

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE NEW MEXICO SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* Infrastructure and Interstate Transport for the 2010 SO ₂ NAAQS.	* Albuquerque-Bernalillo County.	* 6/11/2015	* 2/17/16 [Insert FR page number where document begins].	*

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2016-0045; FRL-9942-37-Region 7]

Approval of Iowa’s Air Quality Implementation Plans; Polk County Board of Health Rules and Regulations, Chapter V, Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP) for the State of Iowa. The purpose of these revisions is to update the Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution. The revisions reflect updates to the Iowa statewide rules previously approved by EPA and will ensure consistency between the applicable local agency rules and Federally-approved rules.

DATES: This direct final rule will be effective April 18, 2016, without further notice, unless EPA receives adverse comment by March 18, 2016. If EPA receives adverse comment, we 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-2016-0045, to <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is

considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7039, or by email at hamilton.heather@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” or “our” refer to EPA. This section provides additional information by addressing the following:

- I. What is being addressed in this document?
- II. Have the requirements for approval of a SIP revision been met?
- III. What action is EPA taking?

I. What is being addressed in this document?

The State of Iowa has requested EPA approval of revisions to the local agency’s rules and regulations, Chapter V, Air Pollution, as a revision to the SIP. In order for the local program’s Air Pollution rules to be incorporated into the Federally-enforceable SIP, on behalf of the local agency, the state must submit the formally adopted regulations and control strategies, which are consistent with the state and Federal requirements, to EPA for inclusion in the SIP. The regulation adoption process generally includes public notice, a public comment period and a public hearing, and formal adoption of the rule by the state authorized rulemaking body. In this case, that rulemaking body is the local agency. After the local agency formally adopts the rule, the local agency submits the rulemaking to

the state, and then the state submits the rulemaking to EPA for consideration for formal action (inclusion of the rulemaking into the SIP). EPA must provide public notice and seek additional public comment regarding the proposed Federal action on the state’s submission.

EPA received the request from the state to adopt revisions to the local agency rules into the SIP on December 8, 2015. The revisions were adopted by the local agency on October 6, 2015, and became effective on October 12, 2015. EPA is approving the requested revisions to the Iowa SIP relating to the following:

- Article I. In General, Section 5-1. Purpose and Ambient Air Quality Standards;
 - Article I. In General, Section 5-2. Definitions;
 - Article X. Permits, Division 1. Construction Permits, Section 5-33. Exemptions from Permit Requirements;
 - Article X. Permits, Division 2. Operating Permits, Section 5-39. Exemptions from Permit Requirement.
- EPA’s action does not cover revisions to:
- Article VI. Emission of Air Contaminants from Industrial Processes, New Source Performance Standards, Section 5-16(n),
 - Article VIII. National Emission Standards for Hazardous Air Pollutants for Source Categories, Section 5-16(p), and,
 - Article VIII. National Emission Standards for Hazardous Air Pollutants for Source Categories, Section 5-20.

EPA is also approving the definition of Maximum Achievable Control Technology that was inadvertently omitted from the January 12, 2015, **Federal Register** notice that approved the September 2013 revisions to the Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution. 80 FR 1471.

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

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied

the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained previously 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 110 and implementing regulations.

III. What action is EPA taking?

We are taking direct final action to approve the revisions to the Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution. The local agency routinely revises its Air Pollution regulations to be consistent with the Federally-approved Iowa Administrative Code.

The local agency's Air Pollution rules are consistent with state and Federal regulations and are revised as follows:

Article I, section 5–1(c) is revised to cite the cross reference to state-approved rules at (455B). The definition “Responsible official” was added to article I, section 5–2, the definition for “Volatile Organic Compounds” was revised to cite the most recent federal reference.

Article X, division 1, Construction Permits, section 5–33, Exemptions from Permit Requirements, and article X, division 2, Operating Permits, section 5–39, Exemptions from Permit Requirements, were revised to add an introductory paragraph stating that the permitting exemptions of these sections do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements.

Article X, division 1, Construction Permits, section 5–33, Exemptions from Permit Requirements, and article X, division 2, Operating Permits, section 5–39, Exemptions from Permit Requirements, were revised to add recordkeeping requirements to the exemption for electric hand soldering, wave soldering and electric solder paste reflow ovens, and the exemption for emissions from mobile internal combustion engines at equipment repair shops or equipment dealerships was revised to add emissions from over-the-road trucks.

Article X, division 1, Construction Permits, section 5–33, Exemptions from Permit Requirements, and article X, division 2, Operating Permits, section 5–39, Exemptions from Permit Requirements, were revised to add three additional exemptions as follows: Equipment that is not related to the production of goods or services and used exclusively for academic purposes, located at educational institutions as defined in Iowa Code section 455B.161; any container, storage tank, or vessel

that contains fluid having a maximum true vapor pressure of less than 0.75 psia, and fugitive dust emissions related to movement of passenger vehicles on unpaved road surfaces. Details of the three additional exemptions and other Polk County revisions can be found in the Technical Support Document in the docket of this rulemaking.

With this SIP action, EPA is also approving the definition of Maximum Achievable Control Technology (MACT). The MACT definition was included in the September 2013 SIP submission for Polk County; however, EPA inadvertently omitted the definition from the **Federal Register** notice. 80 FR 1471, January 12, 2015. The definition of MACT is consistent with the Federally-approved Iowa SIP.

We are publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment because the revisions are largely administrative and consistent with Federal regulations. However, in the “Proposed Rules” section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the SIP revision if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Iowa Regulations described in the direct final amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations.

42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- 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);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 action 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 April 18, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not

affect the finality of this action 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, Intergovernmental relations, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: February 1, 2016.

Mark Hague,
Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
*	*	*	*	*
Polk County				
CHAPTER V	Polk County Board of Health Rules and Regulations Air Pollution Chapter V.	10/12/15	2/17/16, [<i>Insert Federal Register citation</i>].	Article I, Section 5–2, definition of "variance," "anaerobic lagoon," and "greenhouse gases"; Article III, Incineration and Open Burning, Section 5–7(d) Variance Application; Article VI, Sections 5–16(n), (o) and (p); Article VIII; Article IX, Sections 5–27(3) and (4); Article X, Section 5–28, subsections (a) through (c), and Article X, Section 5–35(b)(5); Article XIII; and Article XVI, Section 5–75 are not part of the SIP. Article VI, Section 5–17, adopted by Polk County on 7/26/2011, is not part of the SIP, and the previously approved version of Article VI, Section 5–17 remains part of the SIP.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

■ 2. Amend § 52.820(c) by revising in the table under "Polk County" the entry for "Chapter V" to read as follows:

§ 52.820 Identification of plan.

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(c) * * *

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ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 52
[EPA–R06–OAR–2013–0613; FRL–9942–30–Region 6]
Approval and Promulgation of Implementation Plans; State of New Mexico/Albuquerque-Bernalillo County; Infrastructure and Interstate Transport SIP 2010 Nitrogen Dioxide National Ambient Air Quality Standards
AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) submission from the Governor of New Mexico for the City of Albuquerque-Bernalillo County for the 2010 Nitrogen Dioxide (NO₂) National Ambient Air Quality Standards (NAAQS). The submittal addresses how the existing SIP provides for implementation, maintenance, and enforcement of the 2010 NO₂ NAAQS (infrastructure SIP or i-SIP). This i-SIP ensures that the State's SIP for Albuquerque-Bernalillo County is adequate to meet the state's responsibilities under the Federal Clean Air Act (CAA or Act), including the four