

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 considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available for inspection or copying where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T08-010 is added to read as follows:

#### § 165.T08-010 Security Zone; Ohio River Miles 34.6 to 35.1, Shippingport, Pennsylvania.

(a) *Location.* The following area is a security zone: The waters of the Ohio River, extending 200 feet from the shoreline of the left descending bank beginning from mile marker 34.6 and ending at mile marker 35.1.

(b) *Effective date.* This section is effective from 8 a.m. on February 8, 2002 through 8 a.m. on June 15, 2002.

(c) *Authority.* The authority for this section is 33 U.S.C. 1226, 33 U.S.C. 1231, 33 CFR 1.05-1(g), and 49 CFR 1.46.

(d) *Regulations.* (1) Entry into this security zone is prohibited unless authorized by the Coast Guard Captain of the Port Pittsburgh or his designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Pittsburgh, or his designated representative. They may be contacted via VHF Channel 16 or via telephone at (412) 644-5808.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh and designated on-scene U.S. Coast Guard

patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: February 8, 2002.

**S.L. Hudson,**

*Commander, U.S. Coast Guard, Captain of the Port Pittsburgh.*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[Iowa 0127-1127a; FRL-7151-7]

#### 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. This revision approves numerous rules adopted by the state in 1998, 1999, and 2001. This includes rules pertaining to definitions, compliance, permits for new or existing stationary sources, voluntary operating permits, permits by rule, and testing and sampling methods.

These revisions will strengthen the SIP with respect to attainment and maintenance of established air quality standards, ensure consistency between the state and Federally approved rules, and ensure Federal enforceability of the state's air program rule revisions according to section 110.

**DATES:** This direct final rule will be effective May 3, 2002 unless EPA receives adverse comments by April 3, 2002. 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 mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. 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:** Wayne Kaiser at (913) 551-7603.

**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 action?

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 Action?**

On August 21, 2000, February 7, 2001, July 23, 2001, and December 27, 2001, we received requests from the Iowa Department of Natural Resources (IDNR) to amend the SIP. The state requested that we approve amendments made to portions of the following rules:

Rule 567–20, Scope of Title-Definitions-Forms-Rule of Practice,  
Rule 567–21, Compliance,  
Rule 567–22, Controlling Pollution,  
Rule 567–23, Emission Standards for Contaminants, and  
Rule 567–25, Measurement of Emissions.

The rules were amended to accomplish a number of changes. For the most part, these amendments are primarily minor changes in wording to rules which are already in the approved SIP. In some instances clarifications and corrections were made. In other instances the rule is updated to align it with changes made in the Federal rule. Finally, updates to a number of references to Federal citations were made. A complete listing of each rule change is contained in the technical support document which is a part of the docket for this action and is available from the EPA contact above.

A few of the rule revisions which may be of interest, however, are mentioned here. Subrule 22.1(1) and paragraph 22.1(1)"c" were amended to allow a true, minor source to begin construction prior to obtaining a permit, subject to certain conditions. Subrule 22.1(2) added additional information which incorporates a notification to IDNR upon request for certain types of emission units falling under a

construction permit exemption. This recordkeeping process will ensure that IDNR has access to information on equipment for which certain exemptions are being claimed.

Paragraph 22.1(2)"i" was amended to clarify requirements for those facilities wanting to get credit for emission reductions made as a result of the installation of control equipment. Subrule 22.3(8) adds a provision which requires that IDNR be notified when the ownership of equipment covered by a construction permit changes. This provision will require facilities to keep IDNR informed of who owns equipment covered by a construction permit. Paragraph 22.8(1)"e" was amended to clarify the certification requirement for obtaining a permit by rule for spray booths. Paragraph 22.300(4)"b" was amended to provide clarification to the definition of *de minimis* emissions and to the record keeping requirements for stationary sources with *de minimis* emissions.

#### **Have the Requirements for Approval of a SIP Revision Been Met?**

The state submittals have met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittals 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 processing this action as a 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.

#### **Administrative Requirements**

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 (Public Law 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 May 3, 2002. 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.

Dated: February 15, 2002.

**William W. 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 the table in paragraph (c) is amended:

a. Under Chapter 20 by revising the entry for "567-20.2".

b. Under Chapter 21 by revising the entry for "567-21.2".

c. Under Chapter 22 by revising the entries for "567-22.1", "567-22.3", "567-22.4", "567-22.5", "567-22.8", "567-22.201", "567-22.203", and "567-22.300".

d. Under Chapter 23 by revising the entries for "567-23.3" and "567-23.4".

e. Under Chapter 25 by revising the entry for "567-25.1".

**§ 52.820 Identification of plan.**

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(c) \* \* \*

**EPA-APPROVED IOWA REGULATIONS**

lowa citation	Title	State effective date	EPA approval date	Comments
<b>Iowa Department of Natural Resources, Environmental Protection Commission [567]</b>				
<b>Chapter 20—Scope of Title-Definitions-Forms-Rule of Practice</b>				
*	*	*	*	*
567-20.2 ..	Definitions .....	7/21/99	March 4, 2002 and FR cite.	The definitions for anaerobic lagoon, odor, odorous substance, and odorous substance source, are not SIP approved.
*	*	*	*	*
<b>Chapter 21—Compliance</b>				
*	*	*	*	*
567-21.2 ..	Variances .....	7/21/99	March 4, 2002 and FR cite.	
*	*	*	*	*
<b>Chapter 22—Controlling Pollution</b>				
*	*	*	*	*
567-22.1 ..	Permits Required for New or Existing Stationary Sources.	3/14/01	March 4, 2002 and FR cite.	Subrules 22.1(2), 22.1(2) "g," 22.1(2) "i" have a state effective date of 5/23/01/
*	*	*	*	*
567-22.3 ..	Issuing Permits .....	3/14/01	March 4, 2002 and FR cite.	Subrule 22.3(6) is not SIP approved.
*	*	*	*	*
567-22.4 ..	Special Requirements for Major Stationary Sources Located in areas Designated Attainment or Unclassified (PSD).	3/14/01	March 4, 2002 and FR cite.	

EPA-APPROVED IOWA REGULATIONS—Continued

Iowa citation	Title	State effective date	EPA approval date	Comments
567–22.5 ..	Special Requirements for Nonattainment Areas	7/21/99	March 4, 2002 and FR cite.	
567–22.8 ..	Permit by Rule .....	7/21/99	March 4, 2002 and FR cite.	
*	*	*	*	*
567–22.201.	Eligibility for Voluntary Operating Permits .....	7/21/99	March 4, 2002 and FR cite.	
*	*	*	*	*
567–22.203.	Voluntary Operating Permit Applications .....	10/14/98	March 4, 2002 and FR cite.	
*	*	*	*	*
567–22.300.	Operating Permit by Rule for Small Sources ....	7/21/99	March 4, 2002 and FR cite.	Subrule 22.300(7)“c” has a state effective date of 10/14/98.

Chapter 23—Emission Standards for Contaminants

567–23.3 ..	Specific Contaminants .....	7/21/99	March 4, 2002 and FR cite.	Subrule 23.3(2) has a state effective date of 5/13/98. Subrule 23.3(3)“d” is not SIP approved.
567–23.4 ..	Specific processes .....	7/21/99	March 4, 2002 and FR cite.	Subrule 23.4(10) is not SIP approved.
*	*	*	*	*

Chapter 25—Measurement of Emissions

567–25.1 ..	Testing and Sampling of New and Existing Equipment..	3/14/01	March 4, 2002 and FR cite.	
*	*	*	*	*

\* \* \* \* \*  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 70**

[IA 0126–1126a; FRL–7151–9]

**Approval and Promulgation of Operating Permits Program; State of Iowa**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Iowa Operating Permits Program for air pollution control. This revision

approves numerous rule revisions adopted by the state since the initial approval of its program in 1995. Rule revisions approved in this action include rules pertaining to issuing permits, Title V operating permits, voluntary operating permits, and operating permits by rule for small sources.

These revisions will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state’s air program rule revisions.

**DATES:** This rule is effective May 3, 2002, without further notice, unless EPA receives adverse comment by April 3, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Written comments should be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of the state submittals are available for public inspection during normal business hours at the above-listed Region 7 location. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551–7603.

**SUPPLEMENTARY INFORMATION:**

This section provides additional information by addressing the following questions: