

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 068-1068a; FRL-6322-1]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to approve a State Implementation Plan (SIP) revision submitted by the state of Iowa. This revision approves numerous updates of the state's air program rules and ensures that the state's SIP is current with Federal requirements. The effect of this action is to ensure Federal enforceability of the state's air program rule revisions.

DATES: This direct final rule is effective on June 11, 1999 without further notice, unless EPA receives adverse comment by May 12, 1999. If adverse comment is received, 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 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, D.C. 20460.

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

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

- What is a SIP?
- What is the Federal approval process for a SIP?
- What does Federal approval of a state regulation mean to me?
- What is being addressed in this notice?
- What action is the EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These

ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to EPA for inclusion into the SIP. EPA must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by EPA.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled "Approval and Promulgations of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that EPA has approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, EPA is authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in the CAA.

What Is Being Addressed in This Notice?

The Iowa Department of Natural Resources (IDNR) revised a number of its rules in order to maintain equivalency with Federal requirements, to update adoption by reference to Federal rules, to provide clarifications, to remove obsolete rules, and to correct internal citations. The revised rule chapters are: Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice"; Chapter 22, "Controlling Pollution"; Chapter 23, "Emissions Standards for Contaminants"; Chapter 24, "Excess Emission"; Chapter 25, "Measurement of Emissions"; Chapter 29, "Qualifications in Visual Determinations of the Opacity of Emissions"; and Chapter 31, "Nonattainment Areas." 567 Iowa Administrative Code. Specific Chapter paragraphs and subparagraphs which were revised are: 20.1, 20.2, 20.3(4), 20.3(6)—rescinded, 22.1(1), 22.1(2), 22.1(3), 22.1(4), 22.4, 22.4(1), 22.4(3), 22.5(2), 22.5(4), 22.5(6), 22.5(10), 22.8(1), 22.203(1), 22.300(2), 22.300(8), 23.1(6), 23.2(3), 23.3(2), 24.1(2), 25.1(7), 25.1(9), 25.1(10), 25.1(12), 29.1, and 31.2.

The general subject matter of the revisions included, but was not limited to, updating the definition of "volatile organic compound," updating the reference to EPA Guideline on Air Quality Models (Revised), updating the reference to the Federal prevention of significant deterioration program at 40 CFR 52.21, providing additional restrictions in the open burning rule, and updating the reference to EPA opacity method at 40 CFR part 60.

These revisions to the Iowa SIP were submitted by Larry Wilson, IDNR Director, on August 12, 1998. The state effective date for these revisions is May 13, 1998.

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 document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

EPA is processing this action as a direct final action because the revisions make routine revisions to the existing

rules which are noncontroversial. Therefore, we do not anticipate any adverse comments.

Conclusion

Final Action

EPA is taking final action to approve, as an amendment to the Iowa SIP, rule revisions submitted by the state of Iowa on August 12, 1998.

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, 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 June 11, 1999 without further notice unless the Agency receives adverse comments by May 12, 1999.

If EPA receives such comments, then 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. 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 June 11, 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, 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 EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to 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 any 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.

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.

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, 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 EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to 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 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 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 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. 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 June 11, 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, Carbon monoxide, Intergovernmental relations, Lead,

Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 29, 1999.

Dennis Grams,

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 the following entries for paragraph (c), EPA-approved regulations, are revised to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) EPA-approved regulations.

EPA—APPROVED IOWA REGULATIONS

| Iowa citation | Title | State effective date | EPA approval date | Comments |
|---|--|----------------------|-----------------------------|---|
| Iowa Department of Natural Resources Environmental Protection Commission [567] | | | | |
| Chapter 20—Scope of Title-Definitions-Forms-Rule of Practice | | | | |
| 567–20.1 | Scope of Title | 5/3/98 | April 12, 1999 [FR cite]. | |
| 567–20.2 | Definitions | 5/3/98 | April 12, 1999 [FR cite]. | |
| 567–20.3 | Air Quality Forms Generally | 5/3/98 | April 12, 1999 [FR cite]. | |
| * | * | * | * | * |
| Chapter 22—Controlling Pollution | | | | |
| 567–22.1 | Permits Required for New or Existing Stationary Sources. | 5/3/98 | April 12, 1999 [FR cite]. | |
| * | * | * | * | * |
| 567–22.4 | Special Requirements for Major Stationary Sources Located in Areas Designated Attainment or Un-classified (PSD). | 5/3/98 | April 12, 1999 [FR cite]. | |
| 567–22.5 | Special Requirements for Nonattainment Areas | 5/3/98 | April 12, 1999 [FR cite]. | |
| 567–22.8 | Permit by Rule | 5/3/98 | April 12, 1999 [FR cite]. | |
| * | * | * | * | * |
| 567–22.203 | Voluntary Operating Permit Applications | 5/3/98 | April 12, 1999 [FR cite]. | |
| * | * | * | * | * |
| 567–22.300 | Operating Permit by Rule for Small Sources | 5/3/98 | April 12, 1999 [FR cite]. | |
| Chapter 23—Emission Standards for Contaminants | | | | |
| 567–23.1 | Emission Standards | 5/3/98 | April 12, 1999 [FR cite] .. | Sections 23.1(2)–(5) are not approved in the SIP |
| 567–23.2 | Open Burning | 5/3/98 | April 12, 1999 [FR cite]. | |
| 567–23.3 | Specific Contaminants | 5/3/98 | April 12, 1999 [FR cite] .. | Section 23.3(3)(d) is not part of the approved SIP. |

EPA—APPROVED IOWA REGULATIONS—Continued

| Iowa citation | Title | State effective date | EPA approval date | Comments |
|---|---|----------------------|---------------------------|----------|
| * | * | * | * | * |
| Chapter 24—Excess Emissions | | | | |
| 567–24.1 | Excess Emission Reporting | 5/3/98 | April 12, 1999 [FR cite]. | |
| * | * | * | * | * |
| Chapter 25—Measurement of Emissions | | | | |
| 567–25.1 | Testing and Sampling of New and Existing Equipment. | 5/3/98 | April 12, 1999 [FR cite]. | |
| * | * | * | * | * |
| Chapter 29—Qualification in Visual Determination of the Opacity of Emissions | | | | |
| 567–29.1 | Methodology and Qualified Observer | 5/3/98 | April 12, 1999 [FR cite]. | |
| Chapter 31—Nonattainment Areas | | | | |
| * | * | * | * | * |
| 567–31.2 | Conformity of General Federal Actions to the Iowa SIP or Federal Implementation Plan. | 5/8/98 | April 12, 1999 [FR cite]. | |
| * | * | * | * | * |

[FR Doc. 99–8940 Filed 4–9–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 81**

[GA–42–1–9908a; FRL–6321–1]

Implementation Plan and Redesignation Request for the Muscogee County, Georgia Lead Nonattainment Area**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is simultaneously approving the lead state implementation plan (SIP) and redesignation request for the Muscogee County, Georgia, lead nonattainment area. Both plans dated September 28, 1998, were submitted by the State of Georgia for the purpose of demonstrating that the Muscogee County area has attained the lead National Ambient Air Quality Standard (NAAQS).

DATES: This direct final rule is effective June 11, 1999 without further notice, unless EPA receives adverse comment by May 12, 1999. If adverse comment is received, 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 mailed to Kimberly Bingham at the EPA Region 4 address listed below. Copies of the material submitted by Georgia Environmental Protection Division (EPD) may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460.

Environmental Protection Agency, Atlanta Federal Center, Region 4 Air Planning Branch, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104.

Georgia Environmental Protection Division, Air Protection Branch, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Regulatory Planning Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303. The telephone number is (404)562–9038.

SUPPLEMENTARY INFORMATION:**I. Background—Lead SIP**

Section 107(d)(5) of the Clean Air Act as amended in 1990 (CAA) provides for areas to be designated as attainment, nonattainment, or unclassifiable with respect to the lead NAAQS. Governors are required to submit recommended designations for areas within their states. When an area is designated nonattainment, the state must prepare and submit a SIP pursuant to sections 110(a)(2) and 172(c) of the CAA showing how the area will be brought into attainment.

On January 6, 1992, EPA designated the portion of Muscogee County around the GNB, Inc., lead smelter and battery production facility as nonattainment for lead. This nonattainment designation was based on lead NAAQS violations from monitors located near the GNB facility that were recorded the first, second, and fourth quarter of the calendar year 1991.

On July 23, 1993, Georgia EPD submitted a lead SIP for attaining the NAAQS in the Muscogee County lead nonattainment area. EPA found the SIP to be inadequate because it did not meet the requirements of section 172(c) of the CAA and requested that Georgia EPD make the necessary corrections and submit supplemental information to address the deficiencies. To comply, Georgia EPD submitted a supplemental modeling demonstration for the base