

PART 52—[AMENDED]

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

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

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(132) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(132) On June 18, 1999, the Director of the Oregon Department of Environmental Quality (ODEQ) submitted a SIP revision to repeal the Consumer Products Rules, repeal the Architectural Coatings Rules, revise and partially repeal the Motor Vehicle Refinishings Rules, and revise the Volatile Organic Compounds definitions.

(i) Incorporation by reference.

(A) Oregon Administrative Rule (OAR) 340-022-0102 (73) and OAR 340-028-0110 (139), as effective May 21, 1999; and OAR 340-022-0700, OAR 340-022-0710, OAR 340-022-0740, and OAR 340-022-0760, as effective July 12, 1999.

(B) Remove the following provisions from the current incorporation by reference: OAR 340-022-0102 (73), as effective May 9, 1997; OAR 340-028-0110 (139), as effective October 14, 1998; OAR 340-022-0800, OAR 340-022-0820, OAR 340-022-0830, OAR 340-022-0850, and OAR 340-022-0860, OAR 340-022-0700, OAR 340-022-0720, OAR 340-022-0730, OAR 340-022-0740, OAR 340-022-0750, OAR 340-022-0760, OAR 340-022-1000, OAR 340-022-1020, OAR 340-022-1030, OAR 340-022-1040, and OAR 340-022-1050 as effective May 25, 1995; OAR 340-022-0840, as effective October 22, 1996; and OAR 340-022-710, OAR 340-022-810, OAR 340-022-1010, as effective August 14, 1996.

[FR Doc. 00-16068 Filed 7-3-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[IN105-1a; FRL-6720-2]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving Indiana's State Implementation Plan (SIP) revision request to control emissions of volatile organic compounds (VOCs) from steel mill sinter plants in Lake and Porter Counties. The Indiana Department of Environmental Management (IDEM) submitted the SIP revision request on April 6, 1999. The revision applies to integrated steel mills in Lake and Porter Counties, and provides for limits on emissions of VOCs from those facilities. VOC emissions are a precursor of ground-level ozone, commonly known as smog. High ozone levels are detrimental to human health and contribute to upper respiratory ailments such as asthma.

DATES: This rule is effective on September 5, 2000, unless EPA receives relevant adverse written comments by August 4, 2000. If EPA receives adverse written comment, it will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. You can inspect copies of the State Plan submittal at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend you contact Francisco J. Acevedo, Environmental Protection Specialist, at (312) 886-6061 before visiting the Region 5 office).

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Environmental Protection Specialist, at (312) 886-6061.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" are used we mean EPA.

Table of Contents

- I. What is EPA approving in this action?
- II. Why did Indiana submit a sinter plant SIP revision request?
- III. Who is affected by the Indiana sinter plant SIP revision?
- IV. What does the Indiana sinter plant SIP revision require?
- V. Where are the Indiana sinter plant requirements codified?
- VI. What public review opportunities did Indiana provide?
- VII. EPA Rulemaking Action.
- VIII. Administrative Requirements.
 - A. Executive Order 12866
 - B. Executive Order 13045
 - C. Executive Order 13084
 - D. Executive Order 13132
 - E. Regulatory Flexibility Act
 - F. Unfunded Mandates

- G. Submission to Congress and the Comptroller General
- H. National Technology Transfer and Advancement Act
- I. Petitions for Judicial Review

I. What Is EPA Approving in This Action?

We are approving Indiana's rule (IAC 8-13) that regulates emissions of VOCs from steel mill sinter plants in Lake and Porter Counties. Our approval makes the Indiana sinter plant rule part of the federally enforceable SIP under the Clean Air Act (Act).

II. Why Did Indiana Submit a Sinter Plant SIP Revision Request?

Lake and Porter Counties are classified under the Act as severe nonattainment for ozone. High ozone levels are detrimental to human health and contribute to upper respiratory ailments such as asthma. The sintering process at steel mills emits significant amounts of VOC, and Indiana has identified reductions in emissions from the sintering process as making an important contribution toward improving air quality and attaining the ambient ozone air quality standard.

III. Who Is Affected by the Indiana Sinter Plant SIP Revision?

The SIP revision requirements are applicable to all steel mill sinter plant operations in Lake and Porter Counties. According to Indiana, there are four existing sinter plants operating in Lake and Porter Counties. Three are located in Lake County: LTV Steel Company, Inland Steel Company and U.S. Steel, Gary Works; and, one is located in Porter County: Bethlehem Steel.

IV. What Does the Indiana Sinter Plant SIP Revision Require?

The rule establishes three types of VOC emission limits for the period from May 1 through September 30 for sinter plant windbox exhaust gas VOC emissions: a seasonal cap, a maximum daily limit, and a lower daily limit for days on which an exceedance of the national ambient air quality standard for ozone is predicted to be likely. The emission limits are based on a VOC emission rate equal to twenty-five hundredths (0.25) pounds per sinter produced and a daily sinter production rate. In addition, from October 1 through April 30, sinter plant windbox exhaust gas VOC emissions are limited to thirty-six hundredths (0.36) pound per ton of sinter produced. The rule also contains control measure operation, maintenance, and monitoring requirements, and record keeping and reporting requirements.

The rule requires that by November 1, 1998, the owners or operators of the sinter plants mentioned above submit a report detailing, among other things, how the limits of the rule will be met. In addition, the rule requires the submission of a corrective action plan that will be implemented in the event of an exceedance, and a high ozone day action plan in the event that a high ozone day is predicted. At this time, all of the sinter plant operations covered by this rule have submitted the above documentation to the Indiana Department of Environment.

The rule requires that on or after January 1, 1999, the sinter plant operations comply with all the above requirements.

V. Where Are the Indiana Sinter Plant Requirements Codified?

Indiana has codified its sinter plant rule at 326 Indiana Administrative Code (IAC) 8-13. The Indiana Pollution Control Board adopted the rule on March 4, 1998. The rule was filed with the Secretary of State on June 24, 1998, and became effective on July 24, 1998. The rule was published in the Indiana Register on August 1, 1998, at 21 IR 4195.

VI. What Public Review Opportunities Did Indiana Provide?

Indiana held three public hearings in Indianapolis, Indiana on the sinter plant rule on December 3, 1997, February 4, 1998, and March 4, 1998.

VII. EPA Rulemaking Action.

In this rulemaking action, we are approving Indiana's April 6, 1999, SIP revision request regarding steel mill sinter plant VOC controls (326 IAC 8-13) in Lake and Porter Counties.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse written comments be received. This action will be effective without further notice unless EPA receives relevant adverse written comment by August 4, 2000. Should the Agency receive such comments, it will publish a notice informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on September 5, 2000.

VIII. Administrative Requirements.

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action

does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (*Federalism*) and 12875 (*Enhancing the Intergovernmental Partnership*). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will 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, because it 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 Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on

a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

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 pre-existing 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.

G. 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. 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). This rule will be effective September 5, 2000 unless EPA receives adverse written comments by August 4, 2000.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 5, 2000. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 12, 2000.

David A. Ullrich,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, 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 P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(131) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(131) On April 6, 1999, Indiana submitted rules for the control of volatile organic compound emissions from steel mill sinter plant operations in Lake and Porter Counties as a revision to the State Implementation Plan.

(i) *Incorporation by reference.*

326 Indiana Administrative Code 8–13: Sinter Plants. Adopted by the Indiana Air Pollution Control Board March 4, 1998. Filed with the Secretary of State June 24, 1998. Published at Indiana Register, Volume 21, Number 11, August 1, 1998. Effective July 24, 1998.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN128–1a; FRL–6713–1]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revised opacity limits for three casting complexes at ALCOA Warrick Operations, which were submitted by the Indiana Department of Environmental Management (IDEM) on January 13, 2000 as amendments to its State Implementation Plan (SIP). ALCOA Warrick Operations is a primary aluminum smelter located in Newburgh, Indiana. The revised limits allow higher opacity emissions during fluxing operations at three casting complexes. This action does not reverse applicable mass emissions limits.