



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2019-0708; FRL-8711-01-R7]

Air Plan Approval; Iowa; Polk County; State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Iowa State Implementation Plan (SIP) to include recent changes to the Polk County Board of Health Rules and Regulations in addition to revisions from past submittals. The proposed revisions update definitions and references to the effective dates of Federal rules approved into the State's SIP, prohibit burning of demolished buildings, update references to methods and procedures for performance test/stack test and continuous monitoring systems, and revise permitting exemptions. These proposed revisions will not adversely impact air quality and will ensure consistency between the State and Federally approved rulemakings.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2019-0708 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be

posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Stephanie Doolan, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7719; email address doolan.stephanie@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to the EPA.

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2019-0708 at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official

comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. What is Being Addressed in this Document?

The EPA is proposing to approve a submission from the State of Iowa to revise its SIP to incorporate recent updates to Chapter 10 of Polk County's Code of Regulation pertaining to air quality. The Clean Air Act (CAA) allows authorized States to delegate portions of the Act's implementation and enforcement to local governments such as Polk County. The proposed revisions to the Iowa SIP incorporate Polk County's updated definitions and references to the effective dates of Federal rules approved into the State's SIP, update references to methods and procedures for performance test/stack test and continuous monitoring systems, prohibit burning of demolished buildings, and revise permitting exemptions. The proposed revisions to the Iowa SIP also include changes to Polk County's public notice and participation requirements to allow permit modifications to be published online rather than in area newspapers which is consistent with recent revisions to Iowa's SIP (83 FR 191, October 2, 2018).

The EPA is not acting on portions of Polk County Chapter V

that amend Standards for Marijuana Production and Marijuana Processing (section 5-21), Permits for New and Existing Stationary Sources, and Chapter 10-59, Permit Fees, that pertain to Prevention of Significant Deterioration (PSD) regulations because Iowa has not delegated the PSD program authority to Polk County.

The EPA is also proposing to approve minor changes to the text of various ordinances that were previously submitted to the EPA, but were inadvertently omitted from previous actions. These revisions were contained in submittals dated December 3, 2007, September 1, 2009, September 19, 2011, April 15, 2014, and November 25, 2015.

III. What SIP Revisions are being Proposed by the EPA?

The EPA is proposing approval of the revisions to the Iowa SIP to incorporate revisions to Chapter V of the Polk County Board of Health Rules and Regulations listed below. A Technical Support Document (TSD) with a detailed description of the proposed revisions and the rationale for approval has been prepared by the EPA and is provided in the docket for this proposed action.

Article I, In General. The proposed rule changes update the references to effective dates and definitions. The rule changes are administrative updates that do not negatively impact air quality and ensure greater consistency with the Iowa regulations.

Article III, Incineration and Open Burning. Polk County

amended this article to add a prohibition against burning demolished buildings. The addition of the prohibition on burning of demolished buildings will lead to reduced particulates and hazardous air pollutants (HAPs) thus improving air quality.

Article VI, Emission Of Air Contaminants From Industrial Processes. Section 5-16 is being amended to include a general provision referencing paragraph (n) which applies to New Source Performance Standards (NSPS). NSPS is delegated by Iowa to Polk County but not SIP-approved by the EPA. The EPA proposes to approve the general provision because it pertains to a delegated authority.

Article VII, Performance Test For Stack Emission Test. In section 5-18, paragraph (a)(2) the title and references to "stack sampling" are being revised to read "performance test (stack test)" and "department" is being changed to read "local program." These minor changes in wording do not impact air quality. References to performance test methods and specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are being updated to be consistent with the currently approved references in Iowa code. Thus, for consistency, the EPA is proposing to approve these updates.

Article X, Permits, Division 1, Construction Permits. Section 5-28, Construction Permit Required, is being amended to add "Air Quality Division (AQD)" to the title. Subparagraphs (1) through (4) of paragraph (c) are not highlighted in Iowa's SIP

revision request as new text. After consulting with Iowa, the State submitted an Addendum dated July 21, 2020, to request EPA approval of paragraphs (1) through (4) of section 5-28 into the SIP, and stated that section 5-28 has been submitted to EPA for approval in the past. The text of these paragraphs is substantively similar to that of Iowa 22.1 (455B) and 22.3 (b) which EPA has approved into Iowa's SIP; thus, the EPA recommends approval of Paragraphs (a) through (c), including subparagraphs (1) through (4) of paragraph (c), to ensure consistency between Polk County's and Iowa's air permitting regulations.

The title of article X, section 5-29, is being revised to add that the application is for a "construction" permit and the acronym "AQD." The new title now reads "Application for a Construction Permit (AQD)." Also, this section is being revised to add a paragraph title, "construction permit applications," to revise "health officer" to now read "local program," to eliminate that the applications must be submitted "in duplicate," and to add "applications" to the list of items to be submitted by entities seeking a construction permit. The EPA proposes to approve these changes into the Iowa SIP because they clarify the construction permitting process and reduce the number of hard copies that need to be submitted.

Polk County has added the acronym "AQD" representing the Air Quality Division to title X, sections 5-30, Processing of Applications for Construction Permits, section 5-31, Issuance of Construction Permits, and section 5-32, Denial of Permit. These

additions represent minor clarifications. As such, the EPA proposes to approve them.

The acronym "AQD" has also been added to title X, section 5-33, Exemptions from Permit Requirements. In item (50), Production Welding, "stationary source" is replacing "facility." Further, the equations used to calculate the exemption in item (50) are being revised. The calculations make item (50) more stringent than calculations set forth in the welding exemption in the EPA-approved Iowa SIP, section 22.1(2)(ff)(1).

Item(62) has been added to section 5-33. Item (62) exempts from construction permitting non-road diesel engines used for periodic testing and maintenance of natural gas compressor engines. The exemption is consistent with EPA-approved construction permitting requirements in Chapter 22.1(2)"oo" of the Iowa code. The EPA proposes to approve item (62) into the Iowa SIP as it makes Polk County's authorities consistent with Iowa's.

Article X, Permits, Division 2, Operating Permits. "Annual Operating" is being added to the title of section 5-37 to clarify the type of permit to which the section pertains. The acronym "AQD" is being added as well. The reference to "department" is being changed to "Local Program." Also, this section is being updated to be consistent with Iowa code regarding public notice requirements. The State made revisions that address public participation requirements for its PSD permitting program to reflect updates to the Federal

regulations, at 40 CFR part 51, subpart I, published October 18, 2016. The revision removes the requirements for advertisement in a newspaper of general circulation in each region in which the proposed source will be constructed and provides for posting of the public comment period on a website identified by the State. The language and intent of the revisions to the Polk County rules and regulations are consistent with the Federal regulations and the EPA-approved Iowa SIP. Thus, the EPA is proposing to approve these Polk County revisions into the Iowa SIP.

The title for section 5-39 is being revised to clarify that the listed exemptions are for "Annual Operating" Permits. Revisions to item (43) update the language from "facility" to "stationary source(s)" and correct the equation for exemption from permitting for welding activities to agree with that in Iowa code. The EPA is proposing to approve these revisions because they clarify the permit exemptions.

Items (56), Equipment related to research and development activities at a stationary source, (57), Exemptions for non-road diesel combustion engines, and item (58), fuel burning equipment for indirect heating or cooling with a capacity less than one million Btu per hour input when burning No. 1 or No. 2 fuel oil, are consistent with previously approved exemptions in section 22.1(b) of the Iowa SIP. In paragraphs (57) and (58), Polk County has elected to be more stringent in its regulations than the EPA-approved Iowa code for similar operations. The EPA is

proposing to approve items (56), (57) and (58) into the Iowa SIP.

Section 5-39, paragraph (b) was not highlighted as new language in Iowa's SIP revision request; however, following discussions with Iowa, the state indicated that this paragraph had been requested for approval in a previous submittal, and requested approval of this paragraph in its July 21, 2020, Addendum. This paragraph discusses exemptions from permitting for smaller liquified or natural gas fired heaters, residential wood or pellet heaters, cook stoves and fireplace, as well as jet engines, marine engines and locomotives. This paragraph is consistent with Iowa code section 22.1 which is EPA-approved; thus, the EPA is proposing to approve the same Polk County exemptions.

Revisions to sections 5-40, 5-42, 5-43 and 5-44 are clarifications that the permits discussed are "Annual Operating" permits issued by AQD. The EPA is proposing to approve these minor editorial changes, as there is no impact to air quality.

IV. Have the Requirements for Approval of a SIP Been Met?

The submittals met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfies the completeness criteria of 40 CFR part 51, appendix V. In addition, these proposed revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations. These proposed revisions are also consistent with applicable EPA requirements of title V of the

CAA and 40 CFR part 70.

V. What Actions are Proposed?

The EPA is proposing to approve revisions to the Iowa SIP to incorporate the revisions to chapter 5, Air Pollution, of the Polk County Board of Health Rules and Regulations. The proposed revisions clarify rules, make revisions and corrections, and rescind portions of rules no longer relevant to the air program. The EPA has determined that approval of these proposed revisions will not adversely impact air quality and will ensure consistency between the local, State and federally-approved rules, and will ensure Federal enforceability of the State's revised air program rules.

VI. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Iowa Regulations described in the proposed amendments to 40 CFR 52 set forth below. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and

applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

Dated: July 19, 2021.

Edward H. Chu,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

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.*

Subpart Q-Iowa

2. In §52.820, the table in paragraph (c) is amended by revising the entry "Chapter V" under the heading "Polk County" to 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]				
* * * * *				
Polk County				
Chapter V	Polk County Board of Health Rules and Regulations Air Pollution Chapter V	11/30/18	[Date of publication of the final rule in the Federal Register], [Federal Register citation of	Article I, Section 5-2, definition of "anaerobic lagoon" and "variance;" Article III, Incineration and Open Burning, Section 5-7(d) Variance Application; Article VI, Sections 5-16(n),

Iowa citation	Title	State effective date	EPA approval date	Explanation
			the final rule]	(o) and (p); Article VIII; Article IX, Sections 5-27(3) and (4); Article X, Section 5-28, subsections (a) through (c), and Article X, Section 5-35(b)(5); Article XIII; Article XIV; and Article XVI, Section 5-75 B are not part of the SIP.
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[FR Doc. 2021-15733 Filed: 7/27/2021 8:45 am; Publication Date: 7/28/2021]