

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[SIP NO. WY-001-0013; FRL-7659-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Wyoming; Restructuring and Renumbering of Wyoming Air Quality Standards and Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Wyoming on September 12, 2003. The submitted revisions restructure the Wyoming Air Quality Standards and Regulations (WAQS&R) from a single chapter into thirteen separate chapters and renumber the provisions within each chapter. The submitted revisions contain no substantive changes to the existing SIP-approved regulations. The intended effect of this action is to make federally enforceable the restructured WAQS&R. This action is being taken under section 110 of the Clean Air Act.

**DATES:** Comments must be received on or before June 9, 2004.

**ADDRESSES:** Submit your comments, identified by Docket ID No. WY-001-0013, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: [long.richard@epa.gov](mailto:long.richard@epa.gov) and [mastrangelo.domenico@epa.gov](mailto:mastrangelo.domenico@epa.gov).
- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

• Mail: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 300, Denver, Colorado 80202-2466.

• Hand Delivery: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. WY-001-0013. EPA's policy is that all comments received will be included in the public docket without change, 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 [regulations.gov](http://regulations.gov), or e-mail. The federal [regulations.gov](http://regulations.gov) Web site is an "anonymous access" system, 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 [regulations.gov](http://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. 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. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** Some information in the docket may not be publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the docket. You may view the docket Monday through Friday, 8 a.m. to 4 p.m., excluding federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Domenico Mastrangelo, Air & Radiation Program, Mailcode 8P-AR, EPA, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, (303) 312-6436, [mastrangelo.domenico@epa.gov](mailto:mastrangelo.domenico@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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## Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (iii) The initials *SIP* mean or refer to State Implementation Plan.
- (iv) The words *State* or *Wyoming* mean the State of Wyoming, unless the context indicates otherwise.

## I. General Information

### A. What Should I Consider as I Prepare My Comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through [regulations.gov](http://regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for Preparing Your Comments.** When submitting comments, remember to:

- a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- d. Describe any assumptions and provide any technical information and/or data that you used.
- e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- f. Provide specific examples to illustrate your concerns, and suggest alternatives.
- g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

## II. Summary of SIP Revision

### A. Background

On August 9, 2000, the State submitted to EPA a SIP revision that restructured and renumbered the entire set of its air regulations from a single chapter into thirteen separate chapters, and modified the content of some of the regulations. On August 7, 2001, the State submitted a SIP revision adopting credible evidence provisions and modifying the definition of volatile organic compounds (VOCs) in the State's air regulations. On August 13, 2001, the State submitted a SIP revision modifying several chapters of its air regulations to correct deficiencies or bring regulations up to date with the Federal regulations. On February 6, 2002 (67 FR 5485) EPA published a Direct Final Rule partially approving and partially disapproving the Wyoming SIP revisions submitted on the dates indicated above.

In the aftermath of this EPA action, EPA received adverse comments from the Wyoming Outdoor Council (on March 7, 2002), and a March 8, 2002 letter from the State of Wyoming requesting the withdrawal of the SIP revisions submitted on August 9, 2000, August 7, 2001 and August 13, 2001. In response, on April 1, 2002 (67 FR 15335) EPA published a notice withdrawing its February 6, 2002 action.

On September 12, 2003, the State of Wyoming submitted to EPA a request for approval of revisions containing changes in the structure and number of the State's SIP provisions, but containing no substantive changes. Following EPA's approval of these renumbering revisions, the State of Wyoming plans to submit to EPA requests for substantive changes and updates to its SIP provisions.

### B. Did Wyoming Follow the Proper Procedures for Adopting This Action?

Section 110(k) of the Act addresses our actions on submissions of SIP revisions. The Act also requires States to observe certain procedures in developing SIP revisions. We have evaluated the State's submission and determined that the necessary procedures were followed. We also must determine whether a submittal is complete and therefore warrants further review and action (*see* section 110(k)(1) of the Act). We reviewed the State's September 12, 2003 submission against our completeness criteria in 40 CFR Part 51, Appendix V. We determined this

submission was complete and notified the State in a letter dated January 22, 2004.

### C. Evaluation of September 12, 2003 Submittal

We reviewed the September 12, 2003 submittal and found that the renumbered and restructured revisions of the Wyoming Air Quality Standards and Regulations contain no substantive changes from the prior codification that is approved into the SIP.<sup>1</sup>

The September 12, 2003 letter indicates that, once EPA approves the renumbered and restructured SIP regulations, the State will submit other SIP revisions that have already been adopted at the State level. The letter further states that these already-adopted revisions clarify director discretion provisions, correct outdated references to reference methods, add a new section on credible evidence, update the definition of volatile organic compounds, and update other provisions of the rules to make them consistent with federal regulations. In addition, the letter mentions that the State is working on additional changes to the SIP such as equipment malfunction provisions. Finally, the letter indicates that once the renumbering is in place, and as the State reopens chapters to make changes, it will respond to public comment, by EPA or other interested stakeholders, on any aspect of the chapters under consideration.

In a March 22, 2004 letter to the Wyoming Department of Environmental Quality (DEQ), EPA sought further clarification on the commitment mentioned in the September 12, 2003 letter. Specifically, we questioned whether the commitment in the September 12, 2003 letter extended to addressing additional concerns EPA had with the State regulations (*e.g.*, additional director discretion provisions

not already corrected by the DEQ; additional revisions to the reference methods not already corrected by the DEQ; provisions in the regulations allowing alternative opacity limits; stack height definitions; visibility provisions; equipment malfunction provisions; and other clarifications) and the timeframe for submitting revisions to the regulations.

In a March 29, 2004 letter from the Wyoming DEQ to EPA, the DEQ indicated that it was DEQ's intent and commitment to address additional EPA concerns as DEQ submits SIP revisions to incorporate changes in the SIP that have already been adopted at the State level. With respect to the timing of future SIP revisions, the DEQ indicated that DEQ would take a phased approach to making changes to the regulations and that it was DEQ's intent to begin the process by addressing Chapters 1 and 2. The DEQ indicated that a number of EPA's concerns are in Chapters 1 and 2. The DEQ indicated that they would identify the timing of this first phase of the process within 30 days of notice of EPA's final approval of the current restructuring and renumbering proposal.

Because the September 12, 2003 submittal only restructures and renumbers the existing SIP-approved regulations, contains no substantive changes, and commits to submit further revisions in the future, we believe it is appropriate to propose to approve the submittal. Approving the restructured and renumbered WAQS&R into the SIP will also facilitate future discussions on the rules.

## III. Proposed Action

EPA is proposing to approve the restructuring and renumbering of the WAQS&R as a revision to the Wyoming State Implementation Plan (SIP). Specifically, we are proposing that the following renumbered SIP chapters and sections replace the prior numbered SIP chapter and sections in the federally approved SIP: Chapter 1, Section 2—Authority; Chapter 1, Section 3—Definitions; Chapter 1, Section 4—Diluting and concealing emissions; Chapter 1, Section 5—Abnormal conditions and equipment malfunction; Chapter 2, Section 2—Ambient standards for particulate matter; Chapter 2, Section 3—Ambient standards for nitrogen oxides; Chapter 2, Section 4—Ambient standards for sulfur oxides; Chapter 2, Section 5—Ambient standards for carbon monoxide; Chapter 2, Section 6—Ambient standards for ozone; Chapter 2, Section 8—Ambient standard for suspended sulfates; Chapter 2, Section 10—Ambient standards for lead; Chapter 3, Section

<sup>1</sup> During the review of the September 12, 2003 submittal, EPA identified typographical errors and incorrect cross references. In a January 12, 2004 letter, the State of Wyoming addressed these two items. The State provided replacement pages for the following typographical errors: (1) Page 12 of the regulations, Figure 1, "Particulate Emission Limits", the division line was missing in the equation, and the bottom lines (equal signs) were also missing from the "less than or equal to" ( $\leq$ ) symbols in the same figure; (2) page 51 of the regulations, Stauffer Chemical Plant source description labeled 2ES-1 instead of 2ES-2; (3) page 54 of the regulations, FMC Corporation source description for a coal boiler labeled NS-1B instead of NS-1A. The State also committed to correct in a future rulemaking the following cross references on page 50 of the SIP: (1) in paragraph (vii), "paragraph 23(a)(vi)(A)" should read "Chapter 7, Section 2(a)(vi)(A)"; (2) in paragraph (b), "paragraph 23(a)" should read "Chapter 7, Section 2(a)."

2—Emission standards for particulate matter; Chapter 3, Section 3—Emission standards for nitrogen oxides; Chapter 3, Section 4—Emission standards for sulfur oxides; Chapter 3, Section 5—Emission standards for carbon monoxide; Chapter 3, Section 6—Emission standards for volatile organic compounds; Chapter 4, Section 2—Existing sulfuric acid manufacturing plants; Chapter 4, Section 3—Existing nitric acid manufacturing plants;

Chapter 6, Section 2—Permit requirements for construction, modification and operation; Chapter 6, Section 4—Prevention of significant deterioration; Chapter 7, Section 2—Continuous monitoring requirements for existing sources; Chapter 8, Section 2—Sweetwater County particulate matter regulations; Chapter 8, Section 3—Conformity of general federal actions to state implementation plans; Chapter 9, Section 2—Visibility; Chapter 10,

Section 2—Open burning restrictions; Chapter 10, Section 3—Woodwaste burners; Chapter 12, Section 2—Air pollution emergency episodes; Chapter 13, Section 2—Motor vehicle pollution control. These renumbered provisions contain no substantive changes to the text of currently approved SIP rules.

The following table cross references the renumbered and prior numbered SIP chapters and sections.

STATE IMPLEMENTATION PLAN.—TABLE OF CORRESPONDING CHAPTERS/SECTIONS

Title (renumbered SIP section)	Renumbered SIP section	Prior numbered SIP section
Authority .....	Chapter 1, Section 2 .....	Chapter 1, Section 1.
Definitions .....	Chapter 1, Section 3 .....	Chapter 1, Section 2.
Diluting and concealing emissions .....	Chapter 1, Section 4. ....	Chapter 1, Section 18.
Abnormal conditions and equipment malfunction .....	Chapter 1, Section 5 .....	Chapter 1, Section 19.
Ambient standards for particulate matter .....	Chapter 2, Sections 2a and 2c ....	Chapter 1, Section 3.
Ambient standards for nitrogen oxides .....	Chapter 2, Section 3 .....	Chapter 1, Section 10a.
Ambient standards for sulfur oxides .....	Chapter 2, Section 4 .....	Chapter 1, Section 4a.
Ambient standards for carbon monoxide .....	Chapter 2, Section 5 .....	Chapter 1, Section 12a.
Ambient standards for ozone .....	Chapter 2, Section 6 .....	Chapter 1, Section 8.
Ambient standards for suspended sulfates .....	Chapter 2, Section 8 .....	Chapter 1, Section 6.
Ambient standards for lead .....	Chapter 2, Section 10 .....	Chapter 1, Section 26.
Emission standards for particulate matter .....	Chapter 3, Section 2 .....	Chapter 1, Section 14.
Emission standards for nitrogen oxides .....	Chapter 3, Section 3 .....	Chapter 1, Section 10b–c, excluding 10b(6).
Emission standards for sulfur oxides .....	Chapter 3, Section 4 .....	Chapter 1, Section 4c, 4(h).
Emission standards for carbon monoxide .....	Chapter 3, Section 5 .....	Chapter 1, Section 12b.
Emission standards for VOCs .....	Chapter 3, Section 6 .....	Chapter 1, Section 9.
Existing sulfuric acid production units .....	Chapter 4, Section 2 .....	Chapter 1, Section 5(a), 4b.
Existing nitric acid manufacturing plants .....	Chapter 4, Section 3 .....	Chapter 1, Section 10b(6).
Permit requirements for construction, modification and operation .....	Chapter 6, Section 2 .....	Chapter 1, Section 21.
Prevention of significant deterioration .....	Chapter 6, Section 4 .....	Chapter 1, Section 24.
CEM requirements for existing sources .....	Chapter 7, Section 2 .....	Chapter 1, Section 23.
Sweetwater County particulate matter regulations .....	Chapter 8, Section 2 .....	Chapter 1, Section 25.
Conformity of general federal actions to state implementation plans ....	Chapter 8, Section 3 .....	Chapter 1, Section 32.
Visibility .....	Chapter 9, Section 2 .....	Chapter 1, Section 28.
Open burning restrictions .....	Chapter 10, Section 2 .....	Chapter 1, Section 13.
Woodwaste burners .....	Chapter 10, Section 3 .....	Chapter 1, Section 15.
Air pollution emergency episodes .....	Chapter 12, Section 2 .....	Chapter 1, Section 20.
Motor vehicle pollution control .....	Chapter 13, Section 2 .....	Chapter 1, Section 17.

#### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 (Public Law 104–4).

This proposed 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 proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed 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 Clean Air Act. 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 Clean Air Act. 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 proposed 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.*).

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

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

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

**Dated:** April 29, 2004.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

[FR Doc. 04-10552 Filed 5-7-04; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[SIP NO. SD-001-0017b; FRL-7652-2]

#### Approval and Promulgation of Air Quality Implementation Plans; State of South Dakota; Revisions to the Administrative Rules of South Dakota and New Source Performance Standards Delegation

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to take direct final action approving State Implementation Plan (SIP) revisions submitted by the State of South Dakota on September 12, 2003. The September 12, 2003 submittal revises the Administrative Rules of South Dakota, Air Pollution Control Program, by modifying the chapters pertaining to definitions, operating permits for minor sources, new source review and performance testing. In addition, the

State made revisions to the Prevention of Significant Deterioration program, which has been delegated to the State. The intended effect of this action is to make these revisions federally enforceable. We are also announcing that on October 31, 2003, we updated the delegation of authority for the implementation and enforcement of the New Source Performance Standards to the State of South Dakota. These actions are being taken under sections 110 and 111 of the Clean Air Act.

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**DATES:** Written comments must be received on or before June 9, 2004.

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in sections (I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section in the direct final rule which is located in the Rules section of this **Federal Register**. Copies of the documents relevant to this action are available for public inspection Monday through Friday, 8 a.m. to 4 p.m., excluding Federal Holidays, at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Copies of the State documents relevant to this action are available for public inspection at the

South Dakota Department of Environmental and Natural Resources, Air Quality Program, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501.

#### FOR FURTHER INFORMATION CONTACT:

Laurel Dygowski, EPA Region 8, 999 18th Street, Suite 300, MS 8P-AR, Denver, CO 80202, (303) 312-6144, [dygowski.laurel@epa.gov](mailto:dygowski.laurel@epa.gov).

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

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

**Dated:** April 7, 2004.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

[FR Doc. 04-10340 Filed 5-7-04; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Parts 52 and 81

[Docket # AK-04-001; FRL-7659-1]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Alaska; Anchorage Carbon Monoxide Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** On February 18, 2004, the State of Alaska submitted a carbon monoxide (CO) maintenance plan for the Anchorage CO nonattainment area to EPA for approval. The State concurrently requested that EPA redesignate the Anchorage CO nonattainment area to attainment for the National Ambient Air Quality Standard (NAAQS) for CO. In this action, EPA is proposing approval of the maintenance plan and redesignation of the Anchorage CO nonattainment area to attainment.

**DATES:** Comments must be received on or before June 9, 2004.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. AK-04-001, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: [R10aircom@epa.gov](mailto:R10aircom@epa.gov).
- Fax: (206) 553-0110.
- Mail: Office of Air Quality, Environmental Protection Agency, Mail code: OAQ-107, 1200 Sixth Ave., Seattle, Washington 98101.