simon@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before February 7, 2011.

DATED this 17th day of December, 2010.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-1101

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

- and
- a.** All federal publications: U.S. Government Printing Office, <http://www.gpoaccess.gov/index.html>; (3-20-04)
 - b.** All documents herein incorporated by reference: (7-1-97)
 - i.** Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. (7-1-97)
 - ii.** State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

- a.** Requirements for Preparation, Adoption, and Submittal of Implementation Plans and Appendix W

to Part 51--Guideline on Air Quality Models. 40 CFR Part 51 revised as of July 1, 2009. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: (3-29-10)

- i. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and (3-30-07)
- ii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. (3-30-07)
- b. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 2009. (3-29-10)
- c. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, 40 CFR 51.301, 51.304(a), 51.307, and 51.308, revised as of July 1, 2009. (3-29-10)
- d. Approval and Promulgation of Implementation Plans, 40 CFR Part 52 revised as of July 1, 2009. (3-29-10)
- e. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 2009. (3-29-10)
- f. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 2009. (3-29-10)
- g. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 2009. (3-29-10)
- h. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 2009. (3-29-10)
- i. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 2009. (3-29-10)
- j. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 2009. (3-29-10)
- k. Permits, 40 CFR Part 72, revised as of July 1, 2009. (3-29-10)
- l. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 2009. (3-29-10)
- m. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2009. (3-29-10)
- n. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
- o. Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 2009, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (3-29-10)
- p. The final rule for Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units, 70 Fed. Reg. 28,606 (May 18, 2005), corrected at 70 Fed. Reg. 51,266 the final rule for Standards of Performance for Electric Utility Steam Generating Units, Industrial-Commercial-Institutional Steam Generating Units, and Small Industrial-Commercial-Institutional Steam Generating Units, only as it applies to coal fired electric steam generating units as defined in 40 CFR 60.24, 71 Fed. Reg. 9865 (February 27, 2006); Revision of December 2000 Clean Air Act Section 112(n) Finding Regarding Electric Utility Steam Generating Units; and Standards of Performance for New and Existing Electric Utility Steam Generating Units: Reconsideration, 71 Fed.

Reg. 33,388 (June 9, 2006) are expressly excluded from any incorporation by reference into these rules. (3-30-07)

g. The final rule for Prevention of Significant Deterioration (PSD) for Particulate Matter Less than 2.5 Micrometers (PM_{2.5})—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC), 75 Fed. Reg. 64,864 through 64,907 (October 20, 2010) to be codified at 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) and 40 CRF Part 52 (Approval and Promulgation of Implementation Plans). This final rule is effective on December 20, 2010. ()