

number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. section 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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. section 804(3). EPA is not required to submit a rule report

regarding this action under section 801 because this is a rule of particular applicability.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 21, 2000. 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, Intergovernmental relations, Particulate matter.

Dated: April 27, 2000.

David Ullrich,

Acting Regional Administrator, Region 5.

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

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.*

2. Section 52.1220 is amended by adding paragraph (c)(53) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(53) On September 29, 1998, the State of Minnesota submitted a site-specific

revision to the particulate matter (PM) SIP for LTV Steel Mining Company (LTV), formerly known as Erie Mining Company, located in St. Louis County, Minnesota. This SIP revision was submitted in response to a request from LTV that EPA remove the Stipulation Agreement for Erie Mining Company from the State SIP, as was approved by EPA in paragraph (c)(18) of this section. Accordingly the Stipulation Agreement for Erie Mining Company referenced in paragraph (c)(18) of this section is removed from the SIP without replacement.

[FR Doc. 00–12642 Filed 5–19–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 104–1104; FRL–6702–9]

Approval and Promulgation of Implementation Plans; State of Iowa; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On April 12, 1999 (64 FR 17548), EPA published a direct final action approving revisions to the Iowa State Implementation Plan (SIP). This document makes corrections to the table of EPA-Approved Iowa Regulations. The state effective date is corrected to read May 13, 1998, and notations are added to or deleted from the “Comments” column.

EFFECTIVE DATE: This final rule is effective May 22, 2000.

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

SUPPLEMENTARY INFORMATION: In the part 52 table in subpart Q, § 52.820(c), which accompanied the April 12, 1999, document, the “state effective date” was listed as May 3, 1998. This action corrects the “state effective date” for all the rules listed, for which there has not been a subsequent revision and more current effective date, to May 13, 1998. Additionally, for rule 20.2, information has been added in the “Comments” column which specifies that certain portions of the rule are not SIP approved. Finally, we are deleting the notation in the “Comments” column for rule 25.1, which indicated that paragraph 25.1(12) was not SIP approved. All of rule 25.1 is SIP approved.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B),

provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is such good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary.

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. 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 merely corrects an incorrect citation in a previous action, 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). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will 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), because it merely corrects a citation in a state rule implementing a Federal standard, and does not alter the relationship or the

distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, our 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), we have 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. 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 (CRA), 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. Section 808 allows

the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. As stated previously, we made such a good cause finding, including the reasons therefore and established an effective date of May 22, 2000. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to the Iowa SIP table is not a "major rule" as defined by 5 U.S.C. 804 (2).

List of Subjects in 40 CFR Part 52

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

Dated: May 10, 2000.

William 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(c), the following entries in the table, EPA-approved regulations, are revised to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Comments
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	5/13/98	[5/22/00 and FR cite].	
567-20.2	Definitions	10/14/98	[5/22/00 and FR cite]	The definitions for anaerobic lagoon, odor, odorous substance, and odorous substance source, are not SIP approved.
567-20.3	Air Quality Forms Generally.	5/13/98	[5/22/00 and FR cite].	

EPA-APPROVED IOWA REGULATIONS—Continued

Iowa citation	Title	State effective date	EPA approval date	Comments
*	*	*	*	*
Chapter 22—Controlling Pollution				
567–22.1	Permits Required for New or Existing Stationary Sources.	12/23/98	[5/22/00 and FR cite]	Subrule 22.1(3) “b” (9) is not SIP approved.
*	*	*	*	*
567–22.4	Special Requirements for Major Stationary Sources Located in Areas Designated Attainment or Unclassified (PSD).	5/13/98	[5/22/00 and FR cite].	
567–22.5	Special Requirements for Nonattainment Areas.	5/13/98	[5/22/00 and FR cite].	
567–22.8	Permit by Rule	5/13/98	[5/22/00 and FR cite].	
*	*	*	*	*
567–22.203	Voluntary Operating Permit Applications.	10/14/98	[5/22/00 and FR cite].	
*	*	*	*	*
567–22.300	Operating Permit by Rule for Small Sources.	10/14/98	[5/22/00 and FR cite].	
Chapter 23—Emission Standards for Contaminants				
567–23.1	Emission Standards	10/14/98	[5/22/00 and FR cite]	Subrules 23.1(2)–(5) are not SIP approved.
567–23.2	Open Burning	5/13/98	[5/22/00 and FR cite].	
567–23.3	Specific Contaminants	5/13/98	[5/22/00 and FR cite]	Subrule 23.3(3)(d) is not SIP approved.
*	*	*	*	*
Chapter 24—Excess Emissions				
567–24.1	Excess Emission Reporting.	5/13/98	[5/22/00 and FR cite].	
*	*	*	*	*
Chapter 25—Measurement of Emissions				
567–25.1	Testing and Sampling of New and Existing Equipment.	12/23/98	[5/22/00 and FR cite].	
*	*	*	*	*
Chapter 29—Qualification in Visual Determination of the Opacity of Emissions				
567–29.1	Methodology and Qualified Observer.	5/13/98	[5/22/00 and FR cite]	
Chapter 31—Nonattainment Areas				
*	*	*	*	*
567–31.2	Conformity of General Federal Actions to the Iowa SIP or Federal Implementation Plan.	5/13/98	[5/22/00 and FR cite].	
*	*	*	*	*

* * * * *

[FR Doc. 00-12646 Filed 5-19-00; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Parts 52 and 60**

[SD-001-0010 & SD-001-0011; FRL-6603-1]

**Clean Air Act Approval and
Promulgation of State Implementation
Plan; South Dakota; New Source
Performance Standards****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Final rule.

SUMMARY: The EPA approves revisions to the South Dakota State implementation plan (SIP) which update the State's incorporation by reference of the Federal New Source Performance Standards (NSPS). The SIP revisions were submitted by the designee of the Governor of South Dakota on May 2, 1997 and on May 6, 1999. The State adopts the Federal NSPS by reference in subchapter 74:36:07 of the Administrative Rules of South Dakota (ARSD). The State also repealed a rule that required stack tests for asphalt batch plants, aside from the initial stack test required by the NSPS, to be performed if certain conditions existed. EPA approves the revisions to the ARSD 74:36:07 because the revisions are consistent with Federal regulations. This approval action does not extend to sources in Indian country.

EFFECTIVE DATE: This rule is effective on June 21, 2000.

ADDRESSES: Copies of the documents relative to this action are available for inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466. Copies of the State documents relevant to this action are available for public inspection at the Air Quality Program, Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501. Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
Vicki Stamper, EPA Region VIII, (303) 312-6445.

SUPPLEMENTARY INFORMATION:**I. What Action Is EPA Taking Today?**

We approve two revisions to the South Dakota's NSPS regulations in subchapter 74:36:07 of the ARSD, except for those sources located in Indian country. These revisions were submitted for approval as part of the SIP on May 2, 1997 and on May 6, 1999.

The State's May 2, 1997 and May 6, 1999 SIP submittals included revisions to other subchapters of the ARSD. We acted on most of those revisions submitted on May 2, 1997 in an October 19, 1998 rulemaking (see 63 FR 55804-55807). In this document, we only act on the revisions to ARSD 74:36:07. We will act on the revisions to the other subchapters of the ARSD included in these submittals in separate rulemakings.

EPA proposed to approve these revisions to South Dakota's NSPS in subchapter 74:36:07 of the ARSD in the September 21, 1999 **Federal Register** (see 64 FR 51088-51091), except for those sources located in Indian country. In that document, EPA also proposed to clarify the interpretation of Indian country in South Dakota. No comments were submitted on our proposed approval of South Dakota's SIP revisions pertaining to the NSPS. EPA did receive comments on our proposed clarification of the interpretation of Indian country in South Dakota. See Section V. of this document for further discussion.

**II. What Changes Were Made to South
Dakota's NSPS Regulation?**

In South Dakota's May 2, 1995 SIP submittal, the State adopted four new NSPS categories in subchapter 74:36:07 of the ARSD. Specifically, the State incorporated by reference the following subparts of the Federal NSPS in 40 CFR part 60 as in effect on July 1, 1995 unless otherwise stated: subpart Eb (pertaining to large municipal waste combustors) as promulgated by EPA on December 19, 1995 (59 FR 65419-65436); 40 CFR part 60, subpart RRR (pertaining to the synthetic organic chemical manufacturing industry reactor processes); 40 CFR part 60, subpart UUU (pertaining to calciners and dryers in mineral industries); and 40 CFR part 60, subpart WWW (pertaining to municipal solid waste (MSW) landfills) as promulgated by EPA on March 12, 1996 (61 FR 9918-29). The State also updated its existing NSPS subparts to incorporate by reference the July 1, 1995 version of the Federal NSPS.

In South Dakota's May 6, 1999 SIP submittal, the State adopted one new NSPS subpart in subchapter 74:36:07 of the ARSD: 40 CFR 60, subpart Ec

(pertaining to hospital/medical/infectious waste incinerators) as promulgated by EPA on September 15, 1997 (62 FR 48383-48390). The State also updated its incorporation by reference of 40 CFR part 60, subpart Eb (pertaining to municipal waste combustors) to reflect the version in effect as of July 1, 1997, and also updated its incorporation by reference of 40 CFR part 60, subpart WWW (pertaining to MSW landfills) to reflect the version as revised on June 16, 1998 (63 FR 32750-32753). Last, the State repealed its additional provisions for asphalt batch plants in Section 74:36:07:11 of the ARSD. This section previously required stack tests at asphalt batch plants, aside from the initial stack test required by the NSPS, if certain conditions existed. The State repealed this section because it was repetitive with recent changes to the ARSD. The State still has the ability to require stack performance tests at any time to determine compliance with emission limits.

**III. Why Is EPA Approving the South
Dakota Revisions to the NSPS?**

EPA approves these revisions to South Dakota's NSPS in ARSD 74:36:07 because the revisions ensure that the State's NSPS are up to date with the Federal NSPS.

We also believe the State met EPA's completeness criteria, including the public participation requirements of sections 110(a)(2) and 110(l) of the Clean Air Act, for the adoption of these revisions to ARSD 74:36:07. Specifically, the State of South Dakota held a public hearing on November 20, 1996, after providing notice to the public, for the revisions to the ARSD submitted to EPA on May 2, 1997. For the SIP revisions submitted to EPA on May 6, 1999, the State held a public hearing on February 18, 1999, after providing notice to the public.

**IV. How Do I Know What NSPS
Subparts Have Been Approved as Part
of the SIP or Delegated by EPA to the
States?**

We publish a table in 40 CFR 60.4 for Region VIII States that identify which NSPS subparts have been adopted by the States and delegated and approved by EPA. In this document, we update that table to reflect the NSPS subparts delegated to South Dakota. We are also updating the address listed for the State of South Dakota in 40 CFR 60.4.