

Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart V: 218.500, 218.501, 218.502, 218.503, 218.504, 218.505, 218.506. These sections were adopted on May 4, 1995, Amended at 19 Ill. Reg. 7359, and effective May 22, 1995.

(C) Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 219: Organic Material Emission Standards and Limitations for the Metro East Area, Subpart V: 219.500, 219.501, 219.502, 219.503, 219.504, 219.505, 219.506. These sections were adopted on May 4, 1995, Amended at 19 Ill. Reg. 7385, and effective May 22, 1995.

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BILLING CODE 6560-50-P

#### 40 CFR Part 52

[IN55-1-7076a; FRL-5435-8]

#### Approval And Promulgation of Implementation Plan For Indiana

**AGENCY:** United States Environmental Protection Agency (USEPA).

**ACTION:** Direct final rule.

**SUMMARY:** On October 25, 1994, the Indiana Department of Environmental Management (IDEM) submitted a proposed amendment to the State implementation plan (SIP) containing Source Specific Operating Agreement (SSOA) regulations (326 IAC 2-9). This regulation has been developed to establish federally enforceable conditions for industrial or commercial surface coating operations, graphic arts operations, or grain elevators by limiting potential emissions below the title V major source threshold levels. In this action, USEPA approves 326 IAC 2-9-1 and 326 IAC 2-9-2(a), (b), and (e) of Indiana's SSOA regulation for establishing federally enforceable conditions for these source categories. In the proposed rules section of this Federal Register, USEPA is proposing approval of and soliciting public comment on these requested SIP revisions. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address the comments received in a final rule on the related proposed rule which is being published in the proposed rules section of this Federal Register. Unless this final rule is

withdrawn, no further rulemaking will occur on this requested SIP revision.

**DATES:** This action will be effective June 3, 1996, unless adverse or critical comments are received by May 2, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Comments can be mailed to J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch, United States Environmental Protection Agency, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604.

Copies of the State's submittal and USEPA's technical support document are available for inspection during normal business hours at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604.

A copy of this SIP revision is also available at the following location: Office of Air and Radiation, Docket and Information Center (Air Docket 6102), room M1500, USEPA, 401 M Street SW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Sam Portanova, USEPA (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3189.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Indiana SSOA program will be a major mechanism in limiting potential to emit for sources enabling them to remain below the applicability threshold for the operating permits program of title V of the Clean Air Act (CAA). The federal title V regulation is codified in 40 CFR part 70 and the State of Indiana's title V program is codified in 326 IAC 2-7. The title V program could encompass a large number of sources and could be a resource burden on the State and smaller title V sources. State mechanisms to establish federally enforceable limits on sources' potential to emit below the title V threshold will enable a State to reduce resource burdens.

##### II. This Action

IDEM has adopted a SSOA program regulation in 326 IAC 2-9 to provide certain source categories the opportunity to be subject to generic enforceable limits on potential to emit. 326 IAC 2-9-1 applies to all sources subject to the SSOA program, unless otherwise specified in 326 IAC 2-9-2. The subsections of 326 IAC 2-9-2 apply to the specific source categories. In this action, USEPA takes action on

subsections 326 IAC 2-9-2(a), (b), and (e). Sources will be able to apply for an operating agreement under this program to limit their potential to emit to below the title V threshold level(s). This will provide a less resource-intensive alternative to the title V or Federally Enforceable State Operating Permit (FESOP) programs for both sources and the permitting authority for specific source categories that typically have actual emissions far below their potential to emit. The following is an analysis of the SSOA program for each source category it entails. This analysis will compare the SSOA program to the October 15, 1993, USEPA policy memorandum titled "Guidance for State Rules for Optional Federally-Enforceable Emissions Limits Based on Volatile Organic Compound (VOC) Use", from D. Kent Berry, Acting Director of the Air Quality Management Division, where appropriate.

In this action, USEPA proposes approval of the SIP revision request submitted to USEPA on October 25, 1994, and revised on January 16, 1996, for the 326 IAC 2-9 regulation because the regulation is adequate to limit potential emissions of industrial or commercial surface coating operations, graphic arts operations, and grain elevators to below the title V threshold level.

##### 1. Industrial or Commercial Surface Coating Operations or Graphic Arts Operations

This portion of the SSOA regulation has been divided into 2 subcategories. The first subcategory (326 IAC 2-9-2(a)) is for eligible surface coating or graphic arts sources which are not modifications to major sources in Lake or Porter County subject to 326 IAC 2-3-3 and which are not subject to 326 IAC 8-2 or 8-5-5. The second subcategory (326 IAC 2-9-2(b)) is for any eligible surface coating or graphic arts sources. USEPA proposes approval of 326 IAC 2-9-2(a) and (b).

##### a. 326 IAC 2-9-2(a)

This section allows industrial or commercial surface coating operations or graphic arts operations who wish to opt into the SSOA program to limit their VOC or hazardous air pollutant (HAP) emissions to less than the major source threshold. 326 IAC 2-9-2(a)(1) limits the total amount of VOC delivered to a source less the amount of VOC shipped off the site to 2 tons per month (tpm) or less (this equals 24 tons per year (tpy)). 326 IAC 2-9-2(a)(1) limits the total amount of HAPs delivered to a source less the amount of HAP shipped off the site to 0.2 tpm (2.4 tpy) for a single HAP

and 0.5 tpm (6 tpy) for any combination of HAPs. The following are recordkeeping and reporting requirements for sources subject to 326 IAC 2-9-2(a):

i. 326 IAC 2-9-1(f) requires sources to prepare and maintain (1) monthly consumption records of all materials used that contain VOCs or HAPs, including the VOC or individual HAP content of each such material; (2) records summarizing all VOC and individual HAP emissions on a monthly basis; and (3) all purchase orders and invoices for any VOC or HAP containing material.

ii. 326 IAC 2-9-2(a)(4) requires sources to provide a summation of VOC and individual HAP emissions to IDEM on a monthly basis. This paragraph also requires an annual notice which includes an inventory listing monthly VOC and HAP totals and total VOC and HAP emissions for the previous 12 months.

iii. 326 IAC 2-9-2(a)(3) requires sources to maintain purchase orders and invoices for any VOC or HAP containing material used.

iv. 326 IAC 2-9-1(g) states that any records required to be kept by a source shall be maintained at the site for at least 5 years and shall be made available for inspection by IDEM upon request.

v. 326 IAC 2-9-1(h) requires any source subject to a SSOA to report to IDEM any exceedance of a requirement contain in the SSOA or the SSOA regulation within one week of its occurrence.

vi. 326 IAC 2-9-1(c) requires SSOA requests to be signed by a responsible official who shall certify that the information contained in the request is accurate, true, and complete.

These requirements are consistent with the guidelines outlined in the October 15, 1993, D. Kent Berry memorandum.

#### b. 326 IAC 2-9-2(b)

This section allows industrial or commercial surface coating operations or graphic arts operations who wish to opt into the SSOA program to limit their VOC or HAP emissions to less than 25 percent of the major source threshold.

326 IAC 2-9-2(b)(1) limits the total amount of VOC delivered to a source less the amount of VOC shipped off the site to 15 pounds per day (lb/day) or less (2.74 tpy) for sources located outside Lake or Porter County and to 7 lb/day (1.28 tpy) for sources located in Lake or Porter County. 326 IAC 2-9-2(a)(1) limits the total amount of HAPs delivered to a source less the amount of HAP shipped off the site to 3 lb/day (0.55 tpy) for a single HAP and 7 lb/day

(1.28 tpy) for any combination of HAPs. 326 IAC 2-9-2(b) has the same requirements as 326 IAC 2-9-2(a) except that a monthly summation of VOC and individual HAP emissions is not required. An annual summation of VOC and HAP emissions is required in this subsection. This is consistent with the guidelines outlined in the October 15, 1993, D. Kent Berry memorandum.

#### 2. Grain Elevators

This portion of the SSOA regulation has been divided into 2 subcategories. The first subcategory (326 IAC 2-9-2(e)(1)) is for grain elevators with a storage capacity of less than 1,000,000 U.S. bushels and an annual throughput of less than 3,000,000 U.S. bushels. The second subcategory (326 IAC 2-9-2(e)(2)) is for grain elevators with a storage capacity of between than 1,000,000 and 2,500,000 U.S. bushels and an annual throughput of less than 10,000,000 U.S. bushels. USEPA proposes approval of 326 IAC 2-9-2(e).

Title V applicability major source threshold level for particulate matter is 100 tpy and will be based on PM<sub>10</sub> emissions. The Indiana Title V regulation allows source subject to 326 IAC 2-9 to be exempt from Title V. The throughput limit of 326 IAC 2-9-2(e)(1), when calculated with accepted emission factors for this type of source, is sufficient to limit the potential to emit of PM<sub>10</sub> from a grain elevator to below the Title V threshold level. The throughput limit and the control requirements of 326 IAC 2-9-2(e)(2), when calculated with accepted emission factors for this type of source, are sufficient to limit the potential to emit of PM<sub>10</sub> from a grain elevator to below the Title V threshold level.

Based on the issues outlined above, USEPA proposes approval of 326 IAC 2-9-2(e) in this action.

#### 3. Conclusion

326 IAC 2-9 limits source emissions below the major source threshold level and requires monthly or annual reporting requirements. USEPA proposes approval of 326 IAC 2-9-1, 2-9-2(a), and 2-9-2(b) of the Indiana SSOA program, which provide industrial or commercial surface coating operations and graphic arts operations the opportunity to be subject to generic enforceable limits on potential to emit. These portions of the regulation are consistent with the October 15, 1993, USEPA memorandum titled "Guidance for State Rules for Optional Federally-Enforceable Emissions Limits Based on Volatile Organic Compound (VOC) Use". EPA also proposes approval of 326 IAC 2-9-2(e), which provides grain

elevators the opportunity to be subject to generic enforceable limits on potential to emit.

#### III. Rulemaking Action

The USEPA approves the plan revisions submitted on October 25, 1994, to implement 326 IAC 2-9-1 and 326 IAC 2-9-2(a), (b), and (e) of the SSOA regulations. Each of the program elements mentioned above were properly addressed. The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on June 3, 1996, unless USEPA receives adverse or critical comments by May 2, 1996.

If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date, and publish a subsequent final rule which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document.

Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on June 3, 1996. The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements

#### IV. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. § 600 et seq., USEPA 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. Alternately, USEPA 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, I certify 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 USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256-66 (1976).

V. Unfunded Mandates

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

The USEPA has determined that the approval action promulgated today 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 programs that are not Federal mandates. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Lead, Particulate matter, Sulfur dioxide, Volatile organic compounds.

Dated: February 12, 1996.

David A. Ullrich,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended to read as follows:

**PART 52—[AMENDED]**

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

Authority: 42 U.S.C. 7401-7671q.

**Subpart P—Indiana**

2. Section 52.770 is amended by adding paragraph (c)(105) to read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(105) On October 25, 1994, the Indiana Department of Environmental Management submitted a requested revision to the Indiana State Implementation Plan in the form of Source Specific Operating Agreement (SSOA) regulations. The SSOA regulations are intended to limit the potential to emit for a source to below the threshold level of Title V of the Clean Air Act. This revision took the form of an amendment to title 326: Air Pollution Control Board of the Indiana Administrative Code (326 IAC) 2-9-1, 2-9-2(a), 2-9-2(b), and 2-9-2(e) Source Specific Operating Agreement Program.

(i) *Incorporation by reference.* 326 Indiana Administrative Code 2-9. Sections 1, 2(a), 2(b), and 2(e). Adopted by the Indiana Air Pollution Control Board March 10, 1994. Signed by the Secretary of State May 25, 1994. Effective June 24, 1994. Published at Indiana Register, Volume 17, Number 10, July 1, 1994.

[FR Doc. 96-7907 Filed 4-1-96; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 52**

[KY20-1-9612a; FRL-5447-8]

**Approval and Promulgation of Implementation Plans Kentucky: Approval of Revisions to the Kentucky State Implementation Plan**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Kentucky State Implementation Plan (SIP) submitted on June 15, 1983, by the Commonwealth of Kentucky through the Natural Resources and Environmental Protection Cabinet (Cabinet). The revisions pertain to Kentucky regulations 401 KAR 50:025, Classification of counties, and 401 KAR 61:015, Existing indirect heat exchangers. The purpose of these revisions is to reclassify McCracken County from a Class I area to a Class IA area, with respect to sulfur dioxide (SO<sub>2</sub>), and to allow a relaxation of the

SO<sub>2</sub> emission limit in McCracken County.

**DATES:** This action is effective June 3, 1996, unless notice is received by May 2, 1996, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be addressed to: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460.  
Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30365.

Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601-1403.

**FOR FURTHER INFORMATION CONTACT:** Mr. Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air Pesticides and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is (404) 347-3555 ext. 4216.

**SUPPLEMENTARY INFORMATION:** On June 15, 1983, the Commonwealth of Kentucky through the Cabinet submitted revisions to the SO<sub>2</sub> SIP. The revisions pertain to Kentucky regulations 401 KAR 50:025, Classification of counties, and 401 KAR 61:015, Existing indirect heat exchangers. The purpose of these revisions is to reclassify McCracken County from a Class I area to a Class IA area, with respect to SO<sub>2</sub>, and to allow a relaxation of the SO<sub>2</sub> emission limit in McCracken County. The revisions are described below:

(1) 401 KAR 50:025. Classification of Counties

On July 2, 1982, McCracken County was redesignated by the EPA from non-attainment to attainment for SO<sub>2</sub>. The