

information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**B. 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular

applicability establishing source-specific requirements for Merck.

**C. 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 5, 2008*. 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, approving the VOC and NO<sub>x</sub> RACT determinations for Merck and Co., Inc. located in Northumberland County, Pennsylvania, 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, Incorporation by

reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 21, 2008.

**Donald S. Welsh,**  
*Regional Administrator, Region III.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart NN—Pennsylvania**

■ 2. In § 52.2020, the table in paragraph (d)(1) is amended by adding an entry for Merck and Co., Inc. at the end of the table to read as follows:

**§ 52.2020 Identification of plan.**

*	*	*	*	*
(d)	*	*	*	
(1)	*	*	*	

Name of source	County	Permit No.	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Merck and Co., Inc .....	Northumberland .....	OP-49-0007B	05/16/01	03/04/08 .....	52.2020(d)(1)(v) [Insert page number where the document begins].

\* \* \* \* \*  
[FR Doc. E8-4038 Filed 3-3-08; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R07-OAR-2007-1180; FRL-8535-9]

**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 to demonstrate that the state meets the requirements of Section 110(a)(1) and (2) of the Clean Air Act (CAA). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by the EPA and is

commonly referred to as an infrastructure SIP. In 1997, EPA promulgated the 8-hour ozone primary and secondary NAAQS. A revision to Iowa's SIP detailing how the state plans to ensure that the revised ozone standard is implemented, enforced, and maintained in Iowa was submitted on June 15, 2007. The submittal addressed all the elements of the October 2, 2007, guidance issued by the Office of Air Quality and Planning Standards with regard to infrastructure SIPs.

**DATES:** This direct final rule will be effective May 5, 2008, without further notice, unless EPA receives adverse comment by April 3, 2008. 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 Docket ID No. EPA-R07-OAR-2007-1180, by one of the following methods:

1. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *E-mail:* [Hamilton.heather@epa.gov](mailto:Hamilton.heather@epa.gov).

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

4. *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 Docket ID No. EPA-R07-OAR-2007-1180. 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://www.regulations.gov>, 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 through <http://www.regulations.gov> or e-mail

information that you consider to be CBI or otherwise protected. The <http://www.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 <http://www.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 <http://www.regulations.gov> index. 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 <http://www.regulations.gov> 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 a.m. to 4:30 p.m. 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 Section 110(a)(1) and (2) SIP?  
 What elements are required under Section 110(a)(1) and (2)?  
 How has the state addressed the elements of the Section 110(a)(1) and (2) "infrastructure" provisions?  
 What action is EPA taking?

### What is a Section 110(a)(1) and (2) SIP?

Section 110(a)(1) and (2) of the CAA requires, in part, that states submit to EPA plans to implement, maintain and enforce each of the NAAQS promulgated by EPA. EPA interprets this provision to require states to address basic SIP requirements including emission inventories, monitoring, and modeling to assure attainment and maintenance of the standards. By statute, SIPs meeting the requirements of Section 110(a)(1) and (2) are to be submitted by States within three years after promulgation of a new or revised standard. These SIPs are commonly called infrastructure SIPs.

In 1997, EPA promulgated the 8-hour ozone primary and secondary NAAQS. Intervening litigation over the 1997 standards caused a delay in SIP submittals. The State of Iowa's infrastructure SIP was received by EPA Region 7 on June 15, 2007, and the SIP was determined to be complete on November 16, 2007.

### What elements are required under Section 110(a)(1) and (2)?

On October 2, 2007, EPA issued guidance for addressing SIP "infrastructure" elements required under Section 110(a)(1) and (2) for the 1997 ozone and PM<sub>2.5</sub> NAAQS. The 14 elements required to be addressed are as follows: (1) Emission limits and other control measures; (2) ambient air quality monitoring/data system; (3) program for enforcement of control measures; (4) interstate transport; (5) adequate resources; (6) stationary source monitoring system; (7) emergency power; (8) future SIP revisions; (9) consultation with government officials; (10) public notification; (11) prevention of significant deterioration (PSD) and visibility protection; (12) air quality and monitoring data; (13) permitting fees, and (14) consultation/participation by affected local entities.

### How has the state addressed the elements of the Section 110(a)(1) and (2) "infrastructure" provisions?

Iowa Department of Natural Resources' (IDNR) SIP submittal addresses the provisions of Section 110(a)(1) and (2) as described below.

*Emission limits and other control measures:* Iowa provided an overview of the provisions of the Iowa Code (the state enabling statute) and the Iowa Administrative Code relevant to air quality control regulations. Section 455B.133 of the Iowa Code generally authorizes the Environmental Protection Commission to adopt rules for the control of air pollution, including those

necessary to obtain EPA approval under Section 110 of the CAA. The submittal also includes references to rules adopted by Iowa to control air pollution, including ozone precursors. EPA believes these provisions are adequate to protect the 8-hour ozone standard in the state.

*Ambient air quality monitoring/data system:* IDNR submitted information with regard to the organization and structure of the monitoring program that includes the local air quality programs and the University of Iowa Hygienic Laboratory. These entities collect air monitoring data, quality assure the results and report the data. The submittal includes maps indicating Iowa's ozone monitor locations and design values for 2001-2003, 2002-2004, and 2003-2005. In addition, ozone summary reports from the Air Quality System from 1998-2006 is included as well as a table of counties in Iowa and their designations which are all unclassifiable/attainment.

*Program for enforcement of control measures including review of proposed new sources:* IDNR's SIP submittal includes a description of the compliance activities of the state's regional field offices and the two local agencies (Linn and Polk Counties). It also includes a description of the state statutory authority to enforce regulations relating to attainment and maintenance of the 8-hour ozone standard. The SIP submittal also describes how the state's construction permits program reviews proposed new major and minor sources of volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) for compliance with the 8-hour ozone NAAQS.

*Interstate transport:* Iowa included its SIP revision addressing the interstate transport provisions in Section 110(a)(2)(D)(i) as an attachment to the infrastructure SIP. EPA approved the transport SIP for Iowa on March 8, 2007 (72 FR 10380). Therefore, the infrastructure SIP rulemaking covered by today's action does not include the transport SIP.

*Adequate resources:* IDNR's submittal discusses "Program Development" which is the group within IDNR responsible for adopting air quality rules, revising SIPs, developing and tracking the budget, establishing the Title V fees, and other planning needs. Detailed information with regard to rule development is included as an appendix to the submittal. The Program Development section also coordinates agreements with local air pollution control programs (Linn and Polk Counties), and works closely with the Small Business Environmental Liaison.

*Stationary source monitoring system:* The SIP submission describes how the major source and minor source emission inventory programs collect emission data throughout the state and ensure the quality of data. These programs generate data for ozone precursors (VOCs and NO<sub>x</sub>) and summarize emissions from point, area, mobile, and biogenic (natural) sources. IDNR uses this data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements.

*Emergency power:* IDNR provided an overview of the Iowa Administrative Code and refers to the chapter that identifies air pollution emergency episodes and preplanned abatement strategies. The episode criteria specified in this chapter for ozone are based on a 1-hour average ozone level at a monitoring site. These criteria have previously been approved by EPA as adequate to address ozone emergency episodes.

*Future SIP revisions:* As previously discussed, IDNR's Program Development section is the area of IDNR responsible for adopting air quality rules and revising SIPs as needed to protect the NAAQS. Iowa has the ability and authority to respond to calls for SIP revisions. Detailed information with regard to rule development is included as an appendix to the SIP submittal.

*Consultation with government officials:* The submission describes how the Program Development section is responsible for consultation with government officials whose jurisdictions might be affected by SIP development activities.

*Public notification:* The state's emergency episode provisions, discussed above, provide for notification to the public when the NAAQS, including the ozone NAAQS, are exceeded.

*PSD and visibility protection:* This element is addressed in an appendix to the submittal which addresses the requirements of the 110(a)(2)(D)(i) SIP that was approved in the **Federal Register** on March 8, 2007. In that submission, Iowa demonstrated its authority to regulate new and modified sources of ozone precursors (VOCs and NO<sub>x</sub>) to assist in the protection of air quality in Iowa and in other states.

*Air quality and modeling/data:* Iowa has authority pursuant to Section 455B.133 to conduct air quality modeling and report the results of such modeling to EPA. Iowa's submission also shows that ambient ozone

monitoring is used, in conjunction with pre- and post-construction ambient air monitoring, to track local and regional scale changes in ozone concentrations.

*Permitting fees:* The SIP revision addresses the review of construction permits as previously discussed. Permitting fees are collected through the state's Title V fees program.

*Consultation/participation by affected local entities:* The Program Development section coordinates with local governments affected by the SIP. Iowa's submission also includes a description of the public participation process for SIP development as described previously.

#### What action is EPA taking?

As described above, IDNR has addressed the elements of the CAA 110(a)(1) and (2) SIP requirements pursuant to EPA's October 2, 2007, guidance to ensure that the revised ozone standard is implemented, enforced, and maintained in Iowa. It should be noted that Iowa is currently in attainment with the 8-hour ozone NAAQS.

We are processing this action as a direct final action because 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 approves a state rule implementing a Federal standard.

In reviewing state 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 state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *May 5, 2008*. 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: February 15, 2008.

**John B. Askew,**

*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 table (e) is amended by adding an entry in numerical order to read as follows:

**§ 52.820 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED IOWA NONREGULATORY SIP PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
(38) CAA 110(a)(1) and (2)—Ozone Infrastructure SIP.	Statewide	6/15/07	3/04/08	[insert FR page number where the document begins].

[FR Doc. E8-4042 Filed 3-3-08; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52 and 81**

[EPA-R03-OAR-2007-0606; FRL-8536-5]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Allentown-Bethlehem-Easton 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area’s Maintenance Plan and 2002 Base Year Inventory**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) is requesting that the Allentown-Bethlehem-Easton Ozone Nonattainment Area (or also referred to here as the Allentown Area, or simply the Area) be redesignated as attainment for the 8-hour ozone ambient air quality standard (NAAQS). The Allentown-Bethlehem-Easton Area is composed of Carbon, Lehigh, and Northampton Counties. EPA is approving the ozone

redesignation request for the Allentown Area. In conjunction with its redesignation request, PADEP submitted a SIP revision consisting of a maintenance plan for the Allentown Area that provides for continued attainment of the 8-hour ozone NAAQS for at least 10 years after redesignation. EPA is approving the 8-hour maintenance plan. PADEP also submitted a 2002 base year inventory for the Allentown Area, which EPA is approving. In addition, EPA is approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the Allentown-Bethlehem-Easton Area maintenance plan for purposes of transportation conformity, and is approving those MVEBs. EPA is approving the redesignation request, the maintenance plan, and the 2002 base year emissions inventory as revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on April 3, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2007-0606. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn, (215) 814-2176, or by e-mail at [rehn.brian@epa.gov](mailto:rehn.brian@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On January 7, 2008 (73 FR 1162), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of Pennsylvania’s redesignation request and maintenance plan SIP revisions for the Allentown-Bethlehem-Easton Area that provide for continued attainment of