

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[R07-OAR-2005-IA-0005; FRL-7967-5]

Approval and Promulgation of Implementation Plans; State of Iowa**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) revision submitted by the state of Iowa for the purpose of establishing guidelines to identify stationary sources of air pollution potentially subject to Best Available Retrofit Technology (BART) emission control requirements. Owners and operators of stationary sources meeting the eligibility criteria will be required to submit source identification and emission unit description information to the state by September 1, 2005.

BART-eligibility information is to be submitted on Iowa Department of Natural Resources (IDNR) form 542-8125 that lists facility information and emission unit identification and description. Annual emission totals in tons-per-year (potential) for PM₁₀, NO_x, SO₂ and VOCs are also required.

DATES: This direct final rule will be effective November 14, 2005, without further notice, unless EPA receives adverse comment by October 13, 2005. 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 Regional Material in EDocket (RME) ID Number R07-OAR-2005-IA-0005, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. Agency Web site: <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search"; then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: Hamilton.heather@epa.gov.

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

5. 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 RME ID No. R07-OAR-2005-IA-0005. 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://docket.epa.gov/rmepub/>, 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 information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME website and the Federal regulations.gov Web site are "anonymous access" systems, 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 RME or 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 RME index at <http://docket.epa.gov/rmepub/>. 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 RME 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 a.m. to 4:30 p.m., 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.

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?

EPA is approving a SIP revision submitted by the state of Iowa for the purpose of adding requirements for stationary sources of air pollution to submit information to determine Best Available Retrofit Technology (BART) eligibility. Federal BART guidelines provide criteria for determining which sources are eligible for BART controls and include a mechanism by which individual sources may be exempted from BART on a case-by-case basis. Under the state rule owners and operators of stationary sources of air pollution which have the potential to emit 250 tons or more of any visibility-impairing air pollutant from emissions units that were placed in service between August 7, 1962, and August 7, 1977, and whose operations fall within one or more of the 26 "stationary source categories" listed in the state rules are required to complete and submit a BART Eligibility Certification Form #542-8125. This form lists facility information and emission unit identification and description. Annual emission totals in tons-per-year (potential) for PM₁₀, NO_x, SO₂ and VOCs which are considered visibility-impairing air pollutants are required.

Although the state rule does not clearly address sources which were in operation prior to August 1962 but were reconstructed between 1962 and 1977, IDNR has stated that the rule requires

any source which underwent "start up" between those years to file a BART-eligibility form. IDNR defines start up as beginning or resuming operation of a source for any purpose, including resuming operation after reconstruction. In addition, IDNR independently requires all of its major sources (as identified in its Title V rules, including sources having a potential to emit at least 100 tons per year or more of a visibility-impairing pollutant) to submit forms to determine BART eligibility. Therefore, EPA believes that this rule, in conjunction with other state rules, should enable Iowa to identify all BART-eligible sources. By its approval of this rule, EPA is not making a determination that Iowa has identified all sources which might be BART-eligible under Federal requirements. EPA will make this determination in conjunction with its action on Iowa's regional haze plan when that plan is submitted in the future.

The completed form is due to the Department of Natural Resources, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322, by September 1, 2005.

Information from Form #542-8125 will be reviewed by the state of Iowa and the owners and operators will be notified of BART-eligibility status. Facilities that are BART-eligible may be required to submit further engineering analyses as the state deems necessary.

The addition of special requirements for visibility protection will be located in Chapter 22, 567-22.9 of the Iowa Administrative Code.

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?

EPA is approving a SIP revision submitted by the state of Iowa for the purpose of adding requirements for stationary sources of air pollution to submit information to determine Best Available Retrofit Technology (BART) eligibility. This revision was adopted by the Environmental Protection Commission on February 21, 2005, and it became state effective on April 20, 2005.

We are processing this action as a direct final action because 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.

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 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 November 14, 2005. 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 compounds.

Dated: August 30, 2005.

William Rice,

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(c) the table for Chapter 22 is amended by adding a new entry in numerical order for 567–22.9 to read as follows:

§ 52.820 Identification of plan.

* * * * *
(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources, Environmental Protection Commission [567]				
* * * * *	Chapter 22—Controlling Pollution			
567–22.9	Special Requirements for Visibility Protection ..	04/20/05	09/13/05 [insert FR page number where document begins]	
* * * * *				

* * * * *
[FR Doc. 05–18012 Filed 9–12–05; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY69–280, FRL–7968–1]

Approval and Promulgation of Implementation Plans; New York; Revised Motor Vehicle Emissions Budgets for 1990 and 2007 using MOBILE6

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the New York State Implementation Plan (SIP) for the attainment and

maintenance of the 1-hour national ambient air quality standard (NAAQS) for ozone. Specifically, EPA is approving New York’s revised 1990 and 2007 motor vehicle emission budgets recalculated using MOBILE6 and modified date for submittal of the State’s mid-course review. The intended effect of this action is to approve a SIP revision that will help the State continue to plan for attainment of the 1-hour NAAQS for ozone in its portion of the New York-Northern New Jersey-Long Island nonattainment area (New York Metropolitan NAA).

EFFECTIVE DATE: This rule will be effective October 13, 2005.

ADDRESSES: Copies of the state submittals are available at the following