

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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 25, 2007.

Wayne Nastri,

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 D—Arizona

■ 2. Section 52.120 is amended by adding paragraphs (c)(84)(i)(L) and (107)(i)(A)(2) to read as follows:

##### § 52.120 Identification of plan.

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* * * * *
(c) * * *
(84) * * *
(i) * * *
(L) Rules 4-2-020, 4-2-030, and 4-2-
040, adopted on June 29, 1993.
* * * * *
(107) * * *
(i) * * *
(A) * * *
(2) Rule 4-2-050, adopted on May 14,
1997.
* * * * *
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[FR Doc. E7-14555 Filed 7-31-07; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R07-OAR-2007-0477; FRL-8448-5]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision

submitted by the state of Iowa for maintenance of the sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS) in Muscatine, Iowa.

**DATES:** This direct final rule will be effective October 1, 2007, without further notice, unless EPA receives adverse comment by August 31, 2007. If adverse comment is 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:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2007-0477, by one of the following methods:

1. *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

2. *E-mail:* [Hamilton.heather@epa.gov](mailto:Hamilton.heather@epa.gov).

3. *Mail:* Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier:* Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**Instructions:** Direct your comments to Docket ID No. EPA-R07-OAR-2007-0477. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. 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 are the criteria for approval of a maintenance plan?

What does Federal approval of a state regulation mean to me?

What is in the state's plan to maintain the standard?

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 or Act) 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 are the criteria for approval of a maintenance plan?**

The Clean Air Act requires maintenance plans for areas which are redesignated from nonattainment to attainment for a criteria pollutant. The requirements for the approval and revision of a maintenance plan are found in section 175A of the CAA. A maintenance plan must provide a demonstration of continued attainment for 10 years after redesignation, including the control measures relied upon, provide contingency measures for the prompt correction of any violation of the standard, provide for continued operation of an adequate ambient air quality monitoring network, provide a means of tracking the progress of the plan, and include the attainment emissions inventory. Section 175A(b)

requires a revision to the initial maintenance plan to demonstrate continued attainment for 10 years after the initial 10-year period.

#### **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 in the state's plan to maintain the standard?**

Background: A portion of Muscatine County, Iowa, was designated nonattainment for the 24-hour SO<sub>2</sub> NAAQS on March 10, 1994. An attainment demonstration and control strategy SIP were approved by EPA on December 1, 1997 (62 FR 63464). On March 19, 1998, EPA approved a maintenance plan for the area, finding that it met the requirements of section 175A of the Act, and redesignated the area from nonattainment to attainment (63 FR 13343). The SIP revision addressed below is a revision to this maintenance plan to address the requirement of section 175A(b) for a second ten-year maintenance plan.

Emission Inventory: Maintenance of the SO<sub>2</sub> standard in the Muscatine area was ensured through continued compliance with emission reductions requirements as prescribed in construction permits and incorporated and approved by EPA as revisions made to the SIP. These measures have been highly effective and attainment will continue to rely on ensuring that emissions are maintained at a level that is at or below current allowable emission rates. Past, current and projected emissions are included in the second 10-year plan. IDNR also reviewed county-wide point source emissions, on-road sources, non-road, and area sources into the current and projected level of SO<sub>2</sub> emissions. Projected levels of SO<sub>2</sub> emissions show decreased levels with the exception of the area source inventory. This is due to predicted increase in gas stations and dry cleaners but the increase is more than off set by the decreases of other sectors. The emissions inventory was reviewed by EPA technical personnel and was found to be acceptable.

Demonstration of Continued Attainment: The Iowa Department of Natural Resources (IDNR) will continue to ensure the enforceable emission

limitations and operating conditions at the facilities, included in the previous two federally-approved SIP revisions, are enforced as necessary. Based on a review of the SO<sub>2</sub> ambient monitoring data collected since 1999, and an evaluation of predicted future SO<sub>2</sub> emissions for the area, IDNR has demonstrated that no additional control measures are necessary to maintain the NAAQS in Muscatine. The maintenance plan contains a detailed description of emission limits and operating conditions at each facility which have resulted in maintenance of the SO<sub>2</sub> standard.

Contingency Measures: The first maintenance plan identified three facilities in the Muscatine area that were the primary source of SO<sub>2</sub> emissions. IDNR negotiated emission reductions with the facilities and the reductions were incorporated into revised construction permits which were submitted as part of the section 110 SIP revision and thus, were Federally enforceable. Contingency measures for the second 10-year maintenance plan include mechanisms for responding to monitored exceedances of the NAAQS and include reviewing and regulating the allowable emissions for new and modified sources; requiring reduction in emissions from sources contributing to an exceedance of the NAAQS; ambient air quality monitoring, and emissions monitoring. In the event of an exceedance of the NAAQS, IDNR will conduct an investigation of the major SO<sub>2</sub> emitters in the area to determine if they are in compliance with permit conditions limiting SO<sub>2</sub> emissions, and other applicable regulatory requirements. SO<sub>2</sub> sources will be required to submit a written report within 60 days detailing their operations on the day of the exceedance if requested by the IDNR. (Violation of the 24-hour SO<sub>2</sub> standard was the basis for the previous nonattainment designation for the area.) Owners and operators of sources emitting SO<sub>2</sub> will be required to determine possible causes of excess emissions that may have contributed to the exceedance including malfunctions and upset conditions. The analysis will include an evaluation of the meteorological conditions prevailing at the time of the exceedance. Depending on the circumstances of the incident, other activities such as inspections, dispersions modeling, additional monitors, or proposing more stringent emission limitations may be necessary. The state commits to requiring implementation of any additional control measures no later than 24 months after a NAAQS

violation. Because the existing control strategy has resulted in readily quantifiable emissions reductions and has been adequate to prevent violations of the SO<sub>2</sub> NAAQS for more than 10 years after redesignation, EPA concludes that these contingency measures to address any subsequent violations are adequate to meet the requirements of section 175A.

**Air Quality Monitoring:** The current monitoring network operated by IDNR consists of three monitors. The Iowa SIP submittal proposed to discontinue two of these monitors as explained below. The Greenwood Cemetery monitoring site has never recorded an exceedance of the NAAQS for SO<sub>2</sub> and the maximum values recorded at the site have declined in recent years. During the last full year of data collection (2005), the maximum value recorded at the site was 17% of the 24-hour NAAQS. The maximum value recorded for the 3-hour averaging period and the 2005 annual value were both 15% or less of the 3-hour and annual NAAQS. Based on this information, IDNR has proposed to discontinue this monitor. EPA has determined that discontinuance of this monitor is acceptable.

The second monitor is located at Muscatine Power and Water (MPW) and, like the Greenwood Cemetery site, has never recorded an exceedance of the NAAQS and the maximum recorded values at the site have also declined. During 2005, the maximum value recorded at the site was 14% of the 24-hour NAAQS; the maximum recorded 3-hour value was less than 14% of the 3-hour NAAQS, and the 2005 annual value was only 10% of the annual NAAQS. Based on this information, IDNR has proposed to discontinue this monitor. EPA has determined that discontinuance of this monitor is acceptable.

The third monitor is located at Musser Park and recorded multiple exceedances prior to implementation of the emissions control strategy. Since the control strategy was implemented, only one 24-hour exceedance occurred which was on December 1, 1999, with a monitored value of 387.4 µg/m<sup>3</sup> (0.148 ppm). (The 24-hour SO<sub>2</sub> NAAQS is 0.14 ppm, not to be exceeded more than once per calendar year.) Maximum values recorded at the site have declined in recent years. During the last full year of data collection (2005) the maximum daily value recorded was 52% of the 24-hour NAAQS. No exceedances of the 3-hour or annual SO<sub>2</sub> NAAQS have been recorded at this site. During 2005, the 3-hour value recorded at the site was 33% of the 3-hour NAAQS. The 2005 annual

value was only 20% of the annual NAAQS. IDNR will continue to monitor at this site. The monitoring plan proposed by IDNR continues to meet the monitoring requirements of 40 CFR Part 58.

**Tracking the Progress of the Plan:** An air quality modeling analysis was performed to support the development of the control strategy for the nonattainment area SIP. The inputs, procedures and results were reviewed during the development of the maintenance plan demonstration for the first 10-year maintenance plan, and a review for the second 10-year plan concluded that no additional modeling was necessary. This decision was supported by the Muscatine SO<sub>2</sub> monitoring network measurements which indicate no violations of the 24-hour SO<sub>2</sub> NAAQS since the maintenance plan period started.

Any new or modified major stationary source constructed in the state must comply with the state's Federally-approved New Source Review program. For major source construction or modification, implementation of the best available control technology provisions and completion of the ambient air quality impact analyses and additional impacts analyses, requirements of the Prevention of Significant Deterioration program will ensure that new or modified sources in the maintenance area, and in the vicinity of the maintenance area, are controlled to the extent necessary to maintain the SO<sub>2</sub> NAAQS.

#### **What is being addressed in this document?**

EPA is approving the State Implementation Plan (SIP) revision submitted by the state of Iowa for the purpose of establishing the second 10-year maintenance plan for the SO<sub>2</sub> NAAQS in Muscatine, Iowa. This action will continue to ensure the measures in the plan maintain the standard in Muscatine and remain in place as Federal requirements.

#### **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 docket, the revision meets the substantive SIP requirements of the CAA, including section 175A.

#### **What action is EPA taking?**

EPA is approving the second 10-year maintenance plan for the Muscatine, Iowa, area to maintain the SO<sub>2</sub> NAAQS. We are processing this action as a direct final action because the revisions 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.

#### **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 approves a state rule implementing a Federal standard.

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 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 October 1, 2007. 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: July 22, 2007.

**John B. Askew,**

*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(e) the table is amended by adding an entry in numerical order to read as follows:

### § 52.820 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

## EPA-APPROVED IOWA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
(37) SO <sub>2</sub> Maintenance Plan for the Second 10-year Period.	Muscatine .....	04/05/2007	08/01/2007 [insert FR page number where the document begins].	

[FR Doc. E7-14868 Filed 7-31-07; 8:45 am]  
BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52 and 81

[EPA-R03-OAR-2007-0324; FRL-8447-7]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Johnstown (Cambria County) Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and 2002 Base Year Inventory

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of

Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) is requesting that the Johnstown (Cambria County) ozone nonattainment area (Cambria Area) be redesignated as attainment for the 8-hour ozone ambient air quality standard (NAAQS). EPA is approving the ozone redesignation request for Cambria Area. In conjunction with its redesignation request, PADEP submitted a SIP revision consisting of a maintenance plan for Cambria Area that provides for continued attainment of the 8-hour ozone NAAQS for at least 10 years after redesignation. EPA is approving the 8-hour maintenance plan. PADEP also submitted a 2002 base year inventory for the Cambria Area which EPA is approving. In addition, EPA is approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the Cambria Area maintenance plan for

purposes of transportation conformity, and is approving those MVEBs. EPA is approving the redesignation request, and the maintenance plan and the 2002 base year emissions inventory as revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on August 1, 2007 pursuant to the authority of 5 U.S.C. 553(d)(1).

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2007-0324. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly