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.

[FR Doc. 00–16070 Filed 7–3–00; 8:45 am]

BILLING CODE 6560–50–P

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.

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

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of the State submittal and EPA's analysis of it at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

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

Table of Contents

I. What is the EPA approving?
II. What facilities/operations does this action apply to?
III. What are the provisions of the opacity limits?
IV. What are the current limits on these sources?
V. What supporting materials did Indiana provide?
VI. What are the environmental effects of this action?
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
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 the EPA Approving?

We are approving as SIP revisions revised opacity limits for three processes at ALCOA Warrick Operations, which were submitted by IDEM on January 13, 2000. The revised limits allow higher opacity emissions during fluxing operations at three casting complexes. This action does not change mass emissions limits for these sources.

II. What Facilities/Operations Does This Action Apply To?

We are approving revised opacity limits for three processes at ALCOA Warrick Operations. ALCOA Warrick Operations is a primary aluminum smelter located in Newburgh, Indiana. Molten aluminum is transferred from the melt furnaces into the holding furnaces for final fluxing, then cast into slabs. There are no particulate matter (PM) control devices for these processes. Emissions are exhausted through ventilation hoods to the exhaust stacks for each holding furnace. The revised limits apply to the #1 Complex (Horizontal Direct Chill Casting, or HDC), the #8 Complex (Electromagnetic Casting, or EMC) and the #5 HDC complex. Each of these casting complexes contains two holding furnaces.

III. What Are the Provisions of the Opacity Limits?

The revised limits for both the #1 complex and the #8 complex are contained in revised operation permits OP 87–07–91–0112 thru 0116, issued by IDEM on October 1, 1999. The revised limit for the #5 complex is contained in revised operation permit OP 87–07–91–0113 issued by IDEM on December 15, 1999.

The revised limits allow emissions with an opacity up to 80 percent during the fluxing portion of the production cycle from the East and West holding furnace exhaust stacks at the #1 Complex (HDC). This opacity is allowed for no more than 6 six-minute averaging periods, and only during fluxing. For all other portions of the production cycle, the limit remains at 40 percent. Fluxing typically lasts 12–15 minutes of the 5–10 hour production cycle for the HDC, but can last as long as 35 minutes.

For the East and West holding furnace exhaust stacks at the #8 Complex (EMC), the revised limit allows opacity during fluxing up to 85 percent for 2 six-minute averaging periods, and up to 80 percent opacity for 4 additional six-minute averaging periods. During all other portions of the production cycle, the opacity of emissions from the EMC continues to be limited to 40 percent. Fluxing typically lasts 12–15 minutes of the 3–4 hour production cycle for the EMC, but can last as long as 35 minutes.

For the East and West holding furnace exhaust stacks at the #5 Complex (HDC), the revised limit allows opacity during fluxing up to 80 percent for 3 six-minute averaging periods, 75 percent opacity for 1 six-minute averaging period, 65 percent opacity for 1 six-minute averaging period, and 55 percent opacity for 1 six-minute averaging period. During all other portions of the production cycle, the opacity of emissions from the EMC continues to be limited to 40 percent. Fluxing typically lasts 12–15 minutes of the 5–10 hour production cycle for the HDC, but can last as long as 35 minutes.

Mass PM emissions remain unchanged for all stacks at all complexes.

IV. What Are the Current Limits on These Sources?

These processes are currently covered by SIP rule Title 326 Indiana Administrative Code, Article 5, Rule 1, Section 2 (326 IAC 5–1–2), which provides a 40 percent opacity limit (6-minute average).

They are also covered by a SIP mass emission limit contained in 326 IAC 6–3–2. This regulation provides for a limit based on the process rate, and continues to apply at all times.

V. What Supporting Materials Did Indiana Provide?

Indiana provided stack test data and opacity readings. ALCOA conducted stack tests to show that the revised opacity limit would still be protective of the SIP mass PM emission limits. ALCOA conducted two rounds of stack tests on the #1 and #8 complexes, and one round on the #5 complex. ALCOA conducted opacity readings, utilizing EPA reference Method 9, during fluxing for many of the runs.

The first round of tests on the #1 and #8 complexes measured emissions of PM over the entire production cycle. (The production cycle lasts 5–10 hours for the HDC complexes (#1 and #5) and 3–4 hours for the EMC complex (#8).) Nine test runs were conducted on each exhaust stack. Fluxing was conducted for 35 minutes during each run, to approximate a worst-case scenario. (Fluxing normally lasts only 12–15 minutes.)

The second round of tests for the #1 and #8 complexes and the single round for the #5 complex were conducted for only one hour of the production cycle each, including the fluxing portion of the cycle. These tests were designed to show compliance with mass PM emissions limits on a one-hour basis. The tests include the fluxing portion of the cycle, since fluxing produces the bulk of emissions from the holding furnaces. 3–12 test runs were conducted on each exhaust stack. During these tests, fluxing was also conducted for a "worst-case" time of 35 minutes. ALCOA took opacity readings during the runs.

The tests show that ALCOA can meet SIP mass emissions limits at the EMC and HDC holding furnace stacks during fluxing. Even though opacity was often high during fluxing, no violations of the SIP mass PM emissions limits were measured. The tests indicate that the revised opacity limits should not result in violations of the mass limits for these sources.

VI. What Are the Environmental Effects of This Action?

The revised opacity limits will allow darker smoke to be emitted than does the current SIP rule. However, since no mass limits are being revised, and since the revised opacity limits are protective of the current mass limits, this SIP revision should not jeopardize air quality.

VII. EPA Rulemaking Action

We are approving, through direct final rulemaking, revised opacity limits for three casting complexes at ALCOA Warrick Operations. We are publishing this action without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless we receive relevant adverse written comment by August 4, 2000. Should we receive such comments, we will publish a final rule 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, you are 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

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 sections 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. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and 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 this action under section 801 because this is a rule of particular applicability.

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, Incorporation by reference, Particulate matter.

Dated: May 31, 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)(135) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(135) On January 1, 2000, Indiana submitted revised opacity limits for three processes at ALCOA Warrick Operations. The revised limits allow higher opacity emissions during fluxing operations at three casting complexes. This action does not change mass emissions limits for these sources.

(i) *Incorporation by reference.*

(A) Modifications to Operating Permits OP 87–07–91–0112 thru 0116: Permit I.D. 173–10913, Issued on October 1, 1999, to ALCOA, Inc.—Warrick Operations. Effective October 1, 1999.

(B) Modifications to Operating Permit OP 87–07–91–0113: Permit I.D. 173–11414, Issued on December 15, 1999, to ALCOA, Inc.—Warrick Operations. Effective December 15, 1999.

[FR Doc. 00–16361 Filed 7–3–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300983; FRL–6496–5]

RIN 2070–AB78

Methoxyfenozide; Benzoic Acid, 3-methoxy-2-methyl-2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl)hydrazide; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: . This regulation establishes tolerances for residues of methoxyfenozide in or on cotton, undelinted seed; cotton gin byproducts; pome fruit; apple pomace, wet; milk, meat of cattle, goats, hogs, horses and sheep and fat of cattle, goats, hogs, horses and sheep; and tolerances for the combined residues of methoxyfenozide and its glucuronide metabolite in meat byproduct (except liver) and liver of cattle, goats, hogs, horses and sheep. Rohm and Haas Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation is effective July 5, 2000. Objections and requests for hearings, identified by docket control number OPP–300983, must be received by EPA on or before September 5, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify