

**§179.26 Ionizing radiation for the treatment of food.**

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(b) \* \* \*

Use	Limitations
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11. For the control of <i>Vibrio</i> bacteria and other foodborne microorganisms in or on fresh or frozen molluscan shellfish.	Not to exceed 5.5 kGy.
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\* \* \* \* \*

Dated: August 11, 2005.

**Jeffrey Shuren,***Assistant Commissioner for Policy.*

[FR Doc. 05-16279 Filed 8-12-05; 1:19 pm]

BILLING CODE 4160-01-S

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration****21 CFR Part 1240****Turtles Intrastate and Interstate Requirements****AGENCY:** Food and Drug Administration, HHS.**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Food and Drug Administration (FDA) is amending its regulation regarding the intrastate and interstate distribution of turtles to reflect a change in responsibility for administering the provisions of the regulations from FDA's Center for Food Safety and Applied Nutrition (CFSAN) to FDA's Center for Veterinary Medicine (CVM). FDA is taking this action to enable the agency to more effectively administer the provisions of this regulation.

**DATES:** This rule is effective August 16, 2005.

**FOR FURTHER INFORMATION CONTACT:** Joseph Paige, Center for Veterinary Medicine (HFV-230), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240-276-9210, e-mail: [jpaige@cvm.fda.gov](mailto:jpaige@cvm.fda.gov).

**SUPPLEMENTARY INFORMATION:** FDA is amending its regulations regarding the intrastate and interstate distribution of turtles (§ 1240.62 (21 CFR 1240.62)) to reflect the transfer of regulatory responsibility from CFSAN to CVM. Except as otherwise provided, § 1240.62 requires that viable turtle eggs and live

turtles with a carapace length of less than 4 inches not be sold, held for sale, or offered for any other type of commercial or public distribution. FDA is amending this regulation because current expertise for addressing issues regarding this regulation is within CVM. Reassigning regulatory responsibility to CVM more effectively utilizes agency resources in administering the provisions of the regulation.

Publication of this document constitutes final action on this change under the Administrative Procedures Act (5 U.S.C. 553). FDA has determined that notice and public comment are unnecessary because this amendment to the regulation is nonsubstantive. It merely reflects an organizational change.

**List of Subjects in 21 CFR Part 1240**

Communicable diseases, Public health, Travel restrictions, Water supply.

■ Therefore, under the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 1240 is amended as follows:

**PART 1240—CONTROL OF COMMUNICABLE DISEASES**

■ 1. The authority citation for 21 CFR part 1240 continues to read as follows:

**Authority:** 42 U.S.C. 216, 243, 264, 271.

**§ 1240.62 [Amended]**

■ 2. Section 1240.62 is amended as follows:

a. In paragraphs (c)(1)(i), (c)(1)(ii), (c)(1)(v), and (c)(2) by removing "Director of the Center for Food Safety and Applied Nutrition" each time it appears, and adding in its place "Director of the Center for Veterinary Medicine".

b. In paragraph (c)(1)(ii) by removing "5100 Paint Branch Pkwy., College Park, MD 20740", and adding in its place "7519 Standish Pl., Rockville, MD 20855".

Dated: August 9, 2005.

**Jeffrey Shuren,***Assistant Commissioner for Policy.*

[FR Doc. 05-16142 Filed 8-15-05; 8:45 am]

BILLING CODE 4160-01-S

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[R07-OAR-2005-IA-0003; FRL-7953-7]

**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 for the purpose of approving the 2001 and 2004 updates to the Linn County Air Quality Ordinance. These revisions will help to ensure consistency between the applicable local agency rules and Federally-approved rules, and ensure Federal enforceability of the applicable parts of the local agency air programs.

**DATES:** This direct final rule will be effective October 17, 2005, without further notice, unless EPA receives adverse comment by September 15, 2005. If adverse comment is 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-2005-IA-0003, 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: [Hamilton.heather@epa.gov](mailto:Hamilton.heather@epa.gov).

4. Mail: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. Hand Delivery or Courier: Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**Instructions:** Direct your comments to RME ID No. R07-OAR-2005-IA-0003. 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, or e-mail. The EPA RME Web site and the Federal regulations.gov Web site 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, 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 Planning and Development 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. 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](mailto: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 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 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 Document?**

The Iowa Department of Natural Resources (IDNR) requested EPA approval of the 2001 and 2004 revisions to the Linn County Air Quality Ordinance, Chapter 10, Air Quality, as a revision to the Iowa SIP. The changes were adopted by the Linn County Board of Supervisors on February 9, 2005, and became effective on March 1, 2005.

The following is a description of the revisions to the Linn County Air Quality Ordinance, Chapter 10, Air Quality, which are subject to this approval action:

**Addition of Definitions.** The following definitions were added to the Linn County Air Quality Ordinance, Chapter 10.2, "Definitions" to be consistent with state rules which have been approved by EPA: Act, Administrator, Affected facility, Air quality standard, Ambient air, Auxiliary fuel firing equipment, Backyard burning, Combustion for indirect heating, Commenced, Commission, Construction, Control equipment, Country grain elevator, Director, Emergency generator, Existing equipment, Hazardous air pollutant, Landscape waste, Modification, National Ambient Air Quality Standards (NAAQS), National Emission Standards for Hazardous Air Pollutants (NESHAP), New equipment, Open burning, PM<sub>2.5</sub>, Parts per million (PPM), Permit to operate, Prevention of Significant Deterioration (PSD), Public Health Department, Residential waste, Responsible Official, Rubbish, Shutdown, Six-minute period, Standard cubic foot (SCF), Startup, State Implementation Plan (SIP), Total suspended particulate, Trade waste, 12-month rolling period, and Volatile organic compound.

The following definitions were changed in the Linn County Air Quality Ordinance, Chapter 10.2, "Definitions": Air Quality Division or Air Pollution Control Agency, Board of Health, Major modification, Potential to emit, and Standard conditions. The definitions of Major modification and Potential to emit are consistent with approved state rules.

The following definitions were deleted from the Linn County Air Quality Ordinance, Chapter 10.2, "Definitions": Health Department and Open fire.

*Locally required permits.* Chapter 10.5 of the Linn County Air Quality Ordinance sets forth requirements for locally required permits. Note that EPA has not approved the local permit program with regard to permits for major sources. Major source (PSD) permits are issued by the Iowa Department of Natural Resources.

Changes were made to the wording in 10.5(2)(b), "Public Notice Requirements." The term "air pollution source" was removed and the term "stationary source" was added. Also, the term "major modification" was removed and the term "significant modification" was added. These changes were made to be consistent with state and Federal rules.

The section entitled "Duration of Permit" located at 10.5(2)(c) changed the adjustment period after the project completion date from sixty (60) days to ninety (90) days. The change in the adjustment period allows the potential permittee additional time to ensure that the source is operational prior to obtaining the Permit to Operate. In the Linn County program, the terms and conditions of the permit to install (construct) are converted to a source operating permit after the source becomes operational.

"Posting of Permit to Operate," 10.5(3)(d), the term "permit number" was removed and was replaced with the term "emission point number."

In section 10.5(9), "Exemptions from the Authorization to Install Permit and Permit to Operate Requirements," exemptions a, e, f, and i were changed to be consistent with recent changes to the IDNR SIP. Exemption "a," which refers to fuel-burning equipment for indirect heating and re-heating surfaces, added the term "cooling units" to the exemption, and added the term "per combustion unit" to the capacity section. Exemption "e," which refers to residential heaters, cook stoves, or fireplaces, added untreated wood, untreated seeds or pellets, or other untreated vegetative materials to material that can be burned. Exemption

"f" refers to laboratory equipment used exclusively for non-production chemical and physical analyses. The term "non-production" was defined in this exemption for clarification.

Exemption "i," which refers to capacity of gasoline, diesel, or oil storage tanks, was changed to reflect the capacity of 10,570 gallons or less of an annual throughput of less than 40,000 gallons.

Seven exemptions were added to 10.5(9) as follows: "o" added stationary internal combustion engines with a brake horsepower rating of less than 400, or a kilowatt output less than 300; "p" added cooling and ventilating equipment; "q" added equipment not related to the production of goods or services and used for academic purposes at educational institutions; "r" added any container, storage tank, or vessel that contains a fluid maximum true vapor pressure of less than 0.75 psia; "s" added equipment used for non-production activities or exhausted inside a building; "t" added manually operated equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, scarfing, surface grinding or turning, and "u" added incinerators and pyrolysis cleaning furnaces with a rated refuse burning capacity of less than 25 pounds per hour. These additions are consistent with the approved state rules.

*Permit Fees.* Changes were made to Linn County Air Quality Ordinance (10.6) to reflect changes in policy. In 10.6(1), the filing fee and payable date were removed and language was added to reflect that the fee shall be paid upon the invoice due date. This change reduces the administrative burden of revising the SIP with each filing fee change. Language was added to 10.6(2) stating that the Air Pollution Control Officer has the authority to deny the issuance or renewal of any permit to any person who is in violation of the Air Quality Ordinance.

Two sections were added to 10.6 (10.6(3) and 10.6(4)) to explain fees for late permits (construction prior to permit issuance) and how fees are recommended.

*Particulate Matter.* With this approval, the name of this section will be changed from "Dust and Fumes" to "Particulate Matter." In addition, 10.9 1.(a) will be changed from "General" to "General Emission Rate."

Section 10.9(1) of the Linn County Air Quality Ordinance added the emission standard of 0.1 grain per dry standard cubic foot of exhaust gas from any process or Table 1, entitled "Allowable Rate of Emission Based on Process Weight Rate," whichever is lowest.

With this approval, the name of 10.9 1.(g) is changed from "Grain Processing Plants," to "Grain Handling and Processing Plants." Changes made to this section correctly reflect the revised title of the section, as well as the changes made in 10.9(1).

Changes were made to section 10.9 1.(j) to include phosphoric acid manufacture, diammonium phosphate manufacture, nitrophosphate manufacture, and related calculations and definitions.

The revision to 10.9 1.(l) for incinerators included removing the phrase "objectionable odors"; 10.9 1.(l)(1) was revised to clarify that the discharge of particulate matter into the atmosphere shall not exceed 0.2 grain per standard cubic foot of exhaust gas adjusted to 12 percent carbon dioxide. This change further clarifies that an incinerator with a rated burning capacity of less than 1,000 pounds per hour should not exceed discharge of particulate matter into the atmosphere that exceeds 0.35 grains per standard cubic foot of exhaust gas adjusted to 12 percent carbon dioxide.

Section 10.9 1.(l)(2) was previously entitled "Smoke," and is revised to read "Visible Emissions." In addition to the name change, a provision was added to clarify that the appearance, density, or shade of opacity will not exceed the level specified in a federally-enforceable permit.

*Training Fires.* Section 10.10 of the Linn County Air Quality Ordinance sets forth rules for open burning. Specifically, section 10.10(1)(b) identifies rules for training fires. This section was expanded to reflect changes recently made in IDNR's SIP and includes specific instruction on notification, removal of asbestos-containing materials, asphalt shingles, and tires. This section also gives the Air Pollution Control Officer the authority to deny a training fire permit based on factors such as public health, air quality in the vicinity, and effects to the local environment where the burning would cause a violation of any National Ambient Air Quality Standard.

Section 10.10 A.(1)(c) identifies regulations for burning of agricultural structures which are defined in this section. The rule clarifies that weather must be favorable, and the structure must be at least one-fourth mile from any building inhabited by a person other than the landowner, a tenant or an employee thereof, unless a written affidavit is submitted to the Linn County Air Quality Division by the owner prior to the open burning. As with the update to the training fire rule, this section also clarifies removal of

asphalt shingles, asbestos-containing material, and tires.

Section 10.10 A.(1)(f), which refers to landscape wastes, added provisions stating that burning shall be conducted when weather conditions are favorable with respect to surrounding property.

The open burning of trees and tree trimmings was added to the Linn County Air Quality Ordinance at 10.10 A.(1)(h). This revision states that trees and tree trimmings may be burned at a site operated by a local governmental entity, provided the site is fenced and access controlled and conditions are favorable with respect to surrounding property. Provisions with regard to inhabited buildings are the same as with agricultural structures. This revision allows relocation of the burning operation if the burning could cause air pollution as defined in the Iowa Code (455B.131(3)).

Rules for open burning permits are found at 10.10 A.(2) of the Linn County Air Quality Ordinance. Provisions were added in this revision stating that open burning permits are valid for either 30 or 60 days from the date of issue at the request of the applicant. Fees are recommended by the Air Pollution Control Officer and established by resolution of the Linn County Board of Supervisors except for agencies or public districts that are exempt. This revision further adds that open burning permits are valid if the fee is paid, and the permit is signed by the Air Pollution Control Officer and the Fire Chief of the fire district having jurisdiction at the place of burning. The Air Pollution Control Officer has the authority to deny issuance of an open burning permit based on previous violations such as non-payment of fees, or if a person has a previous violation of this Ordinance.

Section 10.10 A.(3) updated the exemptions for open burning that include heating and recreational activities providing charcoal or clean wood material is used and the fire is no larger than three feet in diameter. The exemption for camp fires added outdoor fireplaces, and this exemption added the activity of cooking to "recreational activities." In the section exempting fires for disposal of household rubbish, the burning of grass and leaves was removed, and wood, paper, cardboard, and other natural fiber products were added to the list of burnable materials. A limitation was added to this exemption stating that burning for the disposal of household rubbish at dwellings of more than four family units is not allowed. An exemption to allow for burning of paper seed bags was added as 10.10 A.(3)(d) provided that

the bags resulted from activities that occurred on the premises.

*Sulfur Compounds.* Revisions were made to section 10.12, Sulfur Compounds, with regard to realigning 10.12(1) into the separate sections of 10.12(1)(a) and (b). Section 10.12(1)(c) was added and stated that no person shall allow, cause or permit the combustion of number 1 or number 2 fuel oil that exceeds a sulfur content of 0.5 percent by weight.

*Fugitive Dust.* Section 10.13(1) discusses Attainment and Unclassified Areas and addresses dust caused by ordinary travel on unpaved roads. The term "minimize atmospheric pollution" was deleted and replaced with verbiage to address the prevention of particulate matter from becoming airborne. A section was added to this rule (10.13(2)) that added information about fugitive dust emissions in nonattainment areas to be consistent with state and Federal rules.

*Testing and Sampling of New and Existing Equipment.* The first paragraph of this section (10.17) was revised to include current revisions from the CFR and the state Compliance Sampling Manual. Section 10.17(8) entitled "Exemptions from Continuous Monitoring Requirements" was revised to include current revisions to the CFR, and to include an update to the exemption for affected steam generators. This update was reworded to include an affected steam generator that had an annual capacity factor of less than 30 percent for the calendar year 1974. A provision was added as 10.17(8)(c) stating that the Air Pollution Control Officer may provide a temporary exemption from the monitoring and reporting requirements during any period of monitoring system malfunction provided certain provisions are met. Provisions include that the source owner or operator shows that the malfunction was unavoidable and is being repaired as expeditiously as possible. This temporary exemption is consistent with the approved state rule and with 40 CFR part 51, appendix P.

*Open Burning Penalties.* This section added Trade Waste Materials to the list of materials that cannot be burned (10.24(2)(b)(5)).

The following is a description of changes to the Linn County Air Quality Ordinance which are not part of the EPA-approved SIP, and therefore, are not addressed in this rulemaking: 10.2, Definition of Federally Enforceable; 10.2, Definition of Maximum Achievable Control Technology (MACT); definition of MACT floor; 10.4(1), Title V Permits; 10.9(2), NSPS; 10.9(3), Emission Standards for HAPs;

10.9(4), Emission Standards for HAPs for Source Categories; 10.11, Emission of Objectionable Odors, and, 10.15, Variances.

#### **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 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?**

EPA is approving a revision to the SIP submitted by the state of Iowa to approve the 2001 and 2004 updates to the Linn County Air Quality Ordinance. This revision will ensure consistency between the applicable local agency rules and Federally-approved rules, and ensure Federal enforceability of the applicable parts of the local agency air programs.

We are taking direct final action to approve this revision because this revision makes 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.

#### **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 (Pub. L. 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 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 October 17, 2005. 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: August 3, 2005.

**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 the table in paragraph (c) is amended by revising the entry for "Chapter 10" under the heading "Linn County" to read as follows:

**§ 52.820 Identification of plan**

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(c) \* \* \*

**EPA-APPROVED IOWA REGULATIONS**

Iowa citation	Title	State effective date	EPA approval date	Explanation
<b>Iowa Department of Natural Resources, Environmental Protection Commission [567]</b>				
* * * * *				
			<b>Linn County</b>	
Chapter 10 .....	Linn County Air Quality Ordinance, Chapter 10.	03/01/05	08/16/05 [insert FR page number where the document begins].	10.2, Definitions of Federally Enforceable, Maximum Achievable Control Technology (MACT), and MACT floor; 10.4(1), Title V Permits; 10.9(2), NSPS; 10.9(3), Emission Standards for HAPs; 10.9(4), Emission Standards for HAPs for Source Categories; 10.11, Emission of objectionable odors; and, 10.15, Variances are not a part of the SIP.

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[FR Doc. 05-16224 Filed 8-15-05; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[R06-OAR-2005-OK-0001; FRL-7953-8]

**Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Attainment Demonstration for the Central Oklahoma Early Action Compact Area****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The EPA is approving a revision to the Oklahoma State Implementation Plan (SIP) submitted by the Secretary of the Environment on December 22, 2004 for Central Oklahoma. This revision will incorporate a Memorandum of Agreement (MOA) between the Oklahoma Department of Environmental Quality (ODEQ) and the Association of Central Oklahoma Governments (ACOG) into the Oklahoma SIP and includes a demonstration of attainment and maintenance for the 8-hour National Ambient Air Quality Standard (NAAQS) for ozone. The MOA outlines duties and responsibilities of each party for implementation of pollution control measures for the Central Oklahoma Early Action Compact (EAC) area. EPA is approving the photochemical modeling in support of the attainment demonstration for the 8-hour ozone standard within the Central Oklahoma EAC area and is approving the associated control measures. These actions strengthen the SIP in accordance with the requirements of sections 110 and 116 of the Federal Clean Air Act (the Act) and will result in emission reductions needed to help ensure attainment and maintenance of the 8-hour NAAQS for ozone.

**DATES:** This final rule is effective on September 15, 2005.

**ADDRESSES:** EPA has established a docket for this action under Regional Material in EDocket (RME) ID No. R06-OAR-2005-OK-0001. All documents in the docket are listed in the RME index at <http://docket.epa.gov/rmepub/>; once in the system, select "quick search," then type in the appropriate RME docket identification number. Although listed in the index, some information is not publicly available, i.e., confidential business information or other information the disclosure of which 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 Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cents per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Oklahoma Department of Environmental Quality, Air Quality Division, 707 North Robinson, Oklahoma City, OK 73101-1677.

**FOR FURTHER INFORMATION CONTACT:** Carrie Paige, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-6521, [paige.carrie@epa.gov](mailto:paige.carrie@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, wherever "we," "our," and "us" is used, we mean EPA.

**Outline**

- I. Background
- II. What Action Is EPA Taking?
- III. What Comments did EPA Receive on the May 13, 2005 Proposed Rulemaking for the Central Oklahoma EAC Area?
- IV. Final Action
- V. Statutory and Executive Order Reviews

**I. Background**

On May 13, 2005, EPA proposed approval of the Central Oklahoma EAC area's clean air action plan (Plan), the photochemical modeling in support of the attainment demonstration and related control measures as revisions to the SIP submitted to EPA by the State of Oklahoma. The proposal provides a detailed description of these revisions and the rationale for EPA's proposed actions, together with a discussion of the opportunity to comment. The public comment period for these actions closed

on June 13, 2005. See the Technical Support Documents or our proposed rulemaking at 70 FR 25516 for more information. One adverse comment was received on EPA's proposed approval of the Central Oklahoma EAC Plan and 8-hour ozone attainment demonstration for the EAC area.

**II. What Action Is EPA Taking?**

Today we are approving revisions to the Oklahoma SIP under sections 110 and 116 of the Act. The revisions demonstrate continued attainment and maintenance of the 8-hour ozone standard within the Central Oklahoma EAC area. The revisions include the Central Oklahoma EAC Plan, photochemical modeling and related control measures. The intent of the SIP revisions is to reduce ozone pollution and thereby maintain the 8-hour ozone standard.

**III. What Comments Did EPA Receive on the May 13, 2005 Proposed Rulemaking for Central Oklahoma?**

We received one comment letter on the May 13, 2005 proposed rulemaking. The letter provided both supportive and adverse discourse, commending the State of Oklahoma for steps it has taken to improve air quality. The commenter opposes approval of the SIP revision because, should the area experience a violation of the 8-hour ozone standard, the SIP revision (1) provides for the deferment of the area's nonattainment designation to as late as December 31, 2007, and (2) relieves the area of its obligations under Title I, Subpart D of the Act. The commenter contends that EPA does not have the legal authority to defer the effective date of an area's nonattainment designation nor to relieve areas of the obligations of Part D of Title I of the Act when areas are violating the standard and designated nonattainment.

*Response:* We appreciate the support expressed towards the State of Oklahoma and towards the efforts made to ensure that the citizens in the Central Oklahoma EAC area continue to breathe clean air. We continue to believe that the EAC program, as designed, gives Central Oklahoma the flexibility to develop their own approach to maintaining the 8-hour ozone standard and believe Central Oklahoma is serious in their commitment to control emissions from local sources. By involving diverse stakeholders, including representatives from industry, local and State governments, and local environmental and citizen groups, Central Oklahoma is implementing regional cooperation in solving air quality problems that affect the health