

programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: February 20, 2003.

**Anthony J. Principi,**  
Secretary of Veterans Affairs.

**Sally Brice-O'Hara,**  
Rear Admiral, U.S. Coast Guard, Acting Assistant Commandant for Human Resources.

**Charles S. Abell,**  
Principal Deputy Under Secretary of Defense (Personnel and Readiness).

■ For the reasons set out above, 38 CFR part 21, subpart L, is amended as set forth below.

**PART 21—VOCATIONAL REHABILITATION AND EDUCATION**

**Subpart L—Educational Assistance for Members of the Selected Reserve**

■ 1. The authority citation for part 21, subpart L, continues to read as follows:

**Authority:** 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), ch. 36, unless otherwise noted.

■ 2. Section 21.7636 is amended by:

- a. Revising paragraphs (a)(1) and (a)(2)(i) introductory text and table.
- b. In paragraph (a)(3), removing “September 30, 2001, and before October 1, 2002,” and adding, in its place, “September 30, 2002, and before October 1, 2003.”

The revisions read as follows:

**§ 21.7636 Rates of payment.**

(a) *Monthly rate of educational assistance.* (1) Except as otherwise provided in this section or in § 21.7639, the monthly rate of educational assistance payable for training that occurs after September 30, 2002, and before October 1, 2003, to a reservist pursuing a program of education is the rate stated in this table:

Training	Monthly rate
Full time .....	\$276.00
¾ time .....	207.00
½ time .....	137.00
¼ time .....	69.00

(2)(i) The monthly rate of basic educational assistance payable to a reservist for apprenticeship or other on-the-job training full time that occurs after September 30, 2002, and before October 1, 2003, is the rate stated in this table:

Training period	Monthly rate
First six months of pursuit of training .....	\$207.00
Second six months of pursuit of training .....	151.80
Remaining pursuit of training .....	96.60

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[IN157-1a; FRL-7517-5]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a State Implementation Plan (SIP) revision submitted by the Indiana Department of Environmental Management (IDEM) on January 7, 2003. The revised SIP pertains to certain miscellaneous metal coating operations and the control of gasoline Reid vapor pressure in Clark and Floyd Counties, Indiana. The purpose of this action is to approve amendments to the applicable Indiana rules, assuring that certain controls in the two counties remain in effect even after the counties’ redesignation to attainment. In addition, EPA is approving minor changes to the rules, which are administrative in nature and intended to enhance the rules’ clarity.

**DATES:** This rule is effective on September 19, 2003, unless EPA receives adverse written comments by August 20, 2003. 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:** 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.

Copies of this SIP revision request are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Francisco J. Acevedo at (312) 886-6061 before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** Francisco J. Acevedo, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886-6061, E-Mail: [acevedo.francisco@epa.gov](mailto:acevedo.francisco@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the term “me” refers to the reader of this rulemaking and the terms “we,” “us,” or “our” refer to the EPA.

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**I. Background**

*A. What Is a SIP?*

Section 110 of the Clean Air Act (Act or CAA) requires states to develop air pollution control regulations and strategies to ensure that state air quality meets the national ambient air quality standards established by the EPA. Each state must submit the regulations and emission control strategies to the EPA for approval and promulgation into the federally enforceable SIP.

Each federally-approved SIP protects air quality primarily by addressing air pollution at its points of origin. The SIPs can be and generally are extensive, containing many state regulations or other enforceable documents and supporting information, such as emission inventories, monitoring documentation, and modeling attainment demonstrations.

*B. What Is the Federal Approval Process for a SIP?*

In order for state regulations to be incorporated into the federally enforceable SIP, states must formally adopt the regulations and emission control strategies consistent with state and federal requirements. This process generally includes public notice, public hearings, public comment periods, and

formal adoption by state-authorized rulemaking bodies.

Once a state has adopted a rule, regulation, or emissions control strategy it submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed federal action on the state submission. If we receive adverse comments we address them prior to any final federal action (we generally address them in a final rulemaking action).

The EPA incorporates into the federally approved SIP all state regulations and supporting information it has approved under section 110 of the Act. Records of such SIP actions are maintained in 40 CFR part 52, titled "Approval and Promulgation of Implementation Plans." The actual state regulations the EPA has approved are not reproduced in their entirety in the Code of Federal Regulations (CFR), but are "incorporated by reference," which means that EPA has approved a given state regulation (or rule) with a specific effective date.

### *C. What Does Federal Approval of a State Rule Mean to Me?*

Enforcement of a state rule before and after it is incorporated into a federally approved SIP is primarily a state responsibility. After the rule is federally approved as part of the SIP, however, it becomes enforceable by the EPA, which can then take enforcement actions against violators. The CAA also offers citizens legal recourse to address SIP violations, as provided in section 304 of the Act.

### *D. What Is the Purpose of Indiana's Miscellaneous Metal Coating Operations and Control of Gasoline Reid Vapor Pressure Requirements?*

326 Indiana Administrative Code (IAC) 8-2-9 contains Indiana's miscellaneous metal coating operation requirements, and establishes limitations on the amount of volatile organic compounds that may be discharged into the atmosphere for facilities engaged in the surface coating of miscellaneous metal parts and products. The Indiana Air Pollution Control Board originally adopted these requirements and submitted them to EPA for federal approval on October 23, 1990. EPA incorporated these requirements into Indiana's federally enforceable ozone SIP as part of the State's stationary source control strategy in partial satisfaction of the requirements of the CAA.

326 IAC 13-3 contains Indiana's gasoline Reid vapor pressure requirements, and limits the Reid vapor

pressure level of gasoline during the summer ozone season in Clark and Floyd Counties to seven and eight-tenths (7.8) pound per square inch per gallon.

Lower Reid vapor pressure gasoline is a fuel control measure that is used during the summer ozone season to reduce emissions of volatile organic compounds from motor vehicles. Fuel with a lower volatility achieves emissions reductions in ozone precursors by reducing aromatic hydrocarbon emissions from gasoline and thereby reducing its ability to evaporate as quickly. The Indiana Air Pollution Control Board adopted this requirement on July 6, 1995; EPA incorporated it into Indiana's enforceable ozone SIP on February 9, 1996 (61 FR 4895).

### *E. Why Is Indiana Making Changes to These Rules?*

Section 182(a) of the Act requires States with ozone nonattainment areas classified as "marginal" or above to submit SIP revisions to reduce volatile organic compound emissions. Initially, EPA had designated Clark and Floyd Counties as "moderate" for ozone. On October 9, 2001, EPA announced that Clark and Floyd Counties had monitored attainment of the national air quality standard for ozone and had met all applicable requirements of the Act. As a result, EPA approved Indiana's request to redesignate the area to attainment of the ozone standard (See 66 FR 53665).

Because of the change in Clark and Floyd Counties' attainment status, Indiana revisited a number of rules to clarify that certain requirements would continue to apply even after the change in classification. The purpose of today's action is to approve amendments to those Indiana rules which assure that certain controls in the two counties remain in effect even after the counties' redesignation to attainment.

### *F. What Public Review Opportunities Did Indiana Provide for This Rule?*

Indiana held public hearings on this rule on June 5, 2002 and August 7, 2002, in Indianapolis, Indiana. The Indiana Air Pollution Control Board adopted final rules on August 7, 2002. The rule revisions became effective December 15, 2002, and were formally submitted to EPA on January 7, 2003, as a revision to the Indiana SIP for ozone.

## **II. Evaluation of the Rule**

### *A. What Are the Changes to the State's Miscellaneous Metal Coating Operations and Control of Gasoline Reid Vapor Pressure Requirements?*

Indiana's amendments to 326 IAC 8-2-9 (Miscellaneous metal coating operations) and 326 IAC 13-3-1 (Applicability, Control of gasoline Reid vapor pressure) are not a substantive change to the rules, but rather are intended to ensure that certain existing requirements stay in place in Clark and Floyd even though the area has been redesignated to attainment for ozone.

Indiana amended 326 IAC 8-2-9, Miscellaneous metal coating operations, to add language concerning the application of coating in Clark or Floyd County to assure controls in the two counties remained in effect after the counties were redesignated to attainment. Indiana amended 326 IAC 13-3-1, Control of gasoline Reid vapor pressure applicability, to delete the reference to Clark and Floyd Counties being in an ozone nonattainment area. The rest of the changes to the rule are administrative in nature and are intended to enhance the clarity of the rule.

### *B. Is This Rule Approvable?*

Our review of the material submitted indicates that the changes made to Indiana's Miscellaneous metal coatings operations (326 IAC 8-2-9) and Control of gasoline Reid vapor pressure (326 IAC 13-3-1) should assure that certain existing VOC requirements remain in effect. These rule revisions are, therefore, approvable.

## **III. EPA Rulemaking Action**

We are approving, through direct final rulemaking, revisions to Indiana's Miscellaneous metal coatings operations and Control of gasoline Reid vapor pressure requirements. The purpose of this action is to approve amendments to these Indiana rules which assure controls in Clark and Floyd Counties remain in effect, even after the counties' redesignation to attainment. 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 20, 2003. 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, this action will be effective on September 19, 2003.

#### IV. 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 September 19, 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, Hazardous air pollutants Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 9, 2003.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ 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)(162) to read as follows:

#### **§ 52.770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(162) On January 7, 2003 the Indiana Department of Environmental Management submitted a State Implementation Plan (SIP) revision amending certain provisions of Indiana's 326 IAC 8-2-9 (Miscellaneous metal coating operations) and 326 IAC 13-3-1 (Applicability, Control of gasoline Reid vapor pressure).

(i) Incorporation by reference.

(A) 326 Indiana Administrative Code 8-2-9; and 13-3-1 adopted August 7, 2002, effective December 15, 2002.

(ii) Additional materials.

(A) January 7, 2003 letter and enclosures from the Indiana Department of Environmental Management (IDEM) Commissioner to the Regional Administrator of the United States

Environmental Protection Agency (EPA) submitting Indiana's revisions to the ozone SIP.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region 2 Docket No. NY60-257a, FRL-7519-8]

#### Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for Specific Sources in the State of New York

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is announcing approval of a revision to the State Implementation Plan (SIP) for ozone submitted by the State of New York. This revision consists of a source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen (NO<sub>x</sub>) from eighteen units at three facilities owned by Tenneco Gas Corporation in New York. This direct final rule approves the source-specific RACT determination that was made by New York in accordance with provisions of its regulation. The intended effect of this rulemaking is to approve source-specific emission limitations required by the Clean Air Act.

**DATES:** This direct final rule is effective on September 19, 2003 without further notice, unless EPA receives adverse comment by August 20, 2003. If an adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the *Federal Register* and inform the public that the rule will not take effect.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007-1866. Electronic comments could be sent either to [Werner.Raymond@epa.gov](mailto:Werner.Raymond@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and use the "go" button. Please follow the

on-line instructions for submitting comments. Copies of the State submittals are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. New York Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd Floor, Albany, New York 12233. Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102T), 1301 Constitution Avenue, NW., Washington, DC 20460.

#### FOR FURTHER INFORMATION CONTACT:

Anthony (Ted) Gardella ([Gardella.Anthony@epa.gov](mailto:Gardella.Anthony@epa.gov)) or Richard Ruvo ([Ruvo.Richard@epa.gov](mailto:Ruvo.Richard@epa.gov)), Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249.

**SUPPLEMENTARY INFORMATION:** The following table of contents describes the format for the Supplementary Information section:

- I. What Action Is EPA Taking Today?
- II. What Is EPA's Finding on the State Submittal?
- III. What Are the Clean Air Act Requirements for NO<sub>x</sub> RACT?
- IV. What Are New York's Regulatory Requirements for NO<sub>x</sub> RACT?
  - A. EPA Approval of New York's NO<sub>x</sub> RACT Regulation
  - B. Case-by-Case NO<sub>x</sub> RACT Determinations
- V. What Is EPA's Analysis of the State Submittal?
- VI. What is EPA's Conclusion?
- VII. Statutory and Executive Order Reviews

#### I. What Action Is EPA Taking Today?

EPA is approving a revision to New York's ozone SIP submitted on November 20, 1996 as supplemented on February 24, 1997. The SIP revision addresses specific sources that were submitted by New York in response to the Clean Air Act (CAA) requirement that states require Reasonably Available Control Technology (RACT) at all major stationary sources of NO<sub>x</sub>. The SIP revision consists of a source-specific NO<sub>x</sub> RACT determination for controlling oxides of nitrogen (NO<sub>x</sub>) from eighteen gas-fired reciprocating engines, located at three compressor stations in New York State, that are owned/operated by Tenneco Gas Corporation (also known as Tenneco Gas Pipeline Company and Tennessee Gas Pipeline Company).

#### II. What Are EPA's Findings of Each State Submittal?

The following is a summary of EPA's finding for a source-specific SIP revision

for the Tenneco Gas Corporation's eighteen stationary internal combustion engines at three facilities. Tenneco Gas sought approval of, and New York agreed to, NO<sub>x</sub> RACT emission limits higher than that which are established in Subpart 227-2. It should be noted that EPA is only acting on the permitted emission rates and conditions of approval related to emissions of NO<sub>x</sub>; action is not being taken on any other pollutants which may be permitted by New York with regard to these sources.

*Tenneco Gas Corporation (Tenneco Gas Pipeline Company or Tennessee Gas Pipeline Company)*

Tenneco Gas operates six 1400-horsepower reciprocating engines at the Hamburg (Eden) Compressor Station in Erie County, six 1400-horsepower engines at the Nassau (Chatham) Compressor Station in Columbia County, and five 1400-horsepower and one 3500-horsepower engine (Worthington model ML-12) at the West Winfield Station in Herkimer County. All 18 units are gas-fired reciprocating lean-burn internal combustion engines. The facility's RACT analysis concluded, and New York agreed, that RACT for the seventeen 1400-horsepower engines (Worthington model UTC-165) is low emission combustion, consisting of a pre-combustion chamber with modified turbochargers, whereas RACT for the one 3500-horsepower engine (Worthington ML-12) is timing controls, new air-to-fuel ratio controls and modifications of the turbochargers. The alternative NO<sub>x</sub> emission limit for each of the seventeen 1400-horsepower engines is 7.0 grams per horsepower-hour and for the one 3500-horsepower engine is 13.3 grams per horsepower-hour.

#### III. What Are the Clean Air Act Requirements for NO<sub>x</sub> RACT?

The CAA required certain states to develop RACT regulations for major stationary sources of NO<sub>x</sub> and to provide for the implementation of the required measures as soon as practicable but no later than May 31, 1995. Under the CAA, the definition of major stationary source is based on the tons per year (tpy) air pollution a source emits and the quality of the air in the area of the source. In ozone transport regions, attainment/unclassified areas as well as marginal and moderate ozone nonattainment areas, a major stationary source for NO<sub>x</sub> is considered to be one which emits or has the potential to emit 100 tpy or more of NO<sub>x</sub> and is subject to the requirements of a moderate nonattainment area. New York is within the Northeast ozone transport region