

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

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 November 13, 2007. 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, approving Delaware's regulation for crude oil lightening operations, 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 30, 2007.

**Donald S. Welsh,**  
Regional Administrator, Region III.

■ 40 CFR part 52 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 I—Delaware**

■ 2. In § 52.420, the table in paragraph (c) is amended by revising the title for Regulation No. 24—Control of Volatile Organic Compound Emissions and adding Section 46 to read as follows:

**§ 52.420 Identification of plan.**

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

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
<b>Regulation No. 1124—Control of Volatile Organic Compound Emissions (Formerly Regulation No. 24)</b>				
*	*	*	*	*
Section 46 .....	Crude Oil Lightening Operations	05/11/07	09/13/07 [Insert page number where the document begins].	
*	*	*	*	*

\* \* \* \* \*  
[FR Doc. E7-17872 Filed 9-12-07; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R05-OAR-2007-0293; FRL-8464-4]

**Approval and Promulgation of Air Quality Implementation Plans; Indiana; VOC Emissions From Fuel Grade Ethanol Production Operations**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a March 30, 2007, request from the Indiana Department of Environmental Management (IDEM) to revise the Indiana State Implementation Plan (SIP) by adding a volatile organic compound (VOC) rule for fuel grade ethanol production at dry mills. This rule

revision creates an industry-specific Best Available Control Technology (BACT) standard for new fuel grade ethanol production dry mills that replaces the otherwise required case-by-case SIP BACT determination for new facilities with the potential to emit 25 tons or more of VOC per year. The benefit of this rule is that establishing specific standards in place of a case-by-case analysis improves the clarity, predictability, and timeliness of certain State permit decisions.

**DATES:** This direct final rule will be effective November 13, 2007, unless EPA receives adverse comments by October 15, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2007-0293, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

3. *Fax:* (312) 886-5824.

4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office 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. EPA-R05-OAR-2007-0293. EPA's policy is that all comments

received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), 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 <http://www.regulations.gov> or e-mail. The <http://www.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 <http://www.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.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 a.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312) 886-6052 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard,

Chicago, Illinois 60604, (312) 886-6052, [rosenthal.steven@epa.gov](mailto:rosenthal.steven@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
  - A. When did the State submit the requested rule revision to EPA?
  - B. Did Indiana hold public hearings for this rule revision?
- II. What are the revisions that the State requests be incorporated into the SIP?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

**I. Background**

**A. When did the State submit the requested rule revision to EPA?**

IDEM submitted the requested rule revision on March 30, 2007.

**B. Did Indiana hold public hearings for this rule revision?**

Indiana held public hearings for the requested rule revision on August 2, 2006, and December 6, 2006.

**II. What are the revisions that the State requests be incorporated into the SIP?**

IDEM is requesting revisions to the SIP in two areas: (1) To amend 326 IAC 8-5-1, Applicability of Rule, to identify a newly-affected industry, and (2) to add 326 IAC 8-5-6, Fuel Grade Ethanol Production at Dry Mills, to create an industry-specific BACT standard for new fuel grade ethanol production dry mills that have no wet milling operations. This standard would replace the case-by-case BACT determination currently required under 326 IAC 8-1-6 for facilities with the potential to emit 25 tons or more of VOC per year.

326 IAC 8-5-1 defines the applicability of the rule. The rule now covers fuel grade ethanol production discussed in Section 6 of 326 IAC 8-5-6.

Indiana's 326 IAC 8-1-6 is a state-wide BACT requirement that applies to sources that do not trigger Nonattainment New Source Review (NNSR) or Prevention of Significant Deterioration (PSD) requirements, but that emit 25 tons or more of VOC per year. Establishing the State BACT limits is a case-by-case determination based on the maximum reduction that is technically feasible, while taking into account energy, environmental and economic impact.

The changes to 326 IAC 8-5-6 apply to all fuel grade ethanol production plants constructed or modified after April 1, 2007 that are: (1) Dry mills and have no wet milling operations, (2) use fermentation, distillation, and

dehydration to produce ethanol and dried distillers grain and solubles (DDGS), and (3) have combined potential VOC emissions of 22.7 megagrams (twenty five tons) or more per year from fermentation processes, DDGS dryer or dryers, and ethanol load-out operations.

The rule lists control measures consistent with those that Indiana would require under its case-by-case BACT determination. The rule requires the installation of a thermal oxidizer, wet scrubber, or enclosed flare with an overall control efficiency of not less than 98 percent, and further requires initial compliance to be achieved within 60 days of achieving maximum production levels, but no later than 180 days after startup. The rule also contains certain requirements related to the operation, maintenance, testing, and record-keeping of the operation of required control measures. In this case, establishing specific standards in place of a case-by-case analysis improves the clarity, predictability, and timeliness of permit decisions that are currently subject to 326 IAC 8-1-6.

**III. What action is EPA taking?**

We are approving revisions to the Indiana SIP in two areas: (1) To amend 326 IAC 8-5-1, Applicability of Rule; and (2) to add 326 IAC 8-5-6, Fuel Grade Ethanol Facilities. It should be noted that approval of this rule does not in any way affect the applicability of NNSR and/or PSD to subject sources.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective November 13, 2007 without further notice unless we receive relevant adverse written comments by October 15, 2007. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective November 13, 2007.

#### 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 That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a “significant regulatory action” under Executive Order 12866 or a “significant energy action,” 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 (59 FR 22951, 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 approves a state rule implementing a Federal Standard.

##### *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 November 13, 2007. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 24, 2007.

**Richard C. Karl,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, of 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)(182) to read as follows:

##### § 52.770 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(182) On March 30, 2007, Indiana submitted final adopted revisions, which amend 326 IAC 8-5-1, concerning rule applicability, and add 326 IAC 8-5-6, fuel grade ethanol production at dry mills, to its VOC rules as a requested revision to the Indiana state implementation plan. EPA is approving these revisions, authorizing Indiana to establish an industry-specific State BACT standard for fuel grade ethanol production at dry mill facilities that emit 25 tons or more of VOC per year.

(i) Incorporation by reference.

(A) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 5: Miscellaneous

Operations, Section 1: Applicability of Rule. Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 5: Miscellaneous Operations, Section 6: Fuel Grade Ethanol Production at Dry Mills. Approved by the Attorney General February 16, 2007. Approved by the Governor February 16, 2007. Filed with the Publisher February 20, 2007. Published on the Indiana Register Web site March 21, 2007, Document Identification Number (DIN): 20070321-IR-326050197FRA. Effective March 22, 2007.

[FR Doc. E7-17881 Filed 9-12-07; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 97

[EPA-R03-OAR-2007-0448; FRL-8465-6]

#### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Clean Air Interstate Rule

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the West Virginia State Implementation Plan (SIP) submitted on June 8, 2007. This revision incorporates provisions related to the implementation of EPA's Clean Air Interstate Rule (CAIR), promulgated on May 12, 2005 and subsequently revised on April 28, 2006 and December 13, 2006, and the CAIR Federal Implementation Plan (CAIR FIP) concerning sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>) annual, and NO<sub>x</sub> ozone season emissions for the State of West Virginia, promulgated on April 28, 2006 and subsequently revised on December 13, 2006. In this direct final action, EPA is not making any changes to the CAIR FIP, but is amending the appropriate appendices in the CAIR FIP trading rules simply to note that approval. In accordance with the Clean Air Act, EPA is approving this West Virginia SIP revision as an abbreviated SIP revision which addresses the methodology to be used to allocate annual and ozone season NO<sub>x</sub> allowances under the CAIR FIPs.

**DATES:** This rule is effective on November 13, 2007 without further notice, unless EPA receives adverse written comment by October 15, 2007. If EPA receives such comments, it 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:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2007-0448 by one of the following methods:

A. Follow the on-line instructions for submitting comments.

B. E-mail: [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

C. Mail: EPA-R03-OAR-2007-0448, Marilyn Powers, Acting Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R03-OAR-2007-0448. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, 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 <http://www.regulations.gov> or e-mail. The [www.regulations.gov](http://www.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 <http://www.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.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other

information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Powers, (215) 814-2308 or by e-mail at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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- V. Analysis of West Virginia's Abbreviated CAIR SIP Submittal
- VI. Final Action
- VII. Statutory and Executive Order Reviews

#### I. What Action is EPA Taking?

EPA is approving a revision to West Virginia's SIP, submitted on June 8, 2007 that will modify the application of certain provisions of the CAIR FIP concerning SO<sub>2</sub>, NO<sub>x</sub> annual and NO<sub>x</sub> ozone season emissions. As discussed below, this less comprehensive CAIR SIP is termed an abbreviated SIP. West Virginia is subject to the CAIR FIPs that implement the CAIR requirements by requiring certain EGUs to participate in the EPA-administered Federal CAIR SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season cap-and-trade programs.

The West Virginia SIP revision provides a methodology for allocating NO<sub>x</sub> allowances for the NO<sub>x</sub> annual and NO<sub>x</sub> ozone season trading programs. The CAIR FIPs provide that this methodology, if approved as EPA is proposing, will be used to allocate NO<sub>x</sub> allowances to sources in West Virginia, instead of the federal allocation methodology otherwise provided in the FIP. EPA is not proposing to make any changes to the CAIR FIP, but is proposing, to the extent EPA approves West Virginia's SIP revision, to amend the appropriate appendices in the CAIR FIP trading rules simply to note that approval.