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■ 3. In § 303.13, paragraph (e)(3) is revised to read as follows:

§ 303.13 Fees.

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(e) * * *

(3) Duplication by paper copy: 15 cents per page;

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Dated: May 8, 2007.

Tyler S. Posey,
General Counsel.

[FR Doc. 07-2349 Filed 5-11-07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2007-0015; FRL-8312-5]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) submission by the state of Iowa which revises the air quality rules to include portions of the Federal New Source Review (NSR) regulations promulgated by EPA in December 2002. These revisions do not include the portion of the rules for nonattainment areas as there are currently no nonattainment areas in the state of Iowa. The definitions and applicability portions of the Prevention of Significant Deterioration (PSD) program were written into the state rules while the remaining portions of the PSD program were adopted by reference. All references to clean units and pollution control projects are not adopted by reference. Iowa has also not adopted portions of the Federal rule relating to exceptions from recordkeeping requirements.

DATES: This rule is effective on June 13, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2007-0015. All documents in the docket are listed on the <http://www.regulations.gov> Web site. 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 through <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 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 the background for this action?

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 final 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 Clean Air Act (CAA or Act) 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 the background of this action?

The 2002 NSR Reform rules are part of EPA's implementation of parts C and D of title I of the CAA, 42 U.S.C. 7470-7515. Part C of title I of the CAA, 42 U.S.C. 7470-7492, is the Prevention of Significant Deterioration (PSD) program, which applies in areas that meet the National Ambient Air Quality Standards (NAAQS), also known as "attainment areas" and in areas for which there is insufficient information to determine whether the area meets the NAAQS, also known as "unclassifiable" areas.

Part D of Title I of the CAA, 42 U.S.C. 7501–7515, is the nonattainment New Source Review (NSR) program, which applies in areas that are not in attainment of the NAAQS, also known as “nonattainment areas.” Collectively, the PSD and NSR programs are referred to as the “New Source Review” or NSR programs. EPA regulations implementing these programs are contained in 40 CFR 51.165, 51.166, 52.21 52.24 and part 51, appendix S. The SIP submittal from the State of Iowa does not include the portion of the rules relating to NSR reform provisions for nonattainment areas as the State of Iowa currently has no areas designated nonattainment.

The 2002 NSR Reform rules made changes to five areas of the NSR programs. In summary, the 2002 rules: (1) Provide a new method for determining baseline actual emissions; (2) adopt an actual-to-projected-actual methodology for determining whether a major modification has occurred; (3) allow major stationary sources to comply with plantwide applicability limits (PALs) to avoid having a significant emission increase that triggers the requirements of the major NSR program; (4) provide a new applicability provision for emissions units that are designated clean units; and (5) exclude pollution control projects (PCPs).

After the 2002 NSR Reform rules were finalized and effective, various petitioners challenged numerous aspects of the 2002 NSR Reform rules, along with portions of EPA’s 1980 NSR rules (45 FR 5276, August 7, 1980). On June 24, 2005, the District of Columbia Court of Appeals issued a decision on the challenges to the 2002 NSR Reform Rules. *New York v. United States*, 413 F.3d (DC Cir. 2005). In summary, the Court of Appeals for the District of Columbia vacated portions of the rules pertaining to clean units and pollution control projects, remanded a portion of the rules regarding exemption from recordkeeping, *e.g.*, 40 CFR 52.21(r)(6) and 40 CFR 51.166(r)(6), and let stand the other provisions included as part of the 2002 NSR Reform rules. EPA has not yet responded to the Court’s remand regarding recordkeeping provisions.

What is being addressed in this document?

The final action described in this section is identical to the action we proposed in the **Federal Register** February 26, 2007, notice of proposed rulemaking (72 FR 8329). We received no comments on any aspect of the proposal, and we are taking final action

based on the rationale in the proposal and in this final rule.

EPA is revising the Iowa SIP to include the PSD portion of the NSR regulations. In general, the Iowa revisions consist of incorporation by reference of substantial portions of the Federal Prevention of Significant Deterioration (PSD) rule and inclusion of other portions of the Federal rule almost verbatim. Iowa has not adopted provisions of the 2002 reform rule which were either vacated or remanded by the Court, as previously described. The Iowa Department of Natural Resources (IDNR) has identified portions of its rule which are at variance with the Federal rule and has provided conclusions with respect to equivalency of the State rule with the Federal requirements.

Revisions to the Iowa Administrative Code (567–20.1 and 567–22.4) add language to reference the new Chapter 33 entitled “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality.” These revisions are informational in nature and do not include substantive requirements.

Chapter 33 of the Iowa rules contains the substantive PSD rule revisions which include EPA’s NSR reform rules as previously described. The Federal provisions are adopted as follows: (1) The definitions, applicability provisions, public participation procedures, and source obligation provisions (the requirements in section 52.21(r) of the Federal rule with the exception of the provision in section 52.21(r)(6) which exempts certain emissions changes from the recordkeeping requirements) are set forth in language which tracks the relevant language of the corresponding Federal rules; and, (2) the remainder of the Federal PSD rules upheld by the Court are adopted by reference.

The State’s definition section (567–33.3(1)) contains several definitions with wording which differs from the wording in the Federal rule, but the differences are either not substantive or do not affect the stringency of the rule. These differences are described in the technical support document, and EPA believes that the differences do not affect the approvability of the rule. Another example of a difference is that the State does not incorporate by reference the Federal definitions relating to the clean unit exemption and pollution control project exclusion, which provisions were vacated by the court.

The applicability section (567–33.3(2)) discusses the application of

PSD program requirements as they apply to the construction of any new major stationary source, or any project at an existing major stationary source in an area designated as attainment or unclassifiable. This section extracts the language from 40 CFR 51.166(a)(7), including the actual-to-projected-actual test for determining whether a modification is subject to the rule and other provisions of the Federal rule.

The public participation procedures in the State rule (567–33.3(17)) are substantially the same as the rules in the existing SIP. EPA believes that these procedures meet the corresponding requirements in 40 CFR 51.166.

The following sections were adopted by reference as specified in 40 CFR 52.21: Ambient air increments; Ambient air ceilings; Restrictions on area classifications; Redesignation; Stack heights; Exemptions; Control technology review; Source impact analysis; Air quality models; Air quality analysis; Source information, and Additional impact analyses.

The provisions of the State rule relating to exclusions from increment consumption, sources impacting Federal Class I areas—additional requirements, and innovative control technology adopt by reference the relevant portions of 40 CFR 51.166 except for the phrases that contain “the plan may provide that,” “the plan provides that,” “it shall also provide that,” and “mechanism whereby.” These phrases are excluded to convert the language of section 51.166 to substantive rules rather than minimum program requirements. The EPA provisions for plantwide applicability limitations are adopted by reference except that the term “Administrator” used in the Federal rule means “the department of natural resources” in the State rule. These provisions were reviewed by EPA for consistency with the Federal requirements and are acceptable.

The reference to Clean Units and Pollution Control Projects as set forth in 40 CFR 52.21 and 40 CFR 51.166 are not adopted by reference. In addition, the provision of the Federal rule (40 CFR 52.21(r)(6)), which exempts certain projects from recordkeeping, is not adopted, so that recordkeeping requirements apply to all modifications which use the actual-to-projected-actual test to show nonapplicability. Iowa intended these deviations from the Federal rule to address the Court ruling on EPA’s reform rules, and EPA believes they are approvable.

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 that is part of this docket, EPA believes that the revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What action is EPA taking?

We are approving revisions to Iowa's rule at Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice," and Chapter 22, "Controlling Pollution," as the revisions relate to the NSR regulations. We are also approving new Chapter 33, "Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality." It should be noted that Iowa has no nonattainment areas so those portions of the NSR reform rules are not being addressed with this rulemaking.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final 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 final 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 the final approvals in this final 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 final 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 final 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 approves a State rule implementing a Federal standard.

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 final 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 July 13, 2007. 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: May 2, 2007.

John B. Askew,

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 is amended by:

■ a. Revising the entries for 567–20.1 and 567–22.4.

■ b. Adding in numerical order a heading for Chapter 33 and entries for 567–33.1, 567–33.2, 567–33.3, 567–33.4 to 567–33.8, 567–33.9 and 567–33.10.

The revisions and additions 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 20—Scope of Title—Definitions—Forms—Rule of Practice				
567–20.1	Scope of Title	N/A	5/14/07 [<i>insert FR page number where the document begins</i>].	This rule is a non-substantive description of the Chapters contained in the Iowa rules. EPA has not approved all of the Chapters to which this rule refers.
*	*	*	*	*
Chapter 22—Controlling Pollution				
*	*	*	*	*
567–22.4	Special Requirements for Major Stationary Sources Located in Areas Designated Attainment or Unclassified (PSD).	11/1/2006	5/14/07 [<i>insert FR page number where the document begins</i>].	
*	*	*	*	*
Chapter 33—Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality				
567–33.1	Purpose	11/1/06	5/14/07 [<i>insert FR page number where the document begins</i>].	
567–33.2	Reserved	11/1/06	5/14/07 [<i>insert FR page number where the document begins</i>].	
567–33.3	Special construction permit requirements for major stationary sources in areas designated attainment or unclassified (PSD).	11/1/06	5/14/07 [<i>insert FR page number where the document begins</i>].	
567–33.4 to 567–33.8	Reserved	11/1/06	5/14/07 [<i>insert FR page number where the document begins</i>].	
567–33.9	Plantwide applicability limitations (PALs).	11/1/06	5/14/07 [<i>insert FR page number where the document begins</i>].	
567–33.10	Exceptions to adoption by reference ..	11/1/06	5/14/07 [<i>insert FR page number where the document begins</i>].	
*	*	*	*	*

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[FR Doc. E7–9131 Filed 5–11–07; 8:45 am]

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