

human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce incompatible uses which compromise the nature and character of the area or causing physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, the rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) and by Departmental guidelines in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

This final rulemaking is consistent with and supportive of Executive Order 12962, *Recreational Fisheries*, issued June 7, 1995. Through this Executive Order, Federal agencies will, to the extent permitted by law and where practicable, and in cooperation with States and Tribes, improve the quantity, function, sustainable productivity and distribution of U.S. aquatic resources for increased recreational fishing opportunities. Establishment of this rulemaking is consistent with the extent and purposes of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-d, and e-j), the Fish and Wildlife Coordination Act (16 U.S.C. 661-666c) and the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801-1882).

List of Subjects in 36 CFR Part 7

National parks, District of Columbia, Reporting and recordkeeping requirements.

In consideration of the foregoing, the NPS is amending 36 CFR Chapter I as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); § 7.96 also issued under D.C. Code 8-137 (1981) and D.C. Code 40-721 (1981).

§ 7.15 Shenandoah National Park.

2. Section 7.15 is amended by removing paragraph (a) and redesignating paragraphs (b) through (d) as new paragraphs (a) through (c).

Dated: January 16, 1998.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[IA 040-1040(a); FRL-5980-2]

Approval and Promulgation of Implementation Plans; and Designation of Areas for Air Quality Planning Purposes; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, the EPA is approving a request by the state of Iowa to redesignate to attainment the portion of Muscatine County currently designated as nonattainment for the sulfur dioxide (SO₂) National Ambient Air Quality Standards (NAAQS). With this approval, the entire state of Iowa will be in attainment status for SO₂. The EPA is also approving the maintenance plan for the Muscatine County nonattainment area which was submitted to ensure that attainment of the NAAQS will be maintained.

DATES: This action is effective May 18, 1998 unless by April 20, 1998 relevant adverse comments are received. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

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

SUPPLEMENTARY INFORMATION:

I. Background

A portion of Muscatine County, Iowa, was designated nonattainment for SO₂ on March 10, 1994, due to violations of the SO₂ NAAQS in 1991 and 1992. The state developed a control strategy for the area and submitted a nonattainment State Implementation Plan (SIP) satisfying the requirements of section

110 and part D of the Act. This SIP revision was approved by the EPA on December 1, 1997 (62 FR 63454).

As a result of source compliance with the control strategy and no violations of the standard since 1992, the state submitted a maintenance plan and redesignation request on April 21, 1997. Consequently, as discussed below, the EPA is taking final action to approve the maintenance plan and to redesignate the area to attainment. Additional technical material for this action is contained in the Technical Support Document (TSD) which is available from the contact listed above.

II. Evaluation Criteria

Section 107(d)(3)(D) of the Act, as amended in 1990, authorizes the governor of a state to request the redesignation of an area from nonattainment to attainment. The criteria used to review redesignation requests are derived from the Act. An area can be redesignated to attainment if the following conditions are met:

1. The area has attained the applicable NAAQS;

2. The area has a fully approved SIP under section 110(k) of the Act;

3. The EPA has determined that the improvement in air quality in the area is due to permanent and enforceable emission reductions;

4. The EPA has determined that the maintenance plan for the area has met all of the requirements of section 175A of the Act; and

5. The state has met all requirements applicable to the area under section 110 and part D of the Act.

III. Summary of State Submittal

The following paragraphs discuss how the state's redesignation request for Muscatine County addresses the Act's requirements.

A. Demonstrated Attainment of the NAAQS

Eight consecutive quarters of data showing SO₂ NAAQS attainment are required for redesignation. A violation of the NAAQS occurs when more than one exceedance of the SO₂ NAAQS is recorded in any year (40 CFR 50.4). The state's submittal includes ambient monitoring data from the three monitors in the Muscatine nonattainment area which show that this requirement has been met. The last violation of the NAAQS was in 1992 and the last exceedance in 1995. No additional exceedances of the NAAQS have been recorded in the Aerometric Information and Retrieval system database through December 1997.

B. Fully Approved SIP

The SIP for the area must be fully approved under section 110(k) of the Act and must satisfy all requirements that apply to the area. The EPA's guidance for implementing section 110 of the Act is discussed in the General Preamble to title I (57 FR 13498, April 16, 1992). The SO₂ SIP for Muscatine met the requirements of section 110 of the Act and was approved by the EPA on December 1, 1997 (62 FR 63454).

C. Permanent and Enforceable Reductions in Emissions

Permanent and enforceable emissions reductions are contained in the revised permits issued to the three major SO₂ sources in the nonattainment area. These permits contain emission limitations and operating restrictions which result in both actual and potential SO₂ emission reductions. These permits are nonexpiring and are Federally enforceable.

D. Fully Approved Maintenance Plan

Section 175A of the Act requires states which submit a redesignation request for a nonattainment area to include a maintenance plan in order for an area to be redesignated to attainment. The maintenance plan is intended to ensure that the area will maintain the attainment status it has achieved, and, that if there is a violation, the plan will serve to bring the area back into attainment with prescribed measures.

Dispersion modeling for the nonattainment SIP demonstrated attainment and maintenance in the area except in the vicinity of one of the three monitoring sites, as was discussed in detail in the TSD and the **Federal Register** notice for the nonattainment SIP (62 FR 43681). Using the roll-back analysis as a basis for negotiating emission reductions with major SO₂ sources in the area, the state set emission rates and operating conditions in the major source permits which it believes will result in both attainment and maintenance of the NAAQS for the next ten years. The emissions from the sources cannot increase above those specified in the Federally approved permits. If the current analysis fails to result in the expected reductions and provide for the continued maintenance of the NAAQS, the state commits to reevaluate the emission rates and seek appropriate modification of the SIP, as well as implementing its contingency measures.

Once an area has been redesignated, the state must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR

part 58, to verify the attainment status of the area. The maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. In its submittal, the state commits to continue to operate and maintain the three existing SO₂ monitors in the area to demonstrate ongoing compliance with the SO₂ NAAQS.

Section 175A of the Act also requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. These contingency measures are distinguished from those generally required for nonattainment areas under section 172(c)(9). However, if an area has been able to attain the NAAQS without implementation of the Part D nonattainment SIP contingency measures, and the contingency plan includes a requirement that the state will implement all of the SO₂ control measures which were contained in the SIP before redesignation to attainment, then the state can carry over into the area's maintenance plan the part D SIP measures not previously implemented. The state has included contingency measures which meet both the section 172 and 175A requirements.

E. Section 110 and Part D Requirements

To be redesignated to attainment, section 107(d)(3)(E) requires that an area must have met all applicable requirements of section 110 and part D of title I of the Act.

The EPA interprets this to mean that for a redesignation request to be approved, the state must have met all requirements that applied to the subject area prior to or at the time of a complete redesignation request.

The section 110 and part D requirements submitted and approved with the nonattainment SIP also satisfy the requirements for the redesignation request. As required by part D, the state has a fully approved and implemented new source review program. The state may elect to apply the existing Federally approved prevention of significant deterioration program subsequent to the redesignation, in order to help ensure maintenance of the standards.

F. Section 176 Conformity Requirements

The EPA promulgated final general conformity regulations on November 30, 1993 (58 FR 63214). The conformity regulations require states to adopt general conformity provisions in the SIPs for areas designated nonattainment or subject to a maintenance plan approved under section 175A of the Act. The state has adopted the general

conformity requirements and thus meets the conformity requirements for maintenance areas.

The transportation conformity regulations do not apply in this instance since SO₂ is not emitted by transportation sources. Thus, the state need not adopt (and has not adopted) the transportation conformity regulations.

IV. Final Action

The EPA is approving the state's maintenance plan and request to redesignate a portion of Muscatine County to attainment for SO₂. With this approval, the entire state of Iowa will be designated attainment for the SO₂ NAAQS.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective May 18, 1998, without further notice unless the Agency receives relevant adverse comments by April 20, 1998.

If the EPA receives such comments, then the EPA will publish a document withdrawing the final rule and informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 18, 1998, and no further action will be taken on the proposed rule.

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.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the 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, the 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 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, the Administrator 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 the 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 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The EPA certifies that the approval of the redesignation request will not affect a substantial number of small entities.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the 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 private sector, of \$100 million or more. Under section 205, the 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 the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The 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 preexisting 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.

D. Submission to Congress and the Comptroller General

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. The 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

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 May 18, 1998. 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

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: March 2, 1998.

William Rice,

Acting Regional Administrator, Region VII.

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. Subpart Q is amended by adding § 52.834 to read as follows:

§ 52.834 Control strategy: Sulfur dioxide.

Approval—On April 21, 1997, the Iowa Department of Natural Resources (IDNR) submitted a maintenance plan and redesignation request for the Muscatine County nonattainment area. The maintenance plan and redesignation request satisfy all applicable requirements of the Clean Air Act.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

2. Section 81.316 is amended by revising the table for "Iowa-SO₂" to read as follows:

§ 81.316 Iowa.

* * * * *

IOWA-SO₂

| Designated area | Does not meet primary standards | Does not meet secondary standards | Cannot be classified | Better than national standards |
|--------------------|---------------------------------|-----------------------------------|----------------------|--------------------------------|
| Entire state | | | | X |

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[FR Doc. 98-7133 Filed 3-18-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 70**

[FRL-5983-7]

Technical Amendments to Clean Air Act Interim Approval of Operating Permits Program; Commonwealth of Virginia; Correction of Effective Date Under Congressional Review Act (CRA)**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; correction of effective date under CRA.

SUMMARY: On June 10, 1997 (62 FR 31516), the Environmental Protection Agency published in the **Federal Register** a final rule granting interim approval, pursuant to Title V of the Clean Air Act, of the operating permits program which the Commonwealth of Virginia had submitted for the purpose of complying with federal requirements for an approvable state program to issue operating permits to all major stationary sources, and to certain other sources. The June 10, 1997, document stated that the interim approval would be effective July 10, 1997. This document corrects the effective date of the interim approval to March 12, 1998, consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: This interim approval is effective on March 12, 1998.**FOR FURTHER INFORMATION CONTACT:** Tom Eagles, OAR, at (202) 260-9766.**SUPPLEMENTARY INFORMATION:****A. Background**

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes copy of the rule, to each House of the Congress and to the Comptroller General of the General Accounting Office (GAO). The EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated June 10, 1997, by operation of law, the rule did not take effect on July 10, 1997, as stated therein. Now that EPA has discovered its error, EPA is submitting the rule to both

Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since June 10, 1997, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

B. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule, to the extent they applied, is discussed in the June 10, 1997, **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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 General Accounting Office; however, in accordance with 5 U.S.C. 808(2), the Agency finds that there is good cause to make this rule effective on March 12, 1998, for the reasons stated previously. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date. Pursuant to section 307(b)(1) of the Clean Air Act, challenges to this amendment must be brought within 60 days of the amendment.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 12, 1998.

Carol M. Browner,
Administrator.

For reasons set out in the preamble, Appendix A to part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by revising paragraph (a) in the entry for Virginia to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Virginia

(a) The Commonwealth of Virginia's Title V operating permit and fee program regulations submitted on September 10, 1996, the acid rain operating permit regulations submitted on September 12, 1996, and the non-regulatory operating permit program provisions submitted on November 12, 1993, January 14, 1994, January 9, 1995, May 17, 1995, February 6, 1997, and February 27, 1997; interim approval effective on March 12, 1998; interim approval expires on March 12, 1999.

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