

#### IV. Administrative Requirement

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 Affect 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 February 7, 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 30, 2002.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(215)(i)(F), (c)(264)(i)(C)(2), and (c)(281)(i)(B) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(215) \* \* \*

(i) \* \* \*

(F) Monterey Bay Unified Air Pollution Control District.

(1) Rule 421 adopted on December 21, 1994.

\* \* \* \* \*

(264) \* \* \*

(i) \* \* \*

(C) \* \* \*

(2) Rule 103 adopted on February 9, 1999.

\* \* \* \* \*

(281) \* \* \*

(i) \* \* \*

(B) Monterey Bay Unified Air Pollution Control District.

(1) Rule 213 adopted on March 21, 2001.

\* \* \* \* \*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[IN146-1a; FRL-7411-7]

#### Approval and Promulgation of State Implementation Plans; Indiana

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving as a revision to the Indiana particulate matter (PM) State Implementation Plan (SIP) emission control regulations that pertain to Knauf Fiber Glass (Knauf) which is located in Shelbyville, Indiana, as requested by the State of Indiana on October 17, 2002. This submission makes changes to federally enforceable Indiana air pollution control rules. The rule revisions modify the PM emissions limits adopted by the State in the 1980s which are part of the current Indiana SIP. The revised rules delete references to equipment no longer in use by Knauf and update names of remaining

equipment. Because the revised rules reduce both allowable emissions and the allowable emissions rate and reflect current operations at the Knauf facility, EPA approval of these revisions should not result in an adverse impact on air quality.

**DATES:** This direct final rule is effective on February 7, 2003 without further notice unless EPA receives adverse written comments by January 8, 2003. If adverse comment is received, EPA will publish a timely withdrawal of this direct final 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.

A copy of the SIP revision request is available for inspection at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Randolph Cano at (312) 886-6036 before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** Randolph Cano, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR-18J), EPA, Region 5, Chicago, Illinois 60604, (312) 886-6036.

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

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- II. What Changes Are Being Made to the State Rule?
- III. What Is EPA's Rulemaking Action?
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#### I. What Is the Background for This Action?

On October 17, 2002, Lori F. Kaplan, Commissioner of the Indiana Department of Environmental Management, submitted to EPA a requested amendment to the Indiana SIP. This amendment consisted of revisions to Title 326, Air Pollution of the Indiana Administrative Code (326 IAC). These changes to 326 IAC 11-4-5 were adopted final by the Indiana Air Pollution Control Board on May 1, 2002, filed with the Secretary of State on August 28, 2002 and became effective on September 27, 2002. They were published in the *Indiana Register* on October 1, 2002 (26 IR 10). The amendments update references to

equipment to reflect current operations and delete references to equipment that no longer exists, along with their associated emissions limits, at the Knauf facility located in Shelbyville, Indiana.

#### II. What Changes Are Being Made to the State Rule?

The revised rule removes references to emission points which are no longer operational at Knauf and renames several other emission points. Specifically, Indiana deleted from the rule references to 203 oven, 304 oven, 1101 oven, 1102 oven, 1103 oven, 1104 oven, 1110 oven, 1111 oven 203 furnace, and 203 forming. Indiana renamed the 204 oven as the 605 oven, with no change in its maximum hourly PM emission rate of eight pounds per hour. Indiana renamed the 204 furnace as the 605 furnace, with no change in its maximum hourly PM emission rate of 10 pounds per hour. Indiana has renamed the 204 forming operation as 605 forming with no change in its maximum hourly PM emission rate of 15 pounds per hour.

Three emission points continue to be listed in the revised rule with the same emission limits they had in the previous rule: 601 forming plus oven, with a maximum hourly PM emission limit of 28.28 pounds per hour, 603 forming plus oven, with a maximum hourly PM emission limit of 16.49 pounds per hour, and 602 forming plus oven with a maximum hourly PM emission limit of 33.27 pounds per hour.

These revised rules reduce both allowable emissions and the allowable emissions rate. The revisions also reflect current operations at the Knauf facility. Consequently, EPA approval of these changes should not result in an adverse impact on air quality. In fact, EPA estimates a PM emission reduction of 155 tons per year.

#### III. What Is EPA's Rulemaking Action?

EPA is approving the incorporation of 326 IAC 11-4-5 Shelby County, as revised, into the Indiana SIP. The rule revisions modify the emissions limits adopted by the State in the 1980s which are part of the current Indiana SIP. The revised rules delete references to equipment no longer in use by Knauf and update names of equipment which remains in use. Because the revised rules reduce both allowable emissions and the allowable emissions rate and reflect current operations at the Knauf facility, EPA approval of these revisions should not result in an adverse impact on air quality.

EPA is publishing this action without prior proposal because we view this as a noncontroversial revision and we

anticipate no adverse comments.

However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the State's SIP revision request should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by January 8, 2003. Should EPA 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 comments are received, the public is advised that this action will be effective on February 7, 2003.

#### IV. 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 Affect 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 (Public Law 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) 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.

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 February 7, 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, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: November 7, 2002.

**Bharat Mathur,**

*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)(155) to read as follows:

##### § 52.770 Identification of plan.

(c) \* \* \*

(155) On October 17, 2002, the State submitted revised particulate matter emission limits for the Knauf Fiber Glass in Shelby County for incorporation into the Indiana SIP.

(i) Incorporation by reference.

(A) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 11 Emission Limitations for Specific Types of Operations, Rule 4 Fiberglass Insulation Manufacturing, Paragraph 5 Shelby County (326 IAC 11-4-5). Adopted by the Indiana Air Pollution Control Board on May 1, 2002. Filed with the Secretary of State on August 28, 2002. Published in the *Indiana Register*, Volume 26, Number 1, October 1, 2002, effective September 27, 2002.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[OPP-2002-0326; FRL-7282-1]

#### Carboxin; Pesticide Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for combined residues of

carboxin (5,6-dihydro-2-methyl-N-phenyl-1,4-oxathiin-3-carboxamide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1,4-oxathiin-4-oxide (calculated as carboxin) (from treatment of seed prior to planting) in or on canola, seed. Gustafson LLC requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

**DATES:** This regulation is effective December 9, 2002. Objections and requests for hearings, identified by docket ID number OPP-2002-0326, must be received on or before February 7, 2003.

**ADDRESSES:** Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**.

#### FOR FURTHER INFORMATION CONTACT:

Mary Waller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9354; e-mail address: [waller.mary@epa.gov](mailto:waller.mary@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

##### A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS Code 111)
- Animal production (NAICS Code 112)
- Food manufacturing (NAICS Code 311)
- Pesticide manufacturing (NAICS Code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.