

**§ 375.303 Delegations to the Chief Accountant.**

The Commission authorizes the Chief Accountant or the Chief Accountant's designee to:

(a) Sign all correspondence with respect to financial accounting and reporting matters on behalf of the Commission.

(b) Pass upon actual legitimate original cost and depreciation thereon and the net investment in jurisdictional companies and revisions thereof.

\* \* \* \* \*

(h) Deny or grant, in whole or in part, requests for waiver of the requirements of parts 352 and 356 of this chapter, except if the matters involve unusually large transactions or unique or controversial features, the Chief Accountant must present the matters to the Commission for consideration.

**§ 375.312 [Amended]**

■ 3. Section 375.312 is amended by removing paragraphs (a) through (e), and by redesignating paragraphs (f) through (n) as paragraphs (a) through (i).

**§ 375.314 [Amended]**

■ 4. Section 375.314 is amended by removing the phrase "non-financial" from paragraphs (i) and (k), and by revising paragraph (j) and adding new paragraph (l) to read as follows:

**§ 375.314 Delegations to the Director of the Office of Market Oversight and Investigations.**

\* \* \* \* \*

(j) Pass upon actual legitimate original cost and depreciation thereon and the net investment in jurisdictional companies and revisions thereof, and sign audit reports involving jurisdictional companies,

(1) If the company agrees with the audit report, or

(2) If the company does not agree with the audit report, provided that any notification of the opportunity for a hearing required under Section 301(a) of the Federal Power Act or Section 8(a) of the Natural Gas Act accompanies the audit report.

\* \* \* \* \*

(l) With regard to billing errors noted as a result of the Commission staff's examination of automatic adjustment tariffs approved by the Commission, approve corrective measures, including recomputation of billings and refunds, to the extent the company agrees.

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

[R05-OAR-2004-IN-0004; FRL-7820-4]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions to volatile organic compound (VOC) requirements for Eli Lilly and Company (Eli Lilly) for a facility which it owns and operates in Marion County, Indiana. On February 11, 2004, the Indiana Department of Environmental Management (IDEM) submitted a Commissioner's Order requesting the revision as an amendment to the Indiana State Implementation Plan (SIP). The February 11, 2004 submission supplements a December 19, 2001 submission.

Eli Lilly owns and operates a synthesized pharmaceutical manufacturing facility in Marion County. This SIP revision covers new and existing sources in Eli Lilly's Building 110 pilot plant. Eli Lilly is seeking an exemption from 326 Indiana Administrative Code (IAC) 8-5-3, control requirements for synthesized pharmaceutical manufacturing, under the site-specific reasonably available control technology (RACT) rule, 326 IAC 8-1-5. Eli Lilly is seeking this exemption for reactors, filters, centrifuges, and vacuum dryers at Building 110. Other Building 110 sources, such as air dryers, in-process tanks, and storage tanks, comply with 326 IAC 8-5-3. The total VOC annual emissions from Building 110 are limited to less than 10 tons per year (TPY).

**DATES:** This rule is effective on January 7, 2005, unless the EPA receives relevant adverse written comments by December 8, 2004. If adverse comment is received, the 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:** Submit comments, identified by Docket ID No. R05-OAR-2004-IN-0004 by one of the following methods: Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

E-mail: [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov).

Fax: (312) 886-5824.

Mail: You may send written comments to: J. Elmer Bortzer, Chief, Air Programs Branch, (AR-18J),

Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: J. Elmer Bortzer, Chief, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. R05-AR-2004-N-0004.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://regulations.gov), or e-mail. The Federal [regulations.gov](http://regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

**Docket:** All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at Environmental Protection

Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886-6524 before visiting the Region 5 office.) This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18), 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.

**Table of Contents**

- I. General Information
- II. What Is EPA approving?
- III. What are the changes from the current rule?
- IV. What is the EPA's analysis of the supporting materials?
- V. What are the environmental effects of these actions?
- VI. What rulemaking actions is the EPA taking?
- VII. Statutory and Executive Order Reviews.

**I. General Information**

*A. How Can I Get Copies of This Document and Other Related Information?*

1. The Regional Office has established an electronic public rulemaking file available for inspection on EDOCKET and a hard copy file which is available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under Docket ID No. R05-AR-2004-IN-0004. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air Programs Branch, Air and Radiation Division, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday

through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

2. Electronic Access. You may access this **Federal Register** document electronically through the [regulations.gov](http://www.regulations.gov) Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

*B. How and To Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking Region 5 Air Docket "R05-OAR-2004-IN-0004" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

For detailed instructions on submitting public comments and on what to consider as you prepare your comments see the **ADDRESSES** section and the section I General Information of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

**II. What Is EPA Approving?**

EPA is approving revisions to VOC control requirements for the Eli Lilly pharmaceutical manufacturing facility in Marion County, Indiana. Indiana submitted Commissioner's Order #2003-02 on February 11, 2004, requesting revisions as an amendment

to its SIP. The February 11, 2004 submission supplements a December 19, 2001 submission.

Indiana is seeking an exemption from 326 IAC 8-5-3 for reactors, centrifuges, filters, and vacuum dryers in Building 110, the pilot plant for Eli Lilly. This exemption can be granted under 326 IAC 8-1-5, which allows site-specific RACT plans as an alternative to 326 IAC Article 8 requirements. Other Building 110 sources such as the air dryers and the storage tanks comply with 326 IAC 8-5-3.

Indiana has determined that using primary reactor condensers operating at -10° Celsius on the reactors is RACT. Indiana has also determined that no emissions controls are feasible for the vacuum dryers. Eli Lilly must enclose all Building 110 centrifuges and filters having an exposed solvent surface. The RACT control level is the condensers set at -10°C, which meets the required control level for most VOCs that Eli Lilly will be using. However, some VOCs may be used for which 326 IAC 8-5-3 requires a lower temperature on the condensers. The temperature requirement is based on the vapor pressure of the solvent. Eli Lilly will operate its primary reactor condensers at a steady temperature, -10°C, instead of adjusting for the vapor pressure of the VOC being used because of the frequent solvent changes. Eli Lilly is required to certify that the condensers were operating at all required times.

Even with these relaxations from 326 IAC 8-5-3, the total VOC emissions from this facility will remain low because VOC emissions for Building 110 are limited to less than 10 tons per 12 consecutive months period rolled on a monthly basis. IDEM determines the Building 110 emissions using the detailed batch records kept by Eli Lilly. The records consist of the amount of each solvent contained in each input, product, and waste stream for each batch operation including: New solvent added, solvent generated during the process reactions, solvent added from another batch, waste solvent generated, solvent sent to the sewer, solvent consumed during process reactions, solvent drummed for later use, and solvent collected and emitted during product drying. Eli Lilly measures the new and recovered solvent used, the solvent in the liquid waste, and the material collected from the condenser during drying. The amount of each solvent that is generated or consumed by the chemical reactions is calculated using information found in process notebooks that are available for inspection. The air emissions are obtained by a material balance

calculation by subtracting the measured waste solvent and dryer collected product and the calculated solvent consumed from the measured solvent added and the calculated solvent generated. Eli Lilly tallies the VOC emission amounts for all batches to determine the monthly VOC emissions from Building 110.

### III. What Are the Changes From the Current Rule?

Indiana requested VOC rule revisions for sources in Eli Lilly's Building 110. Eli Lilly is also now allowed to add equipment to and move equipment around Building 110 without the need for approval of a new SIP revision. Previously, Eli Lilly had listed its equipment and the module where it was being used. Equipment changes required a permit and a SIP revision. The new process simplifies the addition of new equipment within certain parameters, while establishing a strict building-wide VOC limit. Other changes include allowing the condensers on the reactors to maintain a steady temperature. This is a change from the requirements of 326 IAC 8-5-3 (b)(1)(A), which varies the condenser temperature based on the solvent vapor pressure.

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

Indiana has submitted Technical Support Documents in support of the requested SIP revision. It has also provided a listing of the solvents used in the reactors. The two technically feasible control techniques for Eli Lilly to meet the 326 IAC 8-5-3 requirements are absorption and condensation. Indiana found these to be economically infeasible for both absorption and for condensation at  $-25^{\circ}\text{C}$ , a level that ensures compliance with 326 IAC 8-5-3 (b)(1)(A). Indiana determined that RACT for Eli Lilly's pilot plant is operating condensers at  $-10^{\circ}\text{C}$  on the reactors, enclosing all centrifuges and filters, and no controls on vacuum dryers. Air dryers, storage tanks, and in-process tanks in Building 110 comply with 326 IAC 8-5-3.

Indiana also replaced an equipment list for each module in the pilot plant as contained in a 1994 construction permit (CP 097-3341), with the requirement that Eli Lilly can add sources without a SIP revision if:

- They are part of Eli Lilly's research and development (R&D) process;
- They comply with the RACT plan provided in Commissioner's Order #2003-02, Appendix A; and,
- The total Building 110 VOC emissions remain limited to less than 10 TPY.

This gives Eli Lilly more flexibility with its R&D equipment and eliminates the need for both Indiana and EPA to review numerous SIP revisions for sources with low emissions levels.

EPA finds that these revisions can be approved. Building 110 sources are used for R&D activities. The pharmaceutical products made there are used to test more efficient production processes and to develop new pharmaceutical products. This means there are frequent changes in the equipment and solvents used in production. EPA believes that the requested revisions are appropriate considering the operations occurring in Building 110 and the annual building-wide VOC limit of less than 10 TPY.

### V. What Are the Environmental Effects of These Actions?

Reactions involving VOCs and nitrogen oxides in warm air form tropospheric (ground level) ozone. The highest concentrations of ozone occur in the warm months of the year. Ozone decreases lung function causing chest pain and coughing. It can aggravate asthma and other respiratory diseases. Children playing outside and healthy adults who work or exercise outside also may be harmed by elevated ozone levels. Ozone also reduces vegetation growth and reproduction including economically important agricultural crops.

Eli Lilly's Building 110 VOC emissions are limited to less than 10 tons per 12 consecutive months period rolled on a monthly basis. Eli Lilly must keep its VOC emissions below 10 TPY, even if it adds more R&D equipment to Building 110. This should continue to protect the air quality of Marion County, Indiana. In addition, Eli Lilly remains subject to all applicable New Source Review requirements.

### VI. What Rulemaking Actions Is the EPA Taking?

The EPA is approving, through direct final rulemaking, revisions to VOC emissions regulations for the Eli Lilly pharmaceutical manufacturing facility in Marion County, Indiana. The revisions include an exemption from the control requirements of 326 IAC 8-5-3 for reactors, centrifuges, filters, and vacuum dryers in Building 110, the pilot plant. This exemption can be approved under Indiana's site-specific RACT rule, 326 IAC 8-1-5. Eli Lilly is also authorized to add R&D equipment to Building 110 without additional rulemaking. Eli Lilly will follow the appropriate RACT plan for the new equipment and keep the total annual VOC limit for Building 110 to less than 10 TPY.

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 written adverse comments are filed. This rule will be effective on January 7, 2005 without further notice unless we receive relevant adverse written comment by December 8, 2004. 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.

### VII. 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 (Pub. L. 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. 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 today's 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 January 7, 2005. 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, Ozone, Volatile organic compounds.

Dated: September 16, 2004 .

**Norman Niedergang,**

*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)(157) to read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

(157) On December 19, 2001, and February 11, 2004, Indiana submitted revised volatile organic compound (VOC) emissions regulations for Eli Lilly and Company in Marion County. The submission provides alternate VOC control requirements for reactors, vacuum dryers, centrifuges, and filters in the pilot plant. The alternate control requirements are being approved under site-specific Reasonably Available Control Technology standards.

(i) Incorporation by reference.  
(A) Commissioner's Order #2003-02 as issued by the Indiana Department of Environmental Management on February 11, 2004.

[FR Doc. 04-24821 Filed 11-5-04; 8:45 am]  
**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 13 and 80**

[WT Docket No. 00-48; PR Docket No. 92-257; RM-9499; FCC 04-3]

**Maritime Communications**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission amends parts 13 and 80 of the Commission's rules to update and streamline the rules governing the maritime radio services. The paramount goals of these amendments are to enhance maritime safety, promote the efficient use of the maritime radio spectrum, and, to the extent it is consistent with these first two objectives, remove unnecessary regulatory burdens on the users and manufacturers of maritime radio equipment. The amendments also conform part 80 of the Commission's rules with international standards where doing so will not undermine domestic regulatory objectives.

**DATES:** Effective January 7, 2005. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of January 7, 2005.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Tobias, *Jeff.Tobias@FCC.gov*, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, (202) 418-0680, or TTY (202) 418-7233.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's consolidated *Second Report and Order* in WT Docket No. 00-48 and *Sixth*