

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[IN153-1;FRL-7478-2]

Approval and Promulgation of Implementation Plans; Indiana**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to particulate matter (PM) regulations for Richmond Power and Light Company (RPL) of Wayne County, Indiana. On January 31, 2003, Indiana requested that EPA "parallel process" this State Implementation Plan (SIP) revision request, as an amendment to 326 Indiana Administrative Code (IAC) 6-1-14. RPL operates a power plant with two coal-fired boilers. EPA approved revisions to the short-term PM limits for these boilers on April 9, 1996 (61 FR 15704). Indiana is now seeking to revise the long-term (annual) PM limits for RPL to make them consistent with the short-term limits. The new PM limits are 320 tons per year (TPY) for boiler no. 1 and 700 TPY for boiler no. 2. Modeling analyses show that air quality is expected to be maintained.

DATES: The EPA must receive written comments by May 9, 2003.

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.

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 Proposing to Approve?

The EPA is proposing, through "parallel processing," to approve revisions to the annual (long-term) PM limits for two boilers at the Richmond Power and Light facility. These revisions to the limits in 326 IAC 6-1-14 make these long-term limits consistent with the short-term limits previously approved by EPA as SIP revisions. The requested new PM limits are 320 TPY for boiler no. 1 and 700 TPY for boiler no. 2.

Parallel processing enables EPA to propose action on a state rule before it becomes final under state law. If the final, adopted state rule is substantially unchanged from the submission on which the proposed rule is based, then EPA may take final action based on its proposal. Significant changes in the rule between the version reviewed and the final, adopted version, may result in a new EPA proposed rule on the adopted rule. Without such significant changes, EPA will proceed with final rulemaking.

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

Indiana submitted, as a parallel processing request, revisions to 326 IAC 6-1-14 on January 31, 2003. Indiana revised the long-term PM limits for the two RPL boilers to make them consistent with their short-term limits. For boiler no. 1, the new limit is 320 TPY; for boiler no. 2, the new limit is 700 TPY. The previous limits were 71.6 TPY and 233.3 TPY, respectively. RPL's short-term limits remain at 0.19 pounds per million British Thermal Units (lb/MMBTU) and 0.22 lb/MMBTU, respectively. The combined short-term emissions limit for both boilers stays at 0.22 lb/MMBTU.

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

Indiana submitted a PM modeling analysis for RPL on August 8, 1995 as part of the SIP revision request approved by EPA in April 1996. This modeling analysis applies to both the short-term limits approved in 1996 and to the new long-term limits. The maximum modeled annual PM concentration was 42.5 micrograms per meter cubed ($\mu\text{g}/\text{m}^3$). This is 1.7 $\mu\text{g}/\text{m}^3$ above the measured background concentration of 40.8 $\mu\text{g}/\text{m}^3$. The annual National Ambient Air Quality Standard (NAAQS) for PM is 50 $\mu\text{g}/\text{m}^3$. As the modeled concentration is below the

NAAQS, the air quality of Wayne County, Indiana should be protected.

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 and bronchitis. 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.

Each boiler is equipped with a control device. A common 325-foot tall stack replaced two 150-foot tall stacks in 1989. Both of these features help reduce PM concentration. Although the proposed new long-term emission limits are an increase over current limits, they are consistent with the short-term limits. The short-term limits should protect against brief, high concentration episodes. The modeling analysis found that with the new limits, the annual PM NAAQS should be maintained. Therefore, the new limits being proposed should protect the air quality of Wayne County, Indiana.

V. Summary of EPA Action

EPA is proposing, through parallel processing, to approve revisions to 326 IAC 6-1-14, the PM emission limits for Wayne County, Indiana. These revisions change the long-term (annual) PM emission limits for both boilers at the RPL facility to make them consistent with short-term limits for these sources. EPA approved revisions to the short-term limits for RPL on April 9, 1996. The PM modeling analysis show concentrations below the NAAQS level, demonstrating that the air quality of Wayne County, Indiana should be protected.

VI. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

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.

Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

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).

Regulatory Flexibility Act

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.*).

Unfunded Mandates Reform Act

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).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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).

Executive Order 13132: Federalism

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.

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

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.

National Technology Transfer Advancement Act

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.

Paperwork Reduction Act

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.*).

Congressional Review Act

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 June 9, 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 1, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 271**

[FRL-7478-9]

Hazardous Waste Management Program: Final Authorization of State Hazardous Waste Management Program Revisions for State of Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and request for comment.

SUMMARY: The EPA (also "the Agency" in this preamble) is proposing to grant final authorization to the State of Oklahoma Department of Environmental Quality (ODEQ) for its hazardous waste program revisions, specifically, revisions needed to meet the Resource Conservation and Recovery Act (RCRA), Cluster X which contains Federal rules promulgated from July 1, 1999, to June 30, 2000. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the revisions as an immediate final rule without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. The Agency has explained the reasons for this authorization in the preamble to the immediate final rule. If EPA does not receive adverse written comments, the immediate final rule will become effective and the Agency will not take further action on this proposal. If EPA receives adverse written comments, a second **Federal Register** document will be published before the time the immediate final rule takes effect. The second document may withdraw the immediate final rule or identify the issues raised, respond to the comments and affirm that the immediate final rule will take effect as scheduled. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before May 9, 2003.

ADDRESSES: Mail written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials