

**PART 52—[AMENDED]**

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

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

**Subpart BB—Montana**

2. Section 52.1370 is amended by adding paragraph (c)(58) to read as follows:

**§ 52.1370 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(58) On April 30, 2001, the Governor of Montana submitted a request to add a credible evidence rule to the Administrative Rules of Montana (ARM). ARM 17.8.132—“Credible Evidence” has been approved into the SIP.

(i) Incorporation by reference.

(A) ARM 17.8.132 effective December 8, 2000.

[FR Doc. 02–29335 Filed 11–19–02; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[IN145–1a; FRL–7398–5]

**Approval and Promulgation of Implementation Plans; Indiana**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions to particulate matter (PM) emissions regulations for Union Tank Car’s railcar manufacturing facility located in Lake County, Indiana. The Indiana Department of Environmental Management (IDEM) submitted the revised regulations to EPA on April 30, 2002 and September 6, 2002 as an amendment to Indiana’s State Implementation Plan (SIP). The revisions consist of relaxing the PM limits for one emissions unit; however, actual emissions will not increase, and the PM National Ambient Air Quality Standards (NAAQS) should be protected. EPA is approving revisions for Union Tank Car because complying with the current limits is infeasible, and because the revisions should not harm air quality.

**DATES:** This rule is effective on January 21, 2003, unless the EPA receives relevant adverse written comments by December 20, 2002. If EPA receives adverse comment, we 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 Indiana’s submittal 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:** Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886–6524, E-Mail: [rau.matthew@epa.gov](mailto:rau.matthew@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever “we,” “us,” or “our” are used we mean the EPA.

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**I. What Is the EPA Approving?**

The EPA is approving revisions to the particulate matter emissions regulations for Union Tank Car, which operates a railcar manufacturing facility in Lake County, Indiana. IDEM submitted the revisions to EPA on April 30, 2002 and September 6, 2002 as an amendment to Indiana’s SIP at 326 IAC 6–1–10.1.

**II. What Are the Changes From the Current Rule?**

IDEM changed the emission limits for particulate matter less than 10 µm in diameter (PM–10) at the grit blasting unit from 0.002 pounds per ton (lbs/ton) to 0.01 grains per dry standard cubic foot (gr/dscf), and from 0.020 to 9.9 pounds per hour (lb/hr). IDEM changed the units from pounds per ton to grains per dry standard cubic foot because grains per dry standard cubic foot can be measured directly. The new limit of 9.9 lb/hr results from the unit emitting 0.01 gr/dscf when operated at 117,000 actual cubic feet per minute (acf/min). IDEM revised emission limits because the previous limits were far more

stringent than the limits for similar sources; and were not feasible.

**III. What Is the EPA’s Analysis of the Supporting Materials?**

Indiana submitted a letter to EPA on May 6, 2002, in which it stated that meeting the current PM–10 limits is infeasible for the Union Tank Car grit blaster or any other similar sources. In that letter, Indiana noted that the present limit of 0.020 lb/hr is equivalent to 0.00039 gr/acf. Indiana stated that the Union Tank Car limits are 100 times more stringent than those that apply to similar Lake County, Indiana sources. The letter also indicated that the actual PM–10 emissions from Union Tank Car will not increase as a result of this regulatory change.

**IV. What Are the Environmental Effects of These Actions?**

Particulate matter interferes with lung function when inhaled. Exposure to PM can cause heart and lung disease. PM also aggravates asthma. Airborne particulate is the main source of haze that causes a reduction in visibility. It also is deposited on the ground and in the water. This harms the environment by changing the nutrient and chemical balance.

Although Union Tank Car’s allowable PM–10 emission limits are being relaxed, its actual emissions will not increase. Indiana included the company’s actual emissions in the Lake County PM–10 modeling analysis, which EPA approved on June 15, 1995 (60 FR 31412). In the Lake County modeling analysis, Indiana showed that the PM–10 NAAQS will be protected with Union Tank Car’s current emission levels. Therefore, this SIP revision should not harm air quality.

**V. What Rulemaking Actions Are the EPA taking?**

The EPA is approving, through direct final rulemaking, revisions to the particulate matter emissions regulations for Union Tank Car in Lake County, Indiana. The new PM–10 emission limits for the grit blasting are 0.01 gr/dscf and 9.9 lb/hr.

We are publishing this action without a prior proposal because we view these as noncontroversial revisions and anticipate no adverse comments. However, in the “Proposed Rules” section of today’s **Federal Register**, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on January 21, 2003 without further notice unless we receive relevant adverse written comment by December 20, 2002.

If the EPA receives adverse written comment, we will publish a final rule informing the public that this rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. The EPA does not intend to institute a second comment period on this action. Any parties interested in commenting on these actions must do so at this time.

#### VI. Administrative Requirements

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 Effect 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 Clean Air Act. 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 is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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 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 January 21, 2003. 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: October 15, 2002.

**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)(153) to read as follows:

#### § 52.770 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(153) On April 30, 2002 and September 6, 2002, Indiana submitted revised particulate matter regulations for Union Tank Car's railcar manufacturing facility in Lake County, Indiana. The submittal amends 326 IAC 6-1-10.1. The revisions consist of relaxing the limits for the grit blaster. The new limits are 0.01 grains per dry standard cubic foot and 9.9 pounds per hour.

(i) Incorporation by reference.

Amendments to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6: Particulate Rules, Rule 1: Non-attainment Area Limitations, Section 10.1: Lake County PM<sub>10</sub> emission requirements. Filed with the Secretary of State on July 26, 2002 and effective on August 25, 2002. Published in 25 *Indiana Register* 4076 on September 1, 2002.

[FR Doc. 02-29473 Filed 11-19-02; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[OPP-2002-0291; FRL-7277-3]

#### Bacillus Cereus Strain BPO1; Exemption from the Requirement of a Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of the *Bacillus cereus* strain BPO1 on raw and processed food when applied/used as a