

**§ 7.94 Harry S Truman National Historic Site.**

The Truman Home structure at Harry S Truman National Historic Site is closed to all public use and access until June 1, 2010.

Dated: September 24, 2009.

**Will Shafroth,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. E9-24020 Filed 10-5-09; 8:45 am]

BILLING CODE 4312-BA-P

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

[EPA-R05-OAR-2008-0031; FRL-8963-4]

**Approval and Promulgation of Air Quality Implementation Plans; Indiana; Extended Permit Terms for Renewal of Federally Enforceable State Operating Permits**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving Indiana's rule revision to extend permit terms for the renewal of Federally Enforceable State Operating Permits (FESOPs) from five years to ten years. Indiana submitted this rule revision for approval on December 19, 2007. FESOPs enable non-major sources to obtain federally enforceable limits that keep them below certain Clean Air Act (Act) applicability thresholds. EPA published proposed and direct final approvals of this request on May 5, 2009. We received adverse comments on our proposed rulemaking, which are addressed below. As a result, EPA withdrew the direct final approval on June 17, 2009.

**DATES:** This final rule is effective on November 5, 2009.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2008-0031. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. 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. 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 through [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 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sam Portanova, Environmental Engineer, at (312) 886-3189 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Sam Portanova, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3189, [Portanova.sam@epa.gov](mailto:Portanova.sam@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. What Did EPA Propose?
- II. What Comments Did We Receive on the Proposed Action?
- III. What Action Is EPA Taking?
- IV. Statutory and Executive Order Reviews

**I. What Did EPA Propose?**

On December 19, 2007, the Indiana Department of Environmental Management (IDEM) requested that EPA approve a rule revision to extend permit terms for the renewal of FESOPs from five years to ten years. On May 5, 2009, EPA published a proposed (74 FR 20665) and direct final (74 FR 20599) approval of this request. EPA received adverse comments on this action and withdrew the direct final approval on June 17, 2009 (74 FR 28616).

**II. What Comments Did We Receive on the Proposed Action?**

EPA received one comment letter with two comments from Valley Watch, Inc.

*Comment:* Permit terms of five years are sometimes too long to account for changes in technology or other circumstances that make some conditions obsolete fairly quickly. Extending those terms will have a negative impact on the health of Valley Watch members and is, in general, bad public policy.

*Response:* Sources must comply with all applicable requirements of the Act regardless of the length of a FESOP's term or the timing of its issuance. FESOPs generally contain limits on the operations of the plant, e.g., materials used and hours of operation, which effectively restrict the source's potential to emit. See 54 FR 27281 (June 28, 1989). An approvable FESOP program such as Indiana's requires the permits to undergo public notice and be subject to public comment. A FESOP does not

impact any previously or newly applicable substantive requirements of the Act, such as new maximum achievable control technology standards under Section 112. Such provisions remain independently enforceable. Similarly, FESOP holders will still need to meet all applicable requirements under the Act, including those related to new construction. As such, an extension of FESOP renewal terms from five to ten years does not delay the obligation of a source to comply with all applicable requirements.

*Comment:* Indiana has significantly cut back on its ability to do inspections at both FESOP and bigger polluters. IDEM has taken away the inspection responsibilities of numerous local government agencies by stripping them of their financial and statutory support.

*Response:* The length of a FESOP's term does not affect IDEM's ability to conduct inspections at sources. The issue raised by the commenter is not related to the rulemaking action being addressed in this notice.

**III. What Action Is EPA Taking?**

EPA is approving the revisions to 326 IAC 2-1.1-9.5 and 326 IAC 2-8-4 regarding the permit terms for FESOP renewals.

**IV. Statutory and Executive Order Reviews**

Under the Act, the Administrator is required to approve a State Implementation Plan (SIP) submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 7, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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: September 16, 2009.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

- 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 P—Indiana

- 2. Section 52.770 is amended by adding paragraph (c)(189) to read as follows:

##### § 52.770 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(189) On December 19, 2007, Indiana submitted modifications to its Federally Enforceable State Operating Permits rules as a revision to the state implementation plan. The revision extends the maximum permit term for renewals of Federally Enforceable State Operating Permits from five years to ten years. EPA has determined that this revision is approvable under the Clean Air Act.

(i) Incorporation by reference.

(A) Indiana Administrative Code Title 326, Article 2: Permit Review Rules, sections 2-1.1-9.5, "General provisions; term of permit", and 2-8-4, "Permit content", are incorporated by reference. Filed with the Publisher of the Indiana Register on November 16, 2007, and became effective on December 16, 2007. Published in the Indiana Register on December 13, 2007 (20071212-IR-326060487FRA).

[FR Doc. E9-23938 Filed 10-5-09; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

RIN 0648-XR10

#### Atlantic Highly Migratory Species; Inseason Action to Close the Commercial Sandbar Shark Research Fishery

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Fishery closure.

**SUMMARY:** NMFS is closing the commercial sandbar shark research fishery. This action is necessary because NMFS estimated that landings in this fishery have exceeded 80 percent of the available quota.

**DATES:** The commercial sandbar shark research fishery is closed effective 11:30 p.m. local time October 13, 2009, until the effective date of the final 2010 shark season specifications in which NMFS will publish a separate document in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz or Guy DuBeck, 301-713-2347; fax 301-713-1917.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fisheries are managed under the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and its implementing regulations found at 50 CFR part 635 and issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Under § 635.5(b)(1), shark dealers are required to report to NMFS, every two weeks, on all Atlantic sharks they have received. Dealer reports for fish received between the 1st and 15th of the month must be received by NMFS by the 25th of that month. Dealer reports for fish received between the 16th and the end of any month must be received by NMFS by the 10th of the following month. In addition, shark landings within the shark research fishery are monitored via scientific observer reports. Under 50 CFR 635.28(b)(2), when NMFS projects that fishing season landings for a specific shark quota have reached or are about to reach 80 percent of the available quota, NMFS will file for publication with the Office of the **Federal Register** a notice of closure for that shark species group that will be effective no fewer than 5 days from the