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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 075-1075; FRL-6462-3]

Approval and Promulgation of Air Quality Implementation Plans; Iowa Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; annual update to IBR process.

SUMMARY: EPA is updating the materials submitted by Iowa that are incorporated by reference into the State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the state agency and approved by EPA.

EFFECTIVE DATE: This action is effective November 22, 1999.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101; the EPA Office of Air and Radiation, Docket and Information Center (Air Docket), 401 M Street S.W., Room M1500, Washington, D.C. 20460; and Office of the Federal Register, 800 North Capitol Street N.W., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Edward West at the above Region VII address or at (913) 551-7330.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is a SIP?

What action is EPA taking in this document?

How does this rule comply with EPA Administrative Procedures?

What is a SIP?

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally approved SIPs, as a result of consultations between EPA and OFR. The description of the revised SIP

document, incorporation by reference (IBR) procedures, and "Identification of plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document.

What Action Is EPA Taking in This Document?

On February, 12, 1999, EPA published a document in the **Federal Register** (64 FR 7091) beginning the new IBR procedure for Iowa, Kansas, and Nebraska.

In this document EPA is doing the first annual update to the material being incorporated by reference by Iowa.

How Does This Rule Comply With EPA Administrative Procedures?

EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's action simply codifies provisions which are already in effect as a matter of law in approved Federal and state programs.

Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by updating citations.

I. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled "Regulatory Planning and Review."

B. E.O. 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to

issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new E.O. on federalism, E.O. 13132 (64 FR 43255 (August 10, 1999)), which will take effect on November 2, 1999. In the interim, the current E.O. 12612 (52 FR 41685 (October 30, 1987)) on federalism still applies. This rule will not have a substantial direct effect on 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 E.O. 12612, because it merely codifies Federal approval of preexisting requirements. The rule affects only one state, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA).

C. E.O. 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation.

This rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not establish a further health or risk-based standard because it codifies provisions which implement a previously promulgated health or safety-based standard.

D. E.O. 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." This rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. In addition, this final rule merely codifies Federal approvals of state requirements which have already occurred. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S.*

EPA, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action codifies Federal approvals of preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 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 United States Senate, the United States 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 rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each

individual component of the Iowa SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review.

List of Subjects in 40 CFR Part 52

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

Dated: September 17, 1999.

William Rice,

Acting Regional Administrator, Region VII.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

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

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

Subpart Q—Iowa

2. Section 52.824 paragraph (b) is revised to read as follows:

§ 52.824 Original Identification of Plan Section.

* * * * *

(b) Incorporation by reference.

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to August 1, 1999, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after August 1, 1999, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region VII certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the SIP as of August 1, 1999.

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, Region VII, Air Planning and Development Branch, 901

North 5th Street, Kansas City, Kansas 66101; the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC; or at EPA Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-6478-6]

RIN 2060-A153

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology (Generic MACT); Process Wastewater Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On June 29, 1999 (64 FR 34854), we promulgated a consolidated rulemaking that included standards for four specific source categories (i.e., acetal resins (AR), acrylic and modacrylic fiber (AMF), hydrogen fluoride (HF) and polycarbonate (PC) production), and general control requirements for certain types of emission points for hazardous air pollutants (HAP).

At the time of promulgation of the consolidated rulemaking, we deferred taking final action regarding provisions applicable to wastewater streams for the AR, AMF, and PC production source categories based on a need to propose significant changes to the wastewater provisions that were proposed on October 14, 1998 (63 FR 55178). The HF production source category does not have wastewater streams. In parallel with the promulgated consolidated rulemaking package, we published a supplemental notice of proposed rulemaking regarding wastewater provisions (64 FR 34950) applicable to wastewater streams for the AR, AMF, and PC production source categories and reopened the public comment

period regarding those proposed wastewater provisions.

Today's action promulgates wastewater provisions amendments applicable to wastewater streams for the AR, AMF, and PC production source categories based on our response to comments received on the wastewater provisions proposed on June 29, 1999 (64 FR 34950).

EFFECTIVE DATE: November 22, 1999.

ADDRESSES: Docket No. A-97-17 contains supporting information used in developing the standards. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 in room M-1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For information concerning the final wastewater provision amendments, contact David W. Markwordt at the Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541-0837, facsimile (919) 541-0942, e-mail address markwordt.david@epa.gov.

SUPPLEMENTARY INFORMATION:

Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (Act).) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260-7548. A reasonable fee may be charged for copying docket materials.

Technical Support Document.

The wastewater amendments promulgated today are supported by a supplementary information memorandum that contains a summary of the public comments received on the proposed wastewater provision amendments and our response to those comments. This memorandum may be obtained from the docket for this rule, A-97-17 (see *Docket*). The title of the memorandum is "Generic Maximum Achievable Control Technology—Supplementary Information for Acetal Resins, Acrylic and Modacrylic Fiber, and Polycarbonate Production Wastewater Provisions." The Supplementary Notice of Proposed Rulemaking (SNPR), the promulgated regulatory text, and supporting documentation are available in Docket No. A-97-17 or by request from our Air and Radiation Docket and Information Center (see **ADDRESSES**).

Technology Transfer Network

In addition to being available in the docket, an electronic copy of today's amendments is also available through the Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Plain Language

In compliance with President Clinton's June 1, 1998 Executive Memorandum on Plain Language in government writing, this preamble is written using plain language. Thus, the use of "we" in this notice refers to the EPA. The use of "you" refers to the reader, and may include industry; State, local, and tribal governments; environmental groups; and other interested individuals.

Regulated Entities

Entities potentially regulated are those that produce AR, AMF, and PC and are major sources of HAP as defined in section 112 of the Act. Regulated categories and entities include:

Category	Regulated entities ^a
Industry	Producers of homopolymers and/or copolymers of alternating oxymethylene units. Producers of either acrylic fiber or modacrylic fiber synthetics composed of acrylonitrile (AN) units.