

Dated: January 27, 1998.

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*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 037-1037a; FRL-5955-4]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves revisions of the Iowa State Implementation Plan regarding two local air pollution control agencies. The scope of this action includes updated regulations for the Polk County Public Works Department (PCPWD) and Linn County Health Department (LCHD). These revisions include provisions such as definitions, permit exemptions, visible opacity and open burning.

DATES: This action is effective April 3, 1998, unless by March 4, 1998, adverse or critical comments are received. If the effective date is delayed timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551-7213.

SUPPLEMENTARY INFORMATION: The two local air pollution control agencies in Iowa were created in December 1972. Throughout the past 25 years, these agencies periodically update their regulations to reflect revisions adopted by the Iowa Department of Natural Resources (IDNR) in the Iowa Administrative Code (IAC). This provides consistency for sources throughout the state.

Both the PCPWD and LCHD provided drafts of rule revisions to the EPA beginning in 1994. Since that time, the EPA and IDNR have worked closely with the local agencies to ensure consistency with state and Federal regulations.

These actions led to a request to revise the SIP for both local programs under the signature of Larry Wilson, Director, IDNR, in a letter dated April 2, 1997. Following an assurance that the request met all administrative requirements contained in 40 CFR part 51, the EPA provided a letter of completeness on June 5, 1997.

In general terms, the regulations contained in the "Polk County Board of Health Rules and Regulations: Chapter V, Air Pollution" (effective December 18, 1996) and the "Linn County Air Pollution Control Code of Ordinances" (effective March 7, 1997) are consistent with applicable portions of federally approved rules contained in the IAC. In a technical support document entitled "Revision of Iowa Local's State Implementation Plans" dated September 26, 1997, the EPA has determined that the regulations adopted by both agencies are fully approvable. The rationale for approval is straightforward, and is not repeated here. The reader is encouraged to request and consult this document for specific descriptions of the changes made in the local regulations that are intended to provide consistency with the state's rules and various Federal regulations.

Certain portions of the local rules are not part of the SIP (e.g., new source performance standards). While these updated regulations are an important component of the local air pollution programs, they are excluded from this action because they are not intended to meet the SIP requirements of section 110 of the Act. Therefore, the EPA is not taking action on those portions.

This exclusion regards regulations (which are administered in Iowa by IDNR under various EPA approval and delegations) pertaining to Title V (regulated under part 70), New Source Performance Standards (delegated to the state under section 111), National Emissions Standards for Hazardous Air Pollutants (delegated to the state under section 112), Hazardous Air Pollutants (delegated to the state under section 112), and Sulfur Compounds (portions of which reflect the state's regulation of certain sulfuric acid mist emissions, and approved by the EPA under section 111). In addition, the EPA is not taking action on those portions regarding variances or odors. Finally, as explained in the TSD for this rule, the EPA is not acting on the Linn County definition of "federally enforceable" in section 10.2, since it is duplicative of another definition included in the portion of the local rules which specifically use the defined term.

I. Action

The EPA is taking final action to approve revisions that pertain to the SIP submitted on April 2, 1997, for the two local air pollution control agencies in the state of Iowa. These revisions reflect rules adopted by the PCPWD which became effective December 18, 1996, and those adopted by the LCHD which became effective March 7, 1997.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action is effective April 3, 1998, unless, by March 4, 1998, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action is effective April 3, 1998.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

II. Administrative Requirements

A. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act (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 impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory 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. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

C. 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 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 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.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted 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 General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is

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

E. 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 April 3, 1998. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 30, 1997.

Diane Callier,

Acting Regional Administrator, Region VII.

Part 52, 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. Section 52.820 is amended by adding paragraph (c)(66) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

(66) On April 2, 1997, the Director of the Iowa Department of Natural Resources submitted revisions to the State Implementation Plan (SIP) for the State's two local agencies: the Polk County Public Works Department and Linn County Health Department.

(i) Incorporation by reference.

(A) Revised rules, "Polk County Board of Health Rules and Regulations: Chapter V, Air Pollution," effective December 18, 1996. This revision approves all articles insofar as they pertain to the SIP. Article XIII is specifically excluded from this approval. No action is taken on Sections

5–16(n), 5–16(p), 5–20, and 5–27(3) and (4).

(B) Revised rules, "Linn County Air Pollution Control Code of Ordinances," effective March 7, 1997. This revision approves all sections insofar as they pertain to the SIP. Sections 10.4(1.), 10.11, and 10.15 are specifically excluded from this approval. No action is taken on Sections 10.9(2.), 10.9(3.), 10.9(4.), and the definition of "federally enforceable" in Section 10.2.

(ii) Additional material.

(A) Letter from Allan E. Stokes, Iowa Department of Natural Resources, to William A. Spratlin, Environmental Protection Agency, dated May 15, 1997. This letter provides additional information regarding various administrative requirements outlined in 40 CFR part 51.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA9–1–5540, WA28–1–6613, WA34–1–6937; FRL–5951–2]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM10) for the Yakima, Washington nonattainment area. On March 24, 1989, the Washington Department of Ecology (WDOE) submitted a plan for attaining and maintaining the National Ambient Air Quality Standard (NAAQS) for PM10 in the Yakima PM10 moderate nonattainment area and the plan was amended with additional submittals between 1992 and 1995. EPA proposed to approve and disapprove portions of the SIP submitted by the state of Washington on November 7, 1995. Subsequent to the November, 1995 proposal, EPA received two additional revisions from WDOE, dated November 3, and December 27, 1995 that resolved EPA's concerns in the proposed disapproval of portions of the Yakima PM10 nonattainment plan. Although EPA promulgated a new PM NAAQS, which became effective on September 16, 1997, the requirements which are