

2004, Public Law 108-419, 118 Stat. 2341.

### List of Subjects

37 CFR Part 201

Copyright, Procedures.

37 CFR Part 256

Cable television, Royalties.

### Final Regulations

■ For the reasons set forth in the preamble, the Library amends 37 CFR parts 201 and 256 as follows:

#### PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

**Authority:** 17 U.S.C. 702

##### § 201.17 [Amended]

■ 2. Section 201.17 is amended as follows:

- a. In paragraph (d)(2), by removing “\$379,600” each place it appears and adding “\$527,600” in its place;
- b. In paragraph (e)(12), by removing “\$98,600” and adding “\$137,100” in its place; and
- c. In paragraph (g)(2)(ii), by removing “0.956” and adding “1.013” in its place.

#### PART 256—ADJUSTMENT OF ROYALTY FEE FOR CABLE COMPULSORY LICENSE

■ 3. The authority citation for part 256 continues to read as follows:

**Authority:** 17 U.S.C. 702, 802

##### § 256.2 [Amended]

■ 4. Section 256.2 is amended as follows:

- a. In paragraph (a) introductory text, by removing the phrase “the second semiannual accounting period of 2000” and adding the phrase “the second semiannual accounting period of 2005” in its place;
- b. In paragraph (a)(1), by removing “.956” and adding “1.013” in its place;
- c. In paragraph (a)(2), by removing “.956” and adding “1.013” in its place;
- d. In paragraph (a)(3), by removing “.630” and adding “.668” in its place;
- e. In paragraph (a)(4), by removing “.296” and adding “.314” in its place;
- f. In paragraph (b) introductory text, by removing the phrase “the second semiannual accounting period of 2000” and adding the phrase “the second semiannual accounting period of 2005” in its place;
- g. In paragraph (b)(1), by removing “\$189,800” each place it appears and adding “\$263,800” in its place, and by removing \$7,400” and adding “\$10,400” in its place; and

■ h. In paragraph (b)(2), by removing “\$189,800” each place it appears, and adding “\$263,800” in its place, and by removing “\$379,600” each place it appears and adding “\$527,600” in its place.

Dated: September 13, 2005

**Marybeth Peters,**

*Register of Copyrights.*

Approved by:

**James H. Billington,**

*The Librarian of Congress.*

[FR Doc. 05-20096 Filed 10-5-05; 8:45 am]

**BILLING CODE 1410-33-S**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[R10-OAR-2005-ID-0002; FRL-7977-5]

#### Approval and Promulgation of Implementation Plans; Idaho; Correcting Amendment

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

**ACTION:** Final rule.

**SUMMARY:** In this final action, EPA is correcting an error in the incorporation by reference provisions in the approval of revisions to the Rules for the Control of Air Pollution in Idaho (IDAPA 58.01.01) published on January 16, 2003 (68 FR 2217). This correction removes the list of State toxic air pollutants from the definition of “regulated air pollutant” in the EPA-approved Idaho State implementation plan.

**DATES:** This action is effective on November 7, 2005.

**ADDRESSES:** Copies of the State’s request and other supporting information used in developing this action are available for inspection during normal business hours at the following locations: EPA, Office of Air, Waste, and Toxics (AWT-107), 1200 Sixth Avenue, Seattle, Washington 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. A reasonable fee may be charged for copies.

**FOR FURTHER INFORMATION CONTACT:** David C. Bray, Office of Air, Waste and Toxics, AWT-107, Environmental Protection Agency, Region 10, 1200 Sixth Ave., Seattle, WA 98101; phone: (206) 553-4253.

#### SUPPLEMENTARY INFORMATION:

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#### I. Background

On January 16, 2003 (68 FR 2217), EPA approved numerous changes to the Idaho Department of Environmental Quality (IDEQ) rules as revisions to the Idaho State implementation plan (SIP). In that rulemaking, EPA did not approve the IDEQ rules for toxic air pollutants or TAP’s and specifically excluded the toxic air pollutant provisions (IDAPA 58.01.01.203.03, 210, 223, 585, and 586) from its incorporation by reference. See 40 CFR 52.670(c)(37); 68 FR at 2224 (January 16, 2003); 67 FR 52666, 52668, 52672-73 (August 13, 2002). However, EPA inadvertently incorporated a cross reference to the toxic air pollutant provisions (Sections 585 and 586) within the IDEQ definition of “regulated air pollutant” (IDAPA 58.01.01.006(84)). It was EPA’s intention to exclude all aspects of the IDEQ toxic air pollutant program from the federally-approved SIP.

EPA also received a request from the IDEQ to correct the inadvertent incorporation by reference. In an October 20, 2004 letter to EPA, the Administrator of the IDEQ Air Quality Division requested that EPA clarify or correct its approval of the Idaho SIP.

On July 20, 2005, EPA proposed to correct this error by amending the incorporation by reference of the Idaho SIP to exclude paragraph (f) from the definition of “regulated air pollutant” at IDAPA 58.01.01.006(84).

#### II. This Action

A. *What Comments Did We Receive on the Proposed Action?*

EPA provided a 30-day review and comment period on the proposal published in the **Federal Register** on July 20, 2005. 70 FR 41652. We received no comments on our proposed rulemaking.

B. *What Is the Basis for This Action?*

Under section 110(k)(6) of the Clean Air Act, whenever EPA determines that its action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, EPA may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the state. Such determination and the basis thereof shall be provided to the state and public. Pursuant to section

110(k)(6), EPA proposed a revision to the Idaho SIP to correct the inadvertent incorporation by reference of the Idaho toxic air pollutant provisions within the definition of “regulated air pollutant.”

### C. What Is Our Final Action?

EPA is taking final action to correct the incorporation by reference of the Idaho toxic air pollutant provisions so that IDEQ’s list of toxic air pollutants will not be considered to be “regulated air pollutants” for purposes of the federally-approved SIP. All of the air pollutants regulated under the federal Clean Air Act will still be “regulated air pollutants” for SIP purposes in accordance with the IDEQ definition. The corrected definition meets or exceeds the requirements of the federal Clean Air Act and EPA’s regulations for State implementation plans. The corrected definition is also consistent with IDEQ’s SIP submittal and EPA’s January 16, 2003 approval action which specifically excluded IDEQ’s toxic air pollutant rules from the EPA-approved SIP.

### III. Statutory and Executive Order Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely corrects the incorporation by reference of the list of toxic air pollutants used in regulatory provisions that are not part of the EPA-approved SIP and does not impose any additional requirements on state, local or tribal governments or the private sector. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely corrects the incorporation by reference of the list of State toxic air pollutants as initially requested by the State and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency

promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 5, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 20, 2005.

**Julie M. Hagensen,**

*Acting Regional Administrator, Region 10.*

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

### PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

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

### Subpart N—Idaho

■ 2. In § 52.670(c), the table is amended by revising the entry for 006 to read as follows:

#### § 52.670 Identification of plan.

|     |   |   |   |   |
|-----|---|---|---|---|
| *   | * | * | * | * |
| (c) | * | * | * |   |

EPA-APPROVED IDAHO REGULATIONS

| State citation   | Title/subject       | State effective date            | EPA approval date  | Explanations   |
|--|---------------------|---------------------------------|--|----------------|
| <b>Idaho Administrative Procedures Act (IDAPA) Chapter 58, Rules for Control of Air Pollution in Idaho, Previously Codified at IDAPA Chapter 39 (Appendix A.3)</b> |                     |                                 |  |                |
| <b>58.01.01—RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO</b>  |                     |                                 |  |                |
| 006  | General Definitions | 4/5/00, 3/20/97, 5/1/95, 5/1/94 | 01/16/03, 68 FR 2217 10/6/05 [Insert page number where the document begins]. | Except (84)(f) |

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[R03-OAR-2004-PA-0001, R03-OAR-2004-PA-0002; FRL-7980-5]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revision to the Motor Vehicle Enhanced I/M Program—Philadelphia, Pittsburgh, South Central, and Northern Regions and Safety Inspection Program Enhancements for Non-I/M Regions**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** EPA is approving several State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions amend Pennsylvania's existing, Federally-approved enhanced vehicle inspection and maintenance program (or I/M program) SIP. EPA is herein taking a single final rulemaking action to finalize two separately issued proposed rulemakings on the subject of Pennsylvania's I/M program. The intended effect of this combined final action is to approve the Commonwealth's revised I/M program SIP for the Philadelphia, Pittsburgh, South Central and Northern Regions. This action also serves to incorporate into the SIP a visual emission component inspection program done under the Commonwealth's annual safety inspection program in those 42 counties of Pennsylvania not subject to Federal I/M program requirements.

**DATES:** This final rule is effective on November 7, 2005.

**ADDRESSES:** EPA has established two dockets for this action under Regional Material in E-Docket (RME) ID Number R03-OAR-2004-PA-0001 and Number R03-OAR-2004-PA-0002. All documents in the docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Once in the system, select Aquick search," then key in the appropriate RME identification number for each docket. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (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 form. Publicly available docket materials are available either electronically in RME or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn, at (215) 814-2176, or by e-mail at [rehn.brian@epa.gov](mailto:rehn.brian@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

EPA published two concurrent notices of proposed rulemaking (NPR) on April 26, 2005 proposing to approve two separate SIP revisions submitted by the Commonwealth of Pennsylvania. One of these April 26, 2005 NPRs (70 FR 21384) proposed approval of the Commonwealth's revised motor vehicle enhanced I/M program as it applies to select geographic regions of Pennsylvania. Pennsylvania regions

affected by that rulemaking action include the South Central Region (Berks, Cumberland, Dauphin, Lancaster, Lebanon, Lehigh, Northampton, and York Counties) and the Northern Region (Blair, Cambria, Centre, Lackawanna, Luzerne, Lycoming, and Mercer Counties). EPA also proposed to approve portions of Pennsylvania's revised safety inspection program (for areas not subject to Federal enhanced I/M requirements) related to visual inspection of certain vehicle components that serve to reduce emissions. This emission component visual inspection element of the state safety inspection program is a new requirement for 42 Pennsylvania counties (see EPA's NPR for the complete list of affected counties). The Commonwealth's formal SIP revision, which was the subject of this notice, was submitted by Pennsylvania on December 1, 2003, and was revised via a technical SIP amendment submitted by Pennsylvania on April 29, 2004.

In the second of April 26, 2005 (70 FR 21380) rulemaking actions regarding Pennsylvania's I/M, EPA proposed approval of the revised enhanced I/M programs applicable in the Pittsburgh Region (Allegheny, Beaver, Washington, and Westmoreland Counties) and the Philadelphia Region (Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties). The Commonwealth submitted a formal SIP revision on January 30, 2004 applicable only to these two Regions. This SIP revision was also revised by Pennsylvania via a technical SIP amendment submitted to EPA on April 29, 2004.

**II. Summary of SIP Revision**

EPA granted prior SIP approval to Pennsylvania's previously adopted I/M SIP in June 1999. Pennsylvania submitted formal SIP revisions to amend that SIP-approved I/M program