

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 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of

this action approving Delaware's definitions of VOCs and exempted compounds must be filed in the United States Court of Appeals for the appropriate circuit by May 10, 1999. 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, Ozone, Volatile organic compounds.

Dated: February 25, 1999.

Thomas J. Maslany,

Acting Regional Administrator, Region III.

40 CFR part 52 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 I—Delaware

2. In § 52.420, the entry for Regulation 1, Section 2; and Regulation 24, Section 2 in the "EPA-Approved Regulations in the Delaware SIP" table in paragraph (c) is revised to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA Approval date	Comments
Regulation 1		Definitions and Administrative Principles		
Section 2	Definitions	10/11/98	3/11/99 64 FR 12087	Some terms not in SIP due to subject matter.
Regulation 24		Control of Volatile Organic Compound Emissions		
Section 2	Definitions	10/11/98	3/11/99 64 FR 12087	The revised definition of "Exempt compounds".

[FR Doc. 99-5663 Filed 3-10-99; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 058-1058a; FRL-6308-5]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a revision to the Iowa State Implementation Plan (SIP) which provides for the attainment and maintenance of the sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) in Cedar Rapids, Iowa. This

revision approves a state Administrative Consent Order (ACO) and Emission Control Plan (ECP) which requires reductions of SO₂ emissions from certain major sources in Cedar Rapids, Iowa. Approval of this SIP revision will make the state ACO and ECP Federally enforceable.

DATES: This direct final rule is effective on May 10, 1999, without further notice, unless the EPA receives adverse comment by April 12, 1999. If adverse comment is received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be addressed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551-7603.

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

What is a SIP?
What is the NAAQS?
What air quality problems occurred in Cedar Rapids, Iowa?
How was the problem addressed?
What is the control strategy?
Is the SIP revision approvable?

Additional information is contained in the state submittal and in the EPA Technical Support Document for this notice which can be obtained by contacting EPA at the address above.

What Is a SIP?

Each state has a SIP containing rules, control measures, and strategies used to attain and maintain the NAAQS. The SIP is frequently updated by the state in order to maintain a current and effective air pollution control program, and to keep current with ongoing Federal requirements. The EPA must review and approve revisions to the state SIP. The Iowa SIP is published in 40 Code of Federal Regulations (CFR) Part 52, Subpart Q. The state of Iowa has submitted the control measures discussed below for approval in the Iowa SIP. Once measures have been approved into the SIP, the EPA has the authority to directly enforce the approved control measures.

What Is the NAAQS?

The EPA has established ambient air quality standards for a number of pollutants, including SO₂. These standards are set at levels to protect public health and welfare. The standards are published in 40 CFR Part 50. If ambient air monitors measure violations of the standard, states are required to identify the cause of the problem and to take measures which will bring the area back within the level of the NAAQS. The 24-hour NAAQS for SO₂ is .14 ppm, not to be exceeded more than once per year.

What Air Quality Problems Occurred in Cedar Rapids, Iowa?

In 1996 there were three exceedances; thus, two violations of the 24-hour SO₂ NAAQS were recorded at an ambient air monitor in downtown Cedar Rapids, Iowa.

How Was the Problem Addressed?

The Iowa Department of Natural Resources (IDNR) (Air Quality Bureau) and the local air agency (the Linn County Health Department), using air dispersion modeling, identified two sources which contributed to the NAAQS violations. These were the IES Utilities 6th Street Station and the Prairie Creek Station, both electric utility power plants. In addition, the modeling identified the potential for localized exceedances at the Archer-Daniels-Midland (ADM) corn processing plant. Results of the modeling were used to establish emission reductions necessary to prevent actual or modeled violations of the SO₂ NAAQS. The modeling was performed in accordance

with EPA requirements. (A detailed discussion of the modeling protocol and results was provided in the state SIP submittal and is available for review upon request.)

What Is the Control Strategy?

The IDNR negotiated enforceable emission limitations and other control measures, means, and techniques, as well as schedules and timetables for compliance, sufficient to ensure that the NAAQS for SO₂ will be achieved and maintained in the future. These control measures were developed in conformance with the requirements of 40 CFR Part 51, Subpart G—Control Strategy.

These enforceable commitments have been incorporated into an ACO with IES Utilities, and into an ECP with ADM. These documents constitute the basis for the state's control strategy. The state has met the requirements of 40 CFR Part 51, Subpart G—Control Strategy.

The critical control strategy conditions for each source are summarized as follows:

The IES Utilities 6th Street Station will operate at a reduced SO₂ emission limit and install continuous emission monitoring (CEM) equipment. Allowable emissions will be reduced by 60 percent. The Prairie Creek Station will operate at a reduced SO₂ emission limit, build a new stack, increase the height of an existing stack in conformance with the EPA's stack height requirements at 40 CFR Part 51.100, and install CEMs. Allowable SO₂ emissions will be reduced by 58 percent on Unit 3 and by 50 percent on Unit 4. The ADM facility will operate with reduced SO₂ emission limits on its boiler stacks and install wet scrubbers on two sources to control fugitive emissions.

All sources have met the compliance schedules in their respective ACO and ECP.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR section 51.102. The submittal also satisfied the completeness criteria of 40 CFR Part 51, Appendix V. In addition, as explained above, and in more detail in the technical support document which is part of this notice, the revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

Final Action:

The EPA is approving a revision to the Iowa SIP which requires source

specific SO₂ emission reductions which will result in attainment and maintenance of the SO₂ NAAQS.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 10, 1999, without further notice unless the Agency receives adverse comments by April 12, 1999.

If the EPA receives such comments, then the EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 10, 1999, and no further action will be taken on the proposed rule.

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, the 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, or the EPA consults with those governments. If the EPA complies by consulting, E.O. 12875 requires the EPA to provide to the OMB a description of the extent of the EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires the 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.

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 the 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.

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 address an environmental health or safety risk that would have a disproportionate effect on children.

D. E.O. 13084

Under E.O. 13084, the EPA may not issue a regulation that is not required by statute, that significantly 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, or the EPA consults with those governments. If the EPA complies by consulting, E.O. 13084 requires the EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of the 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 the EPA to develop an effective process permitting elected officials 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."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action

does not involve or impose any requirements that affect Indian tribes. 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. Therefore, because the Federal SIP approval does not create any new requirements, 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 the 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, the 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, the 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 the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The 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

approves 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. The 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 U.S. Comptroller General prior to publication of the rule 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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 10, 1999. 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, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: February 25, 1999.

Diane K. Callier,

Acting Regional Administrator, Region VII.

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 Q—Iowa

2. In § 52.820, paragraph (d), EPA-approved state source-specific permits, revise heading directly above table to

read EPA-Approved Iowa Source-Specific Permits, and add the entries for IES Utilities and Archer-Daniels-

Midland to the end of the table to read as follows:

\$ 52.820 Identification of plan.

* * * * *

(d) EPA-approved Iowa source-specific permits.

EPA-APPROVED IOWA SOURCE-SPECIFIC PERMITS

Name of source	Order/permit No.	State effective date	EPA approval date	Comment
* * *	* * *	* * *	* * *	* * *
IES Utilities, Inc	98-AQ-20	11/20/98	3/11/99 64 FR 12090	SO ₂ Control Plan for Cedar Rapids, Iowa.
Archer-Daniels-Midland Corporation.	SO ₂ Emission Control Plan	9/14/98	3/11/99 64 FR 12090	ADM Corn Processing SO ₂ Control Plan for Cedar Rapids, Iowa.

[FR Doc. 99-5824 Filed 3-10-99; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. NHTSA-97-3205, Notice 02]

Passenger Automobile Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final decision.

SUMMARY: This final decision responds to a joint petition filed by Vector Aeromotive Corporation (Vector) and Lamborghini S.p.A. (Lamborghini) requesting that each company be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model years (MYs) 1998 and 1999 and that lower alternative standards be established. In this document, NHTSA denies Lamborghini's request for MYs 1998 and 1999 and grants Vector's request only for MY 1998. The agency establishes an alternative standard of 12.1 mpg for MY 1998 for Vector.

DATES: Effective Date: This final decision is effective April 12, 1999. This denial applies only to Lamborghini for MYs 1998 and 1999.

Petitions for reconsideration: Petitions for reconsideration must be received no later than April 12, 1999.

ADDRESSES: Petitions for reconsideration of this rule should refer to the docket and notice number set forth above and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590.

For non-legal issues: Ms. Henrietta L. Spinner, Office of Planning and Consumer Programs, Safety Performance Standards, NPS-32, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone: (202) 366-4802, facsimile (202) 366-2739.

For legal issues: Otto Matheke, Office of the Chief Counsel, NCC-20, telephone (202) 366-5253, facsimile (202) 366-3820.

SUPPLEMENTARY INFORMATION:

Statutory Background

Pursuant to section 32902(d) of Chapter 329 "Automobile Fuel Economy" (49 U.S.C. 32902(d)), NHTSA may exempt a low volume manufacturer of passenger automobiles from the generally applicable average fuel economy standards if NHTSA concludes that those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard at that maximum feasible level. Under the statute, a low volume manufacturer is one that manufactured (worldwide) fewer than 10,000 passenger automobiles in the second model year before the model year for which the exemption is sought (the affected model year) and that will manufacture fewer than 10,000 passenger automobiles in the affected model year. In determining the maximum feasible average fuel economy, the agency is required under 49 U.S.C. 32902(f) to consider:

- (1) Technological feasibility
- (2) Economic practicability
- (3) The effect of other Federal motor vehicle standards on fuel economy, and
- (4) The need of the United States to conserve energy.

The statute permits NHTSA to establish alternative average fuel economy standards applicable to exempt low volume manufacturers in one of three ways: (1) a separate standard for each exempted manufacturer; (2) a separate average fuel economy standard applicable to each class of exempted automobiles (classes would be based on design, size, price, or other factors); or (3) a single standard for all exempted manufacturers.

Proposed Decision and Public Comment

This final decision was preceded by a proposal announcing the agency's tentative conclusion that Vector and Lamborghini should be exempted from the generally applicable MYs 1998 and 1999 passenger automobile average fuel economy standard of 27.5 mpg, and that alternative standards of 12.4 mpg for MYs 1998 and 1999 be established for Vector and Lamborghini (63 FR 5774; February 4, 1998). The agency did not receive any comments in response to the proposal.

NHTSA Final Determination

On August 27, 1997, Lamborghini and Vector filed a joint petition seeking an exemption from the generally applicable fuel economy standards for passenger cars for MYs 1998 and 1999 and requested that an alternative fuel economy standard for the two companies be established. At the time this petition was filed, V-Power Corporation controlled Lamborghini and Vector. V-Power was, and remains, the largest shareholder of Vector, owning 57 percent of the stock; with the remaining 43 percent of Vector being publicly held. V-Power also had a controlling interest in Lamborghini owning 50 percent of Lamborghini's stock. As V-Power controlled both companies, any alternative Corporate Average Fuel Economy (CAFE) standard would apply to Lamborghini and Vector together (see 49 U.S.C. 32901(a) (4)), and a single