

Dated: November 25, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 91-28666 Filed 11-27-91; 8:45 am]

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COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 304

Cost of Living Adjustment for Performance of Musical Compositions by Public Broadcasting Entities Licensed to Colleges and Universities

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Tribunal announces a cost of living adjustment of 2.9% in the royalty rates to be paid by public broadcasting entities licensed to colleges, universities or other nonprofit educational institutions which are not affiliated with National Public Radio, for the use of copyrighted published nondramatic musical compositions. The cost of living adjustment is an annual adjustment required by 37 CFR 304.10(b) of the Tribunal's rules.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1825 Connecticut Avenue NW., suite 918, Washington, DC 20009. (202) 606-4400.

SUPPLEMENTARY INFORMATION: On December 29, 1987, the Copyright Royalty Tribunal published in the *Federal Register* the rates and terms for the copyright compulsory license applicable to the use by public broadcasting entities of published nondramatic musical works and published pictorial, graphic and sculptural works. 52 FR 49010. It was determined in that proceeding that the royalty rate to be paid by public broadcasting entities licensed to colleges, universities or other nonprofit educational institutions which are not affiliated with National Public Radio for the use of copyrighted published nondramatic musical compositions would be adjusted each year according to changes in the Consumer Price Index. 37 CFR 304.10.

The change in the cost of living as determined by the Consumer Price Index from the last Index published prior to December 1, 1990 to the last Index published prior to December 1, 1991 was 2.9% (1991's figure was 137.4; 1990's figure was 133.5, based on 1982-1984 equalling 100). Rounding off to the nearest dollar, the Tribunal announces

an adjustment in the royalty rate to apply to the use of musical compositions in the repertory of ASCAP and BMI of \$189, each, and \$45 for the use of musical compositions in the repertory of SESAC.

List of Subjects in 37 CFR Part 304

Copyrights, Music, Radio, Television.

PART 304—[AMENDED]

1. The authority citation for part 304 continues to read as follows:

Authority: 17 U.S.C. 118 and 801 (1976).

2. 37 CFR 304.5 is amended by revising paragraphs (c)(1) through (c)(4).

§ 304.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

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(c) * * *

(1) For all such compositions in the repertory of ASCAP annually: \$189.

(2) For all such compositions in the repertory of BMI annually: \$189.

(3) For all such compositions in the repertory of SESAC annually: \$45.

(4) For the performance of any other such composition: \$1.

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Dated: November 22, 1991.

Mario F. Agüero,
Chairman.

[FR Doc. 91-28632 Filed 11-27-91; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-IA-4-1-5308; FRL-4034-5]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 23, 1991, the Iowa Department of Natural Resources (IDNR) submitted chapter V, Air Pollution, of the Polk County, Iowa, Board of Health Rules and Regulations for approval as part of the Iowa State Implementation Plan (SIP). The submittal included revisions to part of the rules previously approved in the SIP (54 FR 33530) and included a request that the remainder of the local agency rules be approved as part of the SIP. In this action EPA is approving as part of the Iowa SIP the Polk County air pollution rules. Approval of these rules will make them federally enforceable by

EPA and will permit the local agency to issue permits and collect permit fees for all sources in Polk County, Iowa.

DATES: This action will be effective January 28, 1992 unless notice is received within 30 days of publication that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the *Federal Register*.

ADDRESSES: Copies of the state submittal for this action are available for public inspection during normal business hours at: the Environmental Protection Agency, Region VII, Air Branch, 728 Minnesota Avenue, Kansas City, Kansas 66101; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Environmental Protection Division, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 551-7603 (FTS 276-7603).

SUPPLEMENTARY INFORMATION: On August 15, 1989 (54 FR 33530) EPA approved certain portions of the Polk County, Iowa, Board of Health Rules and Regulations (chapter V, Air Pollution), pertaining to definitions and permits. Since that time the Polk County Board of Supervisors made certain revisions to chapter V by adoption of Ordinances No. 72 and No. 85.

On May 23, 1991, the IDNR submitted all of chapter V, including the revisions in the ordinances above, for approval in the Iowa SIP. A general discussion of the revisions to the rules previously approved and of the newly approved rules follows. A more detailed discussion of the information presented below is contained in the EPA technical support document for this action and is available upon request from the information contact listed above.

Polk County made a clarifying revision to section 5-1, paragraph 5-1(a), and the following revisions to section 5-2, Definitions. Minor revisions were made to the definitions of air contaminant, APCD, emission limitation, emission standard, and multiple-chamber incinerator. The definition of "equipment, new" has been deleted. There is a new definition for major modification which is consistent with 40 CFR 51.166(b)(2)(i), a new definition of total suspended particulate which is consistent with 51.100(ss), and a new definition of particulate matter (PM₁₀) which is consistent with § 51.100(qq). The definition of volatile organic compound (VOC) has been updated to

be consistent with § 51.156(a)(1)(xix). The definition of variance was not submitted for approval. The above revisions to section 5-2 are approvable.

Section 5-4 has been revised to expand the powers of the health officer to evaluate existing or proposed sources of hazardous or toxic emissions and require control equipment as needed to protect public health. EPA is taking no action on this part of section 5-4 since EPA authority under section 110 of the Clean Air Act pertains to criteria pollutants and not to hazardous pollutants.

Article X, Permits, previously approved by EPA, has been revised as follows. Section 4-30, pertaining to processing of permit applications, has been revised to apply to major modifications at existing sources, as well as to major new stationary sources. Major sources are those stationary sources which emit 100 tons per year or more of any regulated air contaminant. Sections 5-34.1(b) and (c) have been revised to delete the filing fee and review fee schedules. The rules now state that fees shall be established by resolution of the Polk County Board of Supervisors. This change was made to allow flexibility in revising fees annually as will be required by the Clean Air Act Amendments of 1990 for the operating permit program. Section 5-34.1(e) has been revised to delete the fee schedule for modeling services provided by the state. Section 5-34.1(g) is a new paragraph which authorizes investigation of sources that have commenced work without a permit, and the assessment of a fee to the source for such investigation. Section 5-31.1 has been revised to delete the permit fee schedule. All fees will now be established by resolution of the Polk County Board of Supervisors. Minor revisions have been made to sections 5-40 and 5-45(3). Section 5-50.1, which incorporates by reference state rule 22.5, special requirements for nonattainment areas, has been updated to reflect revisions to the state rule through November 16, 1988. All of the above revisions to Article X are approvable.

EPA is approving for the first time the following rules in Chapter V—Article III, Incineration and Open Burning; Article IV, Restrictions on Emission of Visible Air Contaminants From Equipment; Article V, Emission of Air Contaminants from Fuel-Burning Equipment; Article VI, Emission of Air Contaminants from Industrial Sources (except for section 5-16, which are the NSPS and NESHAPs standards) and Article VII, Performance Test for Stack Emission Test. The sentence pertaining to variances in section 5-17(d) was not included as part

of the SIP submittal. EPA is taking no action on Article VIII, Emission of Odors, Slaughterhouses, Reduction of Animal Matter, since EPA has no equivalent regulations. EPA is approving Article IX, Fugitive Dust, Sulfur Compounds, except section 5-27(3) and 5-27(4). EPA is taking no action on these sections since they are established pursuant to section 111 of the CAA, rather than section 110.

Continuing, EPA is approving Article XI, Board of Health; Article XII, Emergency Air Pollution Episodes; Article XIII, Nuisance Abatement and Enforcement; and Article XIV, Effect of Partial Invalidity.

Polk County provided public notice and opportunity for hearing on the rule revisions pursuant to the requirements of 40 CFR 51.102.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective January 28, 1992, unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective January 28, 1992.

EPA ACTION

EPA is taking final action to approve, with certain exceptions, chapter V, Air Pollution, of the Polk County Board of Health Rules and Regulations. The action will make the county rules a part of the Iowa SIP and will make the rules federally enforceable. Polk County will now be able to issue permits for all new and modified sources in the county.

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.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of

Executive Order 12291.

Under 5 U.S.C. section 605(b), EPA certifies that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by January 28, 1992. 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

Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, and Sulfur oxides.

Dated: November 7, 1991.

Morris Kay,

Regional Administrator.

40 CFR part 52, subpart Q, is amended as follows:

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

Authority: 42 U.S.C. 7401-7642.

Subpart Q—Iowa

2. Section 52.820 is amended by adding paragraph (c)(55) to read as follows:

§ 52.820 Identification of plan.

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(c) * * *

(55) Revised Polk County, Iowa Board of Health Rules and Regulations, chapter V, Air Pollution, submitted by the Iowa Department of Natural Resources on May 23, 1991.

(i) *Incorporation by reference.* (A) Polk County Board of Health Rules and Regulations, chapter V, Air Pollution, Ordinances 28, 72 and 85, effective May 1, 1991, except for the following: Article I, definition of variance; Article VI, Section 5-16; Article VI, Section 5-17(d), variance provision; Article VIII; Article IX, Sections 5-27(3) and 5-27(4); and Article X, Division 5—Variance.

(ii) *Additional material.* (A) Letter from Allan Stokes to William A. Spratlin dated October 23, 1991.

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