

## EPA-APPROVED IOWA REGULATIONS—Continued

Iowa citation	Title	State effective date	EPA approval date	Comments
* 567–22.300 .....	* Operating Permit by Rule for Small Sources.	* 10/14/98	* 5/13/99 64 FR 25828.	* *
* .....	* .....	* .....	* .....	* .....
<b>Chapter 23</b> <b>Emission Standards for Contaminants</b>				
* 567–23.1 .....	* Emission Standards .....	* 10/14/98	* 5/13/99 64 FR 25828 .....	* Sections 23.1(2)–(5) are not approved in the SIP.
* .....	* .....	* .....	* .....	* .....
<b>Chapter 25</b> <b>Measurement of Emissions</b>				
* 567–25.1 .....	* Testing and Sampling of New and Existing Equipment.	* 12/23/98	* 5/13/99 64 FR 25828 .....	* Subrule 25.1(12) has not been approved.
* .....	* .....	* .....	* .....	* .....
<b>Chapter 28</b> <b>Ambient Air Quality Standards</b>				
* 567–28.1 .....	* Statewide Standards .....	* 10/14/98	* 5/13/99 64 FR 25828.	* *
* .....	* .....	* .....	* .....	* .....

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[CA012–0144a, FRL–6335–3]

**Approval and Promulgation of Implementation Plan for South Coast Air Quality Management District****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action to approve revisions to a number of South Coast Air Quality Management District (District) rules contained in the District Regulation II. The District submitted these rules for the purpose of meeting the requirements of the Clean Air Act (CAA), as amended in 1990 with regard to new source review (NSR) in areas that have not attained the national ambient air quality standards (NAAQS).

This approval action will incorporate these rules into the federally approved State Implementation Plan (SIP) for California. The rules were submitted during 1991 and 1994 by the State to satisfy certain Federal requirements for an approvable NSR SIP. Thus, EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

**DATES:** This rule is effective on July 12, 1999 without further notice, unless EPA receives adverse comments by June 14, 1999. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments should be addressed to: Nahid Zoueshtigh (Air-3), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation report of each rule are

available for public inspection at EPA's Region 9 office during normal business hours at the following address:

Permits Office (Air-3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Copies of the submitted rules are also available for inspection at the following locations: Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814. South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

**FOR FURTHER INFORMATION CONTACT:** Nahid Zoueshtigh, (Air-3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1261.

**SUPPLEMENTARY INFORMATION:** The air quality planning requirements for nonattainment NSR are set out in part

D of title I of the CAA. EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those State submittals containing nonattainment NSR SIP requirements [see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion. EPA has also proposed regulations to implement the changes under the 1990 Amendments in the NSR provisions in parts C and D of Title I of the Act. [See 61 FR 38249 (July 23, 1996)]. Upon final promulgation of those regulations, EPA will review those NSR SIP submittals on which it has already taken final action to determine whether additional SIP revisions are necessary.

### Procedural Background

The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) and section 110(l) of the Act provide that each implementation plan or revision to an implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 172(c)(7) of the Act provides that plan provisions for nonattainment areas shall meet the applicable provisions of Section 110(a)(2).

The District held public hearings on its actions on these rules. The dates for public hearing, adoption or rescission and submission to EPA are as follows:

*Rules 201, 203, 205, 209, 214, 215, 216 and 217 (revised):* Public hearing on December 1, 1989; adoption on January 5, 1990; and submission to EPA on May 13, 1991.

*Rule 201.1 (new):* Public hearing December 1, 1989; adoption on January 5, 1990; and submission to EPA on May 13, 1991.

*Rules 204, 206 and 210 (revised):* Public hearing and adoption on October 8, 1993; and submission to EPA on February 28, 1994.

*Rules 203.1, 203.2, 204.1, 213, 213.1, and 213.2 (rescinded):* Public hearing and rescission on June 28, 1990; and submission to EPA on April 5, 1991.

*Rule 211 (rescinded):* Public hearing on December 1, 1989; rescission on January 5, 1990; and submission to EPA on May 13, 1991.

Three of the rescinded rules (Rules 203.1, 203.2, 204.1) were not a part of the federally-approved SIP. Therefore EPA is not taking any action on them.

### Summary of Rule Contents

The District submitted the above rules to EPA for adoption into the applicable NSR SIP Rules.

The rules subject to this action are in District Regulation II and apply to all sources requiring Permits to Construct or Permits to Operate. The rules describe applicability and procedures for applying for a Permit to Construct or a Permit to Operate, and provide procedures and timetables for issuance, denial and appeal of permits. These rules are separate from the federal operating permit program under Regulation XXX of the District. The revisions made to the rules subject to this action are mainly to provide: (1) An administrative change to reflect District's current organizational authority such as replacing the term Air Pollution Control Officer (APCO) with the term Executive Officer (EO) in Rules 201 and 217; (2) editorial clarifications in Rules 203 and 209; (3) amendment and improvement of the rule language in Rules 204, 206 and 210 to refer to the Title V (federal operating permit program); (4) additional rule (Rule 201.1) to enforce permit conditions contained in federally issued permits; and (5) detailed procedures and timetables for permit issuance, denial and appeals procedures in Rules 214, 215, and 216. For a description of how these rules meet the CAA's applicable requirements, please refer to EPA's technical support document (TSD) contained in the Docket.

### EPA Evaluation and Action

EPA has evaluated amended Rules 201, 203, 204, 205, 206, 209, 210, 214, 215, 216, 217, and new Rule 201.1. EPA has determined that the rules are consistent with the CAA, EPA regulations and EPA policy. Therefore, District Rules 201, 201.1, 203, 204, 205, 206, 209, 210, 214, 215, 216 and 217 are approved into SIP.

Although initially part of the submittal, the District has rescinded Rules 203.1, 203.2, 204.1, 211, 213, 213.1, and 213.2. The EPA is not taking any action on Rules 203.1, 203.2 and 204.1 which were not a part of the SIP. However, the EPA is approving deletion of Rules 211, 213, 213.1 and 213.2 from the SIP. The District has incorporated the requirements of Rule 211 in its Rule 210. EPA has also determined that the requirements of Rules 213, 213.1 and 213.2 are now in Rule 212 and Regulation XIII which the EPA approved them into the SIP in December 1996. These rules which contain the requirements of the rescinded rules

were also subject to the District's public review process.

The EPA is taking this action under section 110(k)(3) of the CAA for these rules which meet the requirements of Section 110(a), and part D of Title I of the Act.

### Administrative Review

The EPA is publishing this action without prior proposal in part because the District has provided public workshops in the development of the submitted rules, and provided the opportunity for public comment prior to adoption of the submitted rules. At that time, no significant comments were received by the District. The Agency therefore views this as a non-controversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This rule is effective on July 12, 1999 without further notice, unless EPA receives adverse comments by June 14, 1999. If EPA receives such comment, it will publish a timely withdrawal **Federal Register** informing the public that this rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. 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 will be effective July 12, 1999.

### Administrative Requirements

#### A. Executive Order 12866

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

#### B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, 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, Executive Order 12875 requires EPA to provide to the Office of Management and Budget 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, Executive Order 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. Executive Order 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 does not involve decisions intended to mitigate environmental health or safety risks.

#### D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, 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, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, 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,

Executive Order 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. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (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 Clean Air Act 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 Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act 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 pre-existing 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 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 must be filed in the United States Court of Appeals for the appropriate circuit by July 12, 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compound.

**Note:** Incorporation by reference of the State Implementation Plan for the State of

California was approved by the Director of the **Federal Register** on July 1, 1982.

**Felicia Marcus,**

*Regional Administrator, Region IX.*

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 F—California**

2. Section 52.220 is amended by adding paragraphs (c)(31)(vi)(D), (c)(36)(i)(B), (c)(184)(i)(B)(7), and (c)(217)(i)(C) to read as follows:

#### **§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(31) \* \* \*

(vi) \* \* \*

(D) Previously approved on November 9, 1978 and now deleted without replacement Rule 211.

\* \* \* \* \*

(36) \* \* \*

(i) \* \* \*

(B) Previously approved on November 9, 1978 and now deleted without replacement Rule 213, 213.1, and 213.2.

\* \* \* \* \*

(184) \* \* \*

(i) \* \* \*

(B) \* \* \*

(7) Rules 201, 203, 205, 209, 214 to 217 amended on January 5, 1990 and Rule 201.1 adopted on January 5, 1990.

\* \* \* \* \*

(217) \* \* \*

(i) \* \* \*

(C) South Coast Air Quality Management District.

(J) Rules 204, 206, and 210 amended on October 8, 1993.

\* \* \* \* \*

[FR Doc. 99-11999 Filed 5-12-99; 8:45 am]

BILLING CODE 6560-50-P

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 62**

[FRL-6340-6]

#### **Approval and Promulgation of State Plans for Designated Facilities and Pollutants; North Dakota; Control of Emissions From Existing Hazardous/Medical/Infectious Waste Incinerators**

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

**ACTION:** Direct final rule.

**SUMMARY:** We are approving the section 111(d) Plan submitted by the North Dakota Department of Health on October 6, 1998, to implement and enforce the Emissions Guidelines (EG) for existing Hazardous/Medical/Infectious Waste Incinerators (HMIWI). The EG require States to develop plans to reduce toxic air emissions from all HMIWIs.

**DATES:** This direct final rule is effective on July 12, 1999, without further notice, unless we receive adverse comments by June 14, 1999. If we receive adverse comments, we 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:** You should address comments on this action to Richard R. Long, EPA Region 8, Office of Air and Radiation (8P-AR), 999 18th Street, Suite 500, Denver, Colorado 80202. Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 8 offices, 999 18th Street, Suite 500, Denver, Colorado 80202, and at the North Dakota Department of Health offices, 1200 Missouri Avenue, Bismarck, North Dakota 58504-5264.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Paser at 303-312-6526.

#### **SUPPLEMENTARY INFORMATION:**

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#### **I. What Action Is Being Taken by EPA Today?**

We are approving North Dakota's State Plan, as submitted on October 6, 1998 for the control of air emissions from HMIWIs, except for those HMIWIs located in Indian Country. When we developed our New Source Performance Standard (NSPS) for HMIWIs, we also developed Emissions Guidelines (EG) to control air emissions from older HMIWIs. (See 62 FR 48348-48391, September 15, 1997). North Dakota developed a State Plan, as required by section 111(d) of the Clean Air Act (the Act), to adopt the EG into their body of regulations, and we are acting today to approve it.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and

anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the revision should significant, material, and adverse comments be filed. This action is effective July 12, 1999, unless by June 14, 1999, adverse or critical comments are received. If we receive 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 be addressed in a subsequent final rule based on this action serving as a proposed rule. We 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, this action is effective July 12, 1999.

#### **II. Why Do We Need To Regulate HMIWI Emissions?**

When burned, hospital waste and medical/infectious waste emit various air pollutants, including hydrochloric acid, dioxin/furan, and toxic metals (lead, cadmium, and mercury). Mercury is highly hazardous and is of particular concern because it persists in the environment and bioaccumulates through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Harmful effects in wildlife have also been reported; these include nervous system damage and behavioral and reproductive deficits. Human and wildlife exposure to mercury occur mainly through the ingestion of fish. When inhaled, mercury vapor attacks also the lung tissue and is a cumulative poison. Short-term exposure to mercury in certain forms can cause hallucinations and impair consciousness. Long-term exposure to mercury in certain forms can affect the central nervous system and cause kidney damage.

Exposure to particulate matter has been linked with adverse health effects, including aggravation of existing respiratory and cardiovascular disease and increased risk of premature death. Hydrochloric acid is a clear colorless gas. Chronic exposure to hydrochloric acid has been reported to cause gastritis, chronic bronchitis, dermatitis, and photosensitization. Acute exposure to high levels of chlorine in humans may result in chest pain, vomiting, toxic pneumonitis, pulmonary edema, and death. At lower levels, chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs.