

**Executive Order 12291**

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. The EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on the EPA's request.

**List of Subjects in 40 CFR Part 52**

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

**Authority:** 42 U.S.C. 7401-7671q.

Note: Incorporation by reference of the SIP for the State of New Mexico was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 23, 1993

Russell F. Rhoades,

Acting Regional Administrator (6A).

40 CFR part 52 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 GG—New Mexico**

2. Section 52.1620 is amended by adding paragraph (c)(48) to read as follows:

**§ 52.1620 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(48) A revision to the New Mexico SIP to include revisions to Air Quality Control Regulation 709—Permits—Nonattainment Areas, as filed with the State Records and Archives Center on June 25, 1992.

(i) Incorporation by reference.

(A) Revisions to New Mexico Air Quality Control Regulation 709—Permits—Nonattainment Areas, Section D, "Source Requirements," Subsections D(2), D(3)(a), D(5), D(6); Section G, "Emission Offsets," Subsection G(5); Section I, "Air Quality Benefit," Subsection I(1); and Section J, "Public Participation and Notification," Subsection J(2) (first paragraph), as filed

with the State Records and Archives Center on June 25, 1992.

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**40 CFR Part 52**

[IA-8-1-5750; FRL-4618-6]

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

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

**ACTION:** Final rule.

**SUMMARY:** The state of Iowa has submitted a State Implementation Plan (SIP) revision which revises and updates certain state air regulations. EPA is taking final action to approve these changes. This action is necessary to make the changes federally enforceable and to keep the SIP current with changes to the state regulations.

**EFFECTIVE DATE:** This action will be effective July 12, 1993 unless notice is received by June 11, 1993 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the *Federal Register*.

**ADDRESSES:** 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; Iowa Department of Natural Resources, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319; and Jerry Kurtzweg (ANR-443), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

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

**SUPPLEMENTARY INFORMATION:** On January 5, 1993, the Iowa Department of Natural Resources (IDNR) submitted a revision to its SIP. This submittal contained revisions to the following air quality rules: Chapter 20, Definitions; Chapter 22, Controlling Pollution; Chapter 23, Emission Standards for Contaminants; Chapter 24, Excess Emission; Chapter 25, Measurement of Emissions; and Chapter 29, Qualification in Visual Determination of the Opacity of Emissions. Additionally, revisions were made to the Compliance Sampling Manual (CSM), referenced in Chapter 25. The major purpose for the revision was to update references to the Code of Federal Regulations (CFR) which are adopted by reference, to make minor corrections and revisions, and to update the test procedures contained in

the CSM. Relevant actions are discussed below.

In Chapter 20, Definitions, the state added a definition of "ambient air" which is consistent with the EPA definition at 40 CFR 50.1(e). The definition of "opacity" was revised to include a reference to Chapter 29, which provides for the federal method of determination of opacity and the requirements for a qualified observer. Also, the definition of "Ringelmann chart" was deleted since it is replaced with the definition of opacity elsewhere in the state rules.

In Chapter 22, Controlling Pollution, subrule 22.3(1), Stationary sources other than anaerobic lagoons, a restriction was added which requires the state to withhold issuance of a construction or conditional permit if a source is in violation of a permit condition or compliance schedule. This enhances the state's enforcement powers. In subrule 22.4, Special requirements for major stationary sources in areas designated attainment or unclassified (prevention of significant deterioration (PSD)), and subrule 22.5, Special requirements for nonattainment areas, the state reference to the federal PSD rule at 40 CFR 52.21 was updated, as well as the reference to the attainment status designations table for Iowa at 40 CFR 81.316.

In Chapter 23, Emission Standards for Contaminants, subrules 23.3(2) (relating to sources generally), and 23.4(12) (relating to incinerators), the limitation on opacity deleted the reference to the Ringelmann chart so that the limitation is expressed as 40 percent opacity. In subrule 23.3(3), Sulfur compounds, the averaging period for sulfur dioxide emission limitations was changed from two hours to three hours, which makes it consistent with the test method requirements of 40 CFR parts 60.8 and 60.46. The test method in the CSM for sulfur dioxide continues to adopt by reference the federal method at 40 CFR Part 60, Appendix A, Method 6.

Minor revisions were made to Chapter 24, Excess Emission.

Chapter 25, Measurement of Emissions, subrule 25.1(7), Test by owner, was revised to require the source to provide the state with 30 instead of 15 days' notice of a scheduled test, requires a pretest meeting between the source and the state, requires that new equipment be tested within a certain time period, requires the source to submit test results to the state within a specified time period, and gives the state authority to require testing of existing equipment. Subrule 25.1(9), Methods and procedures, was revised to update the reference to 40 CFR part 60, Appendix B—Performance

Specifications, and Appendix F—Quality Assurance Procedures, was added. Also, a provision was added to give the state authority to require testing to determine compliance with a permit condition. Chapter 25 references the state CSM, which in turn references federal test methods and procedures for source emission testing. The state made numerous revisions to the CSM and updated the reference to it in this rule. These revisions updated references to EPA methods and state rules, clarified existing language, and made minor corrections. The net effect is to improve the accuracy and enforceability of the document and Chapter 25.

Chapter 29, Qualification in Visual Determination of the Opacity of Emissions, was revised to delete the state requirements for visual determination of opacity of emissions and requirements for qualified observers and replacing it with adoption by reference of the federal method at 40 CFR part 60, appendix A, Method 9.

The state provided opportunity for public notice and comment prior to the adoption of these revisions pursuant to the requirements of 40 CFR 51.102.

Additional information on this rulemaking is contained in the Technical Support Document which is available from the EPA information contact above. EPA ACTION: EPA is taking final action to approve revisions to the Iowa SIP which amend and update the state air rules.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective July 12, 1993 unless, June 11, 1993 notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective July 12, 1993.

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 subchapter I, Part D of the Clean Air Act (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 (1976); 42 U.S.C. 7410(a)(2)).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225). EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions from the requirements of Section 3 of Executive Order 12291. The Office of Management and Budget has agreed to continue the temporary waiver until such time as it rules on EPA's request.

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 12, 1993. 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

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, and Volatile organic compounds.

Dated: April 7, 1993.

William W. Rice,

Acting Regional Administrator.

40 CFR part 52 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)(57) to read as follows:

#### § 52.820 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(57) On January 5, 1993, the Iowa Department of Natural Resources (IDNR) submitted air quality rule revisions to Iowa Administrative Code, Chapters 20, 22, 23, 24, 25, 29, and revisions to the Compliance Sampling Manual.

(i) Incorporation by reference.

(A) Revisions to Chapter 20 (20.2), Scope of Title-Definitions-Forms-Rules of Practice; Chapter 22 (22.3(1), 22.4, 22.5(2)), Controlling Pollution; Chapter 23 (23.2(3), 23.3(2), 23.3(3), 23.4(12)), Emission Standards for Contaminants; Chapter 24 (24.1(1), 24.1(5)), Excess Emission; Chapter 25, (25.1(7), 25.1(9)), Measurement of Emissions and rescind 25.1(10)d; and Chapter 29 (29.1), Qualification in Visual Determination of the Opacity of Emissions. These revisions were adopted by the Iowa Environmental Protection Commission on December 21, 1992, and became effective on February 24, 1993.

(ii) Additional material.

(A) Letter from Larry Wilson, IDNR, to Morris Kay, EPA, dated January 5, 1993, and the Compliance Sampling Manual, revised December 1992.

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#### 40 CFR Part 721

[OPPTS-50578A; FRL-4077-7]

#### Alkali Metal Nitrites; Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** EPA is promulgating a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) which will require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of alkali (e.g.,