

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP—Continued

Name of SIP Provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Comments
VOC and NO _x Motor Vehicle Emissions Budget for Conformity.	El Paso ozone nonattainment area	12/11/97	6/10/04	

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R07–OAR–2004–IA–0001; FRL–7672–3]

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. This revision pertains to orders and permits issued by the state to control particulate matter (PM₁₀) emissions from Blackhawk Foundry and Machine Company in Davenport (Scott County), Iowa. This approval will make the order and permits Federally enforceable.

DATES: This direct final rule will be effective August 9, 2004, unless EPA receives adverse comments by July 12, 2004. 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: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07–OAR–2004–IA–0001, 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: Jones.Harriett@epa.gov.

4. Mail: Harriett Jones, Environmental Protection Agency, Air Permitting and Compliance Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. Hand Delivery or Courier. Deliver your comments to Harriett Jones, Environmental Protection Agency, Air Permitting and Compliance Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to RME ID No. R07–OAR–2004–IA–0001. 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](http://www.regulations.gov), or e-mail. The EPA RME website and the Federal [regulations.gov](http://www.regulations.gov) website 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](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 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 Permitting and Compliance 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. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT:

Harriett Jones at (913) 551–7730, or at jones.harriett@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 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 (NAAQS) 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 (this can also include state orders and permits) 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?

From 1995 to 1997, there were several exceedances of the 24-hour PM₁₀ (*i.e.*, particulate matter with an aerodynamic diameter of equal to or less than ten micrometers) National Ambient Air Quality Standard (NAAQS) at the ambient air monitors located in Davenport, Iowa. The measured exceedances ranged from 160 to 161 (micrograms per cubic meter) µg/m³. The 24-hour standard is 150 µg/m³.

The only significant stationary facility identified as a contributor to the

monitored exceedances was Blackhawk Foundry and Machine Company. This company operates a gray and ductile iron foundry and secondary aluminum production facility in the vicinity of the PM₁₀ ambient air monitors which recorded the exceedances of the NAAQS.

The Iowa Department of Natural Resources (IDNR), Air Quality Bureau, over the course of several years, developed a control strategy for this company which requires emission controls on numerous sources of emissions at the installation. These requirements were incorporated into an Administrative Consent Order (A.C.O.) for the company. Additionally, permit conditions were developed or revised to reflect the A.C.O. control requirements.

The order and permits establish enforceable emission rates and limitations on daily and annual process rates (throughput). The order required that certain areas be fenced to preclude public access.

We are approving the A.C.O. No. 03-AQ-51 between the IDNR and Blackhawk Foundry and Machine Company signed by the state on December 4, 2003. We are also approving the construction permits related to the A.C.O.

Air quality modeling results demonstrate that the control measures contained in the A.C.O. and permits will ensure attainment and maintenance of the PM₁₀ NAAQS. Additional information concerning the state submittal is contained in the technical support document for this action which is available from the EPA contact identified above.

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, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are approving as a revision to the Iowa SIP, the A.C.O. for Blackhawk Foundry and Machine Company in Davenport, Iowa. We are also approving the related construction permits for this company. We are processing this action as a final action because 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 (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 August 9, 2004. 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, Incorporation by

reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 3, 2004.

James B. Gulliford,
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, paragraph (d) is amended by adding entries at the end of the table for Blackhawk Foundry and Machine Company in Davenport, Iowa, to read as follows:

§ 52.820 Identification of plan.

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(d) EPA-approved State source-specific orders/permits

EPA-APPROVED IOWA SOURCE-SPECIFIC ORDERS/PERMITS

Name of source	Order/permit No.	State effective date	EPA approval date	Comments
* * * * *				
Blackhawk Foundry and Machine Company.	A.C.O. 03-AQ-51	12/4/2003	6/10/2004 [FR page citation].	Together with the permits listed below this order comprises the PM ₁₀ control strategy for Davenport, Iowa.
Blackhawk Foundry and Machine Company.	Permit No. 02-A-116 (Cold Box Core Machine).	8/19/02	6/10/2004 [FR page citation].	Provisions of the permit that relate to pollutants other than PM ₁₀ are not approved by EPA as part of this SIP.
Blackhawk Foundry and Machine Company.	Permit No. 02-A-290 (Wheelabrator #2 and Casting Sorting).	8/19/02	6/10/2004 [FR page citation].	Provisions of the permit that relate to pollutants other than PM ₁₀ are not approved by EPA as part of this SIP.
Blackhawk Foundry and Machine Company.	Permit No. 02-A-291 (Mold Sand Silo).	8/19/02	6/10/2004 [FR page citation].	Provisions of the permit that relate to pollutants other than PM ₁₀ are not approved by EPA as part of this SIP.
Blackhawk Foundry and Machine Company.	Permit No. 02-A-292 (Bond Storage).	8/19/02	6/10/2004 [FR page citation].	Provisions of the permit that relate to pollutants other than PM ₁₀ are not approved by EPA as part of this SIP.
Blackhawk Foundry and Machine Company.	Permit No. 02-A-293 (Induction Furnace and Aluminum Sweat Furnace).	8/19/02	6/10/2004 [FR page citation].	Provisions of the permit that relate to pollutants other than PM ₁₀ are not approved by EPA as part of this SIP.
Blackhawk Foundry and Machine Company.	Permit No. 77-A-114-S1 (Wheelabrator #1 & Grinding).	8/19/02	6/10/2004 [FR page citation].	Provisions of the permit that relate to pollutants other than PM ₁₀ are not approved by EPA as part of this SIP.
Blackhawk Foundry and Machine Company.	Permit No. 84-A-055-S1 (Cupola ladle, Pour deck ladle, Sand shakeout, Muller, Return sand #1, Sand cooler, Sand screen, and Return sand #2).	8/19/02	6/10/2004 [FR page citation].	Provisions of the permit that relate to pollutants other than PM ₁₀ are not approved by EPA as part of this SIP.

EPA-APPROVED IOWA SOURCE-SPECIFIC ORDERS/PERMITS—Continued

Name of source	Order/permit No.	State effective date	EPA approval date	Comments
Blackhawk Foundry and Machine Company.	Permit No. 72-A-060-S5 (Cupola).	8/19/02	6/10/2004 [FR page citation].	Provisions of the permit that relate to pollutants other than PM ₁₀ are not approved by EPA as part of this SIP.

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[FR Doc. 04-13177 Filed 6-9-04; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180****[OPP-2004-0174; FRL-7362-9]****Fenpyroximate; Pesticide Tolerance****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of fenpyroximate and its metabolites in or on cotton gin byproducts; cotton undelinted seed; fruit pome group 11; grape; liver and kidney of cattle, goat, horse, and sheep; meat, fat, and meat byproducts (excluding liver and kidney) of cattle, goat, horse, and sheep; and milk. The Interregional Research Project Number 4 and Nichino America, Incorporated requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective June 10, 2004. Objections and requests for hearings, identified by docket ID number OPP-2004-0174, must be received on or before August 9, 2004.

ADDRESSES: To submit a written objection or hearing request follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under docket ID number OPP-2004-0174. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket/>. Although listed in the index, 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 available only in hard copy form. Publicly available docket

materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. Attention: Docket ID Number OPP-2004-0174. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Melody Banks, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5413; e-mail address: banks.melody@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information****A. Does this Action Apply to Me?**

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

- Crop production (NAICS 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food processing (NAICS 3110), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturers (NAICS 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any

questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), you may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available on E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at <http://www.epa.gov/opptsfrs/home/guidelin.html>.

II. Background and Statutory Findings

In the **Federal Register** of July 11, 2003 (68 FR 41345) (FRL-7314-8), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104-170), announcing the filing of pesticide petitions (PP 3E6519) by Interregional Research Project Number 4, 681 U.S. Highway No. 1 South, North Brunswick, NJ 08902 and (PP 2F6437) by Nichino America, Incorporated, 4550 New Linden Hill Rd., Wilmington, DE 19808. That notice included a summary of the petition prepared by Nichino America, Inc., the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.566 be amended by establishing tolerances for combined residues of the insecticide fenpyroximate, benzoic acid, 4-[[[(E)-[1,3-dimethyl-5-phenoxy-1H-pyrazol-4-yl)methylene]amino]oxy)methyl]-, 1,1-dimethylethyl ester, in or on fruit pome group 11 at 0.3 parts per million (ppm) (PP 3E6519); apple fruit at 0.8 ppm, grape at 0.3 ppm, cotton undelinted seed at 0.1 ppm, cotton gin byproducts at 9.0 ppm, milk at 0.01 ppm, liver and kidney of cattle, goat, hog, horse, and sheep at 0.50 ppm, and meat, fat, and meat byproducts (excluding liver and