

determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of

Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded no factors in this case would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation as a promulgation of operating regulations or procedures for drawbridges. A Categorical Exclusion Determination is available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From 7 p.m. on October 2 to 6 a.m. November 21, 2003, in § 117.147, paragraph (a) is suspended and a new paragraph (c) is temporarily added to read as follows:

##### § 117.147 Cerritos Channel.

\* \* \* \* \*

(c) From 7 p.m. on October 2, 2003, to 6 a.m. on November 21, 2003, the draw of the Commodore Schuyler F. Heim highway bridge, mile 4.9 at Long Beach, need not open for vessels on weekends from 7 p.m. each Friday until 6 a.m. each Monday, and during weekdays, the draw need not open from 7 p.m. until 6 a.m., each night, Monday through Friday. During these times, the draw may remain closed to navigation.

Dated: September 30, 2003.

**J.M. Hass,**  
Captain, U.S. Coast Guard, Acting  
Commander, Eleventh Coast Guard District.  
[FR Doc. 03–25415 Filed 10–7–03; 8:45 am]

**BILLING CODE 4910–15–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[IA 187–1187a; FRL–7569–9]

#### Approval and Promulgation of State Implementation Plans; State of Iowa

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking final action to approve a revision to the State Implementation Plan (SIP) submitted by the State of Iowa. The purpose of this revision is to update the 1998 and 2000 Polk County Board of Health Rules and Regulations, Air Pollution, Chapter V. These revisions will help to ensure consistency between the applicable local agency rules and Federally-approved rules, and ensure Federal enforceability of the applicable parts of the local agency air programs.

**DATES:** This direct final rule will be effective December 8, 2003, unless EPA receives adverse comments by November 7, 2003. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be submitted to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Electronic comments should be sent either to Heather Hamilton at [hamilton.heather@epa.gov](mailto:hamilton.heather@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in “What action is EPA taking” in the **SUPPLEMENTARY INFORMATION** section.

Copies of documents relative to this action are available for public inspection during normal business hours at the EPA Region 7 location listed in the previous paragraph. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Heather Hamilton at 913–551–7039, or by e-mail at [hamilton.heather@epa.gov](mailto:hamilton.heather@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. 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 document?

Have the requirements for approval of a SIP revision been met?

What action is 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 us 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 us for inclusion into the SIP. We 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 us.

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 Promulgation 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 we have 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, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

#### **What Is Being Addressed in This Document?**

The Iowa Department of Natural Resources (IDNR) has requested that EPA approve changes to the Polk County Board of Health Rules and Regulations, Air Pollution, Chapter V, as a revision to the Iowa SIP. The changes were adopted by the Polk County Board of Health Supervisors on April 15, 1998, and October 4, 2000, and became effective on those same days.

The following is a description of the changes to Polk County Board of Health Rules and Regulations, Air Pollution, Chapter V, revisions which are subject to this approval action:

1. *Purpose and Ambient Air Quality Standards.* A reference to Title 40 Code of Federal Regulations (40 CFR) part 50 was added to Article I, 5-1(b) to clarify that the standards referenced in the ordinance are the standards in part 50.

2. *Changes in Definitions.* Changes were made to the following definitions found in Article I, 5-2: Allowable emissions, APCD, ASME, ASTM, Control equipment, Criteria, Distillate oil, Emission limitation, EPA reference method, Excess emission, Federally enforceable, Health officer, Heating value, Major stationary source, Natural gas, Permit conditions, Trade waste, and Volatile organic compounds. These changes make minor clarifications to the definitions or update the references contained in the definitions consistent with the state and Federal requirements.

3. *Additions to List of Definitions.* The following were added to the list of definitions found in Article I, 5-2: Fireplace, Grill, PM 2.5, PM 2.5 emissions, and Twelve month rolling period. These additions are also minor clarifications and updates.

4. *Powers of Health Officer.* Article II, 5-4(15) was added to give the Health

Officer the authority to determine the characteristics of a violation, recommend civil penalties and demand payment of the applicable penalty.

5. *Allowable Visible Emissions from Incinerators.* Article III, 5-6(b)(2) was changed to lower the allowable visible emissions limit from an incinerator from forty percent to twenty percent, or such other limit specified in a permit.

6. *Exemptions from Limitations on Visible Air Contaminants from Equipment.* Article IV, 5-9(5) and (6) were changed to clarify that the exemption for the emissions from stoves or fireplaces in family dwellings requires the wood and/or coal to be untreated.

7. *Visible Air Contaminants Methodology.* Article IV, 5-10 was changed to update the reference to Method 9, 40 CFR part 60 appendix A, as amended through March 12, 1996.

8. *General Emission Standards for Industrial Processes.* Article VI, 5-14(b) was changed to clarify the allowable emission of particulate matter from process gases. Also, Article VI, 5-15(b) was updated to add the title of the referenced subrule.

9. *Specific Emission Standards.* Article VI, 5-16(d) was changed to reflect the change made in Article VI, 5-14(b) and to add emission standards for foundry cupolas with a process weight rate less than or equal to 20,000 pounds per hour.

10. *Stack Emission Tests.* The reference to Iowa's "Compliance Sampling Manual" in Article VII, 5-18(a)(2) was updated to the version revised through January 1, 1995. Also, the sampling methods, analytical determinations and minimum performance specifications referenced in Article VII, 5-18(a)(3) were changed and updated.

11. *Reporting of Continuous Monitoring Information.* Article VII, 5-19(b)(4) was amended to specify the date by which quarterly reports are due to the health officer.

12. *Conditions for Exemptions from Continuous Monitoring Requirements.* Article VII, 5-18(b)(5)(i) was changed to specify that the reference to new source performance standards are those at 40 CFR part 60 as amended through November 24, 1998. Also, Article VII 5-18(b)(7) was changed to update the reference to the Federal acid rain program as provided in 40 CFR part 75 as adopted January 11, 1993 and as corrected or amended through October 24, 1997.

13. *Issuance of Permit.* Article X, 5-31(c) was changed to add adoption by reference and incorporation of Iowa Administrative Code subrule 567-

23.1(6), "Calculation of Emission Limitations Based Upon Stack Height." This revision is consistent with the state rule which has been approved by EPA.

**14. Exemptions from Construction Permit Requirements.** Article X, 5-33(6) was changed to include certain pyrolysis cleaning furnaces in the exemption from construction permits and to specifically exclude salt bath units from the exemption. Also, Article X, 5-33(11) was changed to broaden the exemption to any storage tank with a capacity of less than 10,570 gallons and an annual throughput less than 40,000 gallons. This revision is consistent with the state rule which has been approved by EPA.

**15. Exemptions from Operating Permit Requirements.** Article X, 5-39(a)(1) was changed to include certain pyrolysis cleaning furnaces in the exemption from operating permits and to specifically exclude salt bath units from the exemption.

**16. Special Requirements for Non Attainment Areas.** The reference in Article XII, 5-58 to the "Special Requirements for Non Attainment Areas", Rule 567-22.5(455B) was updated to include any amendments or changes in the state rule through July 21, 1999. Polk County is currently in attainment for all NAAQS, so this change does not impact any sources.

The EPA is not acting on the following revisions:

1. Article I, 5-2, definition of variance: The definition of variance will not be approved in this SIP as the provisions for variances found in Article XIII are not currently a part of the EPA-approved SIP.

2. Civil Penalties. Article XVI, 5-75(b) was amended to define when separate violations exist and to add a schedule of penalties which the Health Officer shall normally request unless in the judgement of the Health Officer the offense is so minor that a lesser penalty would be appropriate. This provision will not be approved because EPA has separate authority under section 113 of the CAA to seek penalties for violations, and would apply its own policies developed under that section to determine the appropriate penalty to be sought.

#### **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 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?**

We are taking direct final action to approve this revision with the exception of Article I, 5-2, and Article VI, 5-17 (a), (b), and (d). The revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number, IA 187-1187a, in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*a. Electronic mail.* Comments may be sent by e-mail to Heather Hamilton at [hamilton.heather@epa.gov](mailto:hamilton.heather@epa.gov). Please include identification number, IA 187-1187a, in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

*b. Regulations.gov.* Your use of Regulations.gov is an alternative method of submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, click on "To Search for Regulations," then select Environmental Protection Agency and use the "go" button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

2. *By Mail.* Written comments should be sent to the name and address listed in the ADDRESSES section of this document.

#### **Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the 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

Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 December 8, 2003. 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 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 compounds.

Dated: September 25, 2003.

**Nat Scurry,**

*Acting Regional Administrator, Region 7.*

■ 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 table in paragraph (c) is amended by revising the entry for "Chapter V" under the heading "Polk County" to read as follows:

### § 52.820 Identification of Plan.

\* \* \* \* \*

(c) \* \* \*

## EPA-APPROVED IOWA REGULATIONS

| Iowa citation                                                                          | Title                                                                      | State effective date   | EPA approval date               | Comments                                                                                                                                                                                  |
|----------------------------------------------------------------------------------------|----------------------------------------------------------------------------|------------------------|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Iowa Department of Natural Resources, Environmental Protection Commission [567]</b> |                                                                            |                        |                                 |                                                                                                                                                                                           |
| *                                                                                      | *                                                                          | *                      | *                               | *                                                                                                                                                                                         |
| <b>Polk County</b>                                                                     |                                                                            |                        |                                 |                                                                                                                                                                                           |
| Chapter V                                                                              | Polk County Board of Health Rules and Regulations Air Pollution Chapter V. | 4/15/1998<br>10/4/2000 | [10/8/03 and FR page citation]. | Article I, 5–2, definition of and "variance"; Article VI, Sections 5–16(n), (o) and (p); Article IX, Sections 5–27(3) and (4) and Article XVI, Section 5–75(b) are not a part of the SIP. |

\* \* \* \* \*

[FR Doc. 03–25396 Filed 10–7–03; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 21

RIN 1018–AI39

### Migratory Bird Permits; Regulations for Double-Crested Cormorant Management

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule and notice of record of decision.

**SUMMARY:** Increasing populations of the double-crested cormorant have caused biological and socioeconomic resource conflicts. In November 2001, the U.S. Fish and Wildlife Service (Service or we) completed a Draft Environmental Impact Statement (DEIS) on double-crested cormorant management. In March 2003, a proposed rule was published to establish regulations to implement the DEIS proposed action, Alternative D. In August 2003, the notice of availability for a Final Environmental Impact Statement (FEIS) was published, followed by a 30-day comment period. This final rule sets

forth regulations for implementing the FEIS preferred alternative, Alternative D (establishment of a public resource depredation order and revision of the aquaculture depredation order). It also provides responses to comments we received during the 60-day public comment period on the proposed rule. The Record of Decision (ROD) is also published here.

**DATES:** This final rule will go into effect on November 7, 2003.

**ADDRESSES:** Comments can be mailed to the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, MBSP–4107, Arlington, Virginia 22203;