

procedures were not followed and the corrective actions taken.

(5) The reports required under paragraph (b) of this section shall contain an identification of the periods when the pressure drop and water flow rate of wet scrubbers used to control process fugitive sources dropped below the levels established in § 63.548(g) and an explanation of the corrective actions taken.

(6) The reports required under paragraph (b) of this section shall contain a summary of the fugitive dust control measures performed during the required reporting period, including an explanation of the periods when the procedures outlined in the standard operating procedures manual pursuant to § 63.545(a) were not followed and the corrective actions taken. The reports shall not contain copies of the daily records required to demonstrate compliance with the requirements of the standard operating procedures manuals required under §§ 63.545(a) and 63.548(a).

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40 CFR Part 52

[IA-15-1-6829a; FRL-5210-5]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This final action approves the State Implementation Plan (SIP) revision submitted by the state of Iowa. The revision includes special requirements for nonattainment areas, compliance and enforcement information, and adoption of EPA definitions. These revisions strengthen the SIP with respect to attainment and maintenance of established air quality standards.

DATES: This action will be effective August 22, 1995 unless by July 24, 1995 adverse or critical comments are received.

ADDRESSES: Comments may be mailed to Christopher D. Hess, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and

Information Center, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551-7213.

SUPPLEMENTARY INFORMATION: The state of Iowa operates a Federally approved SIP that implements various requirements of the Clean Air Act (Act) and the Code of Federal Regulations (CFR). Since the initial approval of its SIP in 1972, numerous revisions and updates have been made in response to Federal requirements.

In accordance with 40 CFR 51.103, the state of Iowa has requested approval of two SIP revisions under the authority and signature of the Governor's designee, Larry J. Wilson, Director, Iowa Department of Natural Resources (IDNR). Requests were received by the EPA on October 18, 1994, and January 26, 1995. Both of these submittals were deemed complete in accordance with the criteria specified in 40 CFR part 51, appendix V. The state has provided evidence of the lawful adoption of regulations, public notice, and public hearing requirements for each submittal.

Rule Revisions

A. Special Requirements for Nonattainment Areas

The state of Iowa currently has one nonattainment area, in Muscatine for SO₂. In response to the requirements of the Act, as amended in 1990, the state has adopted the following rules.

1. In IAC 567-22.5 (1), the state amends its definition of "major stationary source" to conform to the requirements of Part D of the Act. The Act provides, in general, that a source which emits, or has the potential to emit, 100 tons per year or more of a regulated pollutant is a major source. Part D provides lower cutoff levels for some nonattainment areas, depending on the classification of the area.

Specifically, in response to the following cited sections of the Act, the state has added the major source emissions thresholds for the following pollutants: Ozone precursors (section 182), ozone precursors in ozone transport regions (section 184), carbon monoxide (section 186), and PM₁₀ (section 188).

2. In subrule 22.5(1)"f"(2), the state also amends the definition of "net emissions increase" as it relates to major sources for nonattainment areas. Previously, a net emissions increase was considered contemporaneous with the particular change if it occurred between January 1, 1978, and the date that the increase from the particular change occurred. The state now uses a date five years before construction of the

particular change rather than the fixed date of January 1, 1978.

This revision, although not required as a result of the 1990 Amendments to the Act, is consistent with the EPA's requirements at 40 CFR 51.165(a)(1)(vi) relating to calculation of net emissions increases for permitting applicability purposes.

3. In subrule 22.5(1)"m," the state has expanded its definition of "enforceable permit condition" to include requirements of Title V operating permits. This recognizes that limitations in those operating permits will qualify as federally enforceable restrictions which can be utilized in determining source applicability in the state's permitting programs.

4. In subrule 22.5(2), the state updates its emission offset applicability provisions to conform with the requirements of the 1990 Amendments. In particular:

a. The reference to 40 CFR 81.316 is updated to include amendments through March 10, 1994, pertaining to particulate matter nonattainment areas.

b. In this same subrule, the state deletes the provision that previously allowed the director to relieve an applicant from the obligation of continuing to implement offset requirements of a nonattainment construction permit if an area is subsequently redesignated attainment or unclassified. This measure is necessary to help ensure maintenance of the air quality standards after an area is redesignated to attainment.

c. The state deletes the reference to secondary standard particulate matter nonattainment areas. This reflects the fact that the current particulate matter standards are the same for the primary and secondary standards.

d. The state adds a requirement for offsets in sulfur dioxide (SO₂) nonattainment areas in subrule 22.5(2)b. As discussed in more detail below, EPA has determined that this addition strengthens the SIP and is therefore approvable.

e. The state also deletes subrule 22.5(2)c which previously provided a "loophole" for sources in secondary particulate matter nonattainment areas to claim that offsets were not reasonably available. This action strengthens the SIP by requiring sources to achieve offsets that conform with the Act.

f. Due to the new 22.5(2)b and deletion of 22.5(2)c, the former 22.5(2) d, e, and f become 22.5(2) c, d, and e.

5. Rule 22.5(3) previously allowed a source in a secondary particulate matter nonattainment area to submit proposals for emission offsets or a demonstration that offsets were not reasonably

available with a permit application. In conjunction with the deletion of 22.5(2)c, the state now deletes the ability to submit a demonstration that offsets are not reasonably available. This strengthens the SIP by requiring, without exception, offsets in nonattainment areas. It also reflects the state's other revisions eliminating the distinction between primary and secondary particulate nonattainment areas.

6. Subrule 22.5(4) "b" previously required an offset ratio of at least 1.25:1 for particulate emissions. The revision requires a ratio of greater than 1:1 for all nonattainment areas. Although the reduced ratio would represent a relaxation of the offset requirements for particulate matter nonattainment areas, there are currently no such areas in Iowa. In any newly designated PM₁₀ nonattainment areas, the revised ratio would be consistent with the requirements of the Act.

7. In accordance with section 173 of the Act, the state adds a new rule that requires new or modified major sources to comply with the lowest achievable emission rate in nonattainment areas.

8. In 22.5(7), the state updates its rule to reflect appropriate revisions. With respect to compliance of existing sources, this subrule referenced a rescinded subrule. By inserting the reference "rule 22.5," the state now clearly identifies that a new major source or major modification subject to the emission offset subrule shall be in compliance with applicable emission standards or an approved compliance schedule.

B. Compliance and Enforcement Information

In 58 FR 54677, dated October 22, 1993, the EPA announced that SIP calls pursuant to section 110(k)(5) of the Act would be issued in order to implement the monitoring requirements of section 114(a)(3) including the periodic monitoring requirements for operating permits pursuant to sections 502(b)(2) and 504. This SIP call is required, because existing SIPs are inadequate in that they may be interpreted to limit the types of testing or monitoring data that may be used for determining compliance and establishing violations.

On May 11, 1994, the EPA notified the Governor of Iowa that an SIP revision is necessary to meet the aforementioned requirements of the Act. In IAC 567-21.5, the state has added rules that fulfill this requirement.

1. In IAC 567-21.5, a new rule has been added providing that any credible evidence may be used for the purpose

of establishing whether a violation has occurred at the source.

2. Subrule 21.5(1) specifies that information from the use of monitoring methods approved in the source's Title V operating permit, compliance test methods specified in IAC 567-25, and testing or monitoring methods approved in the source's construction permit is presumptively credible evidence of whether a violation has occurred at a source.

3. Subrule 21.5(2) identifies presumptively credible monitoring or testing methods.

4. The state also amends subrule 22.105(2) "i" by adding a new subparagraph, (5). For purposes of submitting compliance certifications, this subrule specifies that an owner or operator is not prohibited from using monitoring as required by any specified compliance methods or as required by subrules 22.108(3)-(5) and incorporated into a Title V operating permit. The practical effect of this addition is that the SIP is now strengthened by providing for more extensive means of determining compliance and gathering enforcement information.

C. Miscellaneous Revisions

1. In IAC 567-20.2 the state adds the definition of "volatile organic compound" as found in 40 CFR 51.100(s) as amended through November 30, 1993.

2. With respect to emissions testing, the state adds two approved EPA definitions: "EPA conditional method" and "EPA reference method." A conditional method describes any method of sampling that has been validated by the Administrator, but has not yet been published as a reference method. A reference method, in contrast, describes any method of sampling or analyzing published in the CFR. EPA Action:

EPA is taking final action to approve revisions submitted on October 18, 1994, and January 26, 1995, for the state of Iowa.

Insofar as the state's request involves new source review (NSR) in nonattainment areas, EPA is approving the revision because its overall effect is to strengthen the SIP. EPA recognizes that this revision does not address all of the requirements for NSR under the 1990 Amendments to the Act. As an example, the revision does not include a requirement, as a precondition to permit issuance, an analysis of alternatives to construction of a proposed source or modification which shows that the benefits of construction outweigh the environmental and social costs (section 173(a)(5)).

The state is required to submit a revision by October 10, 1995, for the SO₂ nonattainment area in Muscatine, Iowa. In addition to other requirements of Part D of the Act, the revision must meet all the requirements of section 173 relating to NSR. EPA anticipates that Iowa will submit a revision by the statutory deadline addressing the other NSR requirements. Because the Part D revision for Muscatine is not yet due, and Iowa currently has no additional nonattainment areas, EPA is approving the rule which the state submitted. However, if the state does not submit a complete and timely SIP, including a Part D NSR rule, or if EPA determines that Iowa's submission is not approvable, EPA will take appropriate action (either finding a failure to submit an SIP or disapproving the SIP).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and Subpart 1, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

The Office of Management and Budget has exempted these actions from review under Executive Order 12866.

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 August 22, 1995. 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).)

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in the **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed.

If the EPA receives 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 then be addressed in a subsequent rule based on this action serving as a proposed rule. The 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 2, 1995.

Dennis Grams,

Regional Administrator.

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—7671q.

Subpart Q—Iowa

2. Section 52.820 is amended by adding paragraph (c)(61) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

(61) On October 18, 1994, and January 26, 1995, the Director of the Iowa Department of Natural Resources

submitted revisions to the State Implementation Plan (SIP) to include special requirements for nonattainment areas, provisions for use of compliance and enforcement information, and adoption of EPA definitions. These revisions fulfill Federal regulations which strengthen maintenance of established air quality standards.

(i) Incorporation by reference.

(A) Revised rules "Iowa Administrative Code," effective November 16, 1994. This revision approves revised rules 567-20.2, 567-22.5(1)a, 567-22.5(1)f(2), 567-22.5(1)m, 567-22.5(2), 567-22.5(3), 567-22.5(4)b, 567-22.5(6), 567-22.5(7), 567-22.105(2), and new rule 567-21.5. These rules provide for enhanced monitoring, special requirements for nonattainment areas, and adopts EPA's definition of volatile organic compound.

(B) Revised rules, "Iowa Administrative Code," effective February 22, 1995. This revision approves new definitions to rule 567-20.2. This revision adopts EPA's definitions of "EPA conditional method" and "EPA reference method."

(ii) Additional material.

(A) None.

[FR Doc. 95-15236 Filed 6-22-95; 8:45 am]

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40 CFR Parts 52 and 70

[CA 147-1-6995-a; FRL-5216-3]

Clean Air Act Final Approval of Title V Operating Permits Program Revisions; Final Approval of Amended Synthetic Minor Operating Permit Program as a State Implementation Plan Revision; Bay Area Air Quality Management District, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is promulgating direct final approval of the title V operating permit program revisions adopted by the Bay Area Air Quality Management District (Bay Area, BAAQMD, or District) on February 1, 1995 and submitted to EPA on March 23, 1995. These revisions modify Bay Area's title V program as proposed for interim approval on November 29, 1994 by providing for optional permit shield provisions, clarifying permit application requirements, and making other minor program changes in response to local concerns. In this direct final action, EPA is also promulgating approval of revisions that Bay Area made to its synthetic minor operating permit

program. The synthetic minor program allows for the issuance of federally enforceable state operating permits (FESOP) and was also proposed for approval on November 29, 1994. The synthetic minor amendments being approved in this notice clarify the District's permit modification procedures for synthetic minors. Upon approval, the amended synthetic minor regulations will be incorporated into Bay Area's portion of the State Implementation Plan (SIP). In order to extend the federal enforceability of synthetic minor operating permit conditions to hazardous air pollutants (HAP), EPA is also approving Bay Area's amended synthetic minor regulations pursuant to section 112(l) of the Clean Air Act (Act or CAA).

EFFECTIVE DATE: This action is effective on August 22, 1995 unless adverse or critical comments are received by July 24, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the rules and EPA's Technical Support Document for the amended title V and synthetic minor programs are available for public inspection at the following location: Operating Permits Section (A-5-2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the regulations being incorporated by reference in today's rule are available for inspection at the following location: Air Docket (6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Celia Bloomfield (telephone 415/744-1249), Operating Permits Section (A-5-2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background

On November 29, 1994, EPA proposed in the **Federal Register** to grant Bay Area's title V operating permits program interim approval (59 FR 60939) in accordance with title V of the Act (as amended in 1990) and 40 CFR part 70 (the title V implementing regulations). In the same notice, EPA proposed approval of Bay Area's synthetic minor program based on the June 28, 1989 (54 FR 27274) approval criteria for federally enforceable state operating permit programs. On February 1, 1995, Bay Area adopted revisions to Regulation 2, Rule 6 (Regulation 2-6) and the