

nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by non-prohibited considerations.

(e)(1) Each **contractor or subcontractor** shall prominently post the **provisions of this policy at DOE-owned facilities**. This form must be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work.

(f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with **either** the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, as amended, **or pursuant to a proceeding initiated under the provisions of 10 CFR Part 708** may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of this section including, but not limited to, providing information to the DOE or to his or her employer on potential violations or other matters within DOE's regulatory responsibilities.

2. Hanford Challenge calls upon DOE to reestablish the position of Assistant Secretary for Environment, Safety and Health (EH) within the DOE, and give EH the authority and the resources to set DOE policy on the issue of all agency and contractor employee concerns. Specifically, the EH Assistant Secretary—

- **Should report directly to the Secretary of Energy, and should seek to standardize DOE policy across the complex.**

- **Should be given adequate funding and staffing and the authority to implement policy, conduct investigations, levy sanctions, and order corrective actions to abate violations.**

- **Should institute rules, procedures and regulations incentivizing DOE managers and supervisory personnel as well as contractor and subcontractor employers to maintain a safety conscious work environment where employees are free to raise employee concerns without fear of reprisal.**

- **Should incentivize facilities to conduct independent and reliable employee surveys to measure whether employees feel free to raise concerns**

free of reprisal on a company-by-company basis (including at DOE) to use as a basis for determining whether corrective actions should be undertaken.

EH should be responsible primarily for setting and enforcing Departmental policy. Other duties should include—

- Developing language to insert into the Department of Energy Acquisition Regulations incentivizing contractors to maintain a safety conscious work environment;

- Developing posters and employee communication vehicles to distribute for posting around the complex;

- Inspecting and evaluating each facility in the complex to ascertain that the standards set by the DOE in the area of employee concerns are being reached;

- Investigating and correcting extraordinary cases of hostile and chilled work environments, high-profile cases, or facilities experiencing a large number of discrimination complaints alleging reprisals for raising concerns.

A revitalized and effective EH is of paramount importance for achieving employee protection and safer work environments.

3. Amend existing contract(s) at its nuclear weapons production and former nuclear materials production sites to incentivize the establishment and maintenance of a safety-conscious work environment, and to put contractors on notice that the contract can be conditioned, suspended and/or revoked upon a finding by the DOE that a company has engaged in a pattern and practice of whistleblower reprisals or has failed to maintain a safety-conscious work environment;

This proposal follows the lead of the NRC, which has put licensees on notice that the license to operate the facility hinges upon maintaining a retaliation-free work environment. As the Department moves away from the Management and Operating (M&O) contracting model, and towards the performance-based contracts, there is a greater need to spell out DOE's policies in relation to prohibition against reprisals in contract language to tie specific awards to this performance.

Contractual financial incentives and penalties are necessary to encourage a climate free of reprisals. A substantial portion of every DOE contract in the nuclear complex should depend upon employee freedom to report and resolve employee concerns.

4. Address "hot spots" where the chilling effect now exists, based upon the investigative reports of the Labor Department, Office of Special Counsel, MSPB, OCEP, or OHA and where there may be a strong perception among

employees that there will be reprisal. Corrective actions could include:

- **Training of supervisory employees and workers by employee concerns experts;**

- **Developing guidelines for use of the "holding period" concept recommended by the Nuclear Regulatory Commission for contested proposed job actions;**

- **Instituting a "personal accountability" rule to hold individual managers accountable for reprisals.**

Conclusion

The current Rulemaking proposal seeks to bring the agency's actions and policies in line with its statutory mandate to protect the public health and safety by requiring the establishment of policies, rules and practices that encourage employees of the Department and its contractors to raise and resolve employee concerns, especially when such concerns impact health and safety, security, or the environment. Our proposal draws heavily from the practices of the Nuclear Regulatory Commission, and seeks to adopt such policies for use at the Department.

We urge swift consideration and thorough deliberation of our proposal, and look forward to a response from your office.

[FR Doc. E9-24929 Filed 10-15-09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2009-0704; FRL-8969-5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Volatile Organic Compound Emission Control Measures for Lake and Porter Counties in Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On September 4, 2009, the Indiana Department of Environmental Management (IDEM) submitted several volatile organic compound (VOC) rules for approval into its State Implementation Plan (SIP). The purpose of these rules is to satisfy the VOC reasonably available control technology (RACT) requirements for the Lake and Porter portion of the Chicago-Gary-Lake County, IL-IN, 8-hour ozone nonattainment area. These rules are approvable because they satisfy the

control and enforceability requirements of the Clean Air Act (Act), including Indiana's requirement to adopt VOC RACT rules for the Control Technique Guideline (CTG) documents issued by EPA in 2006, 2007 and 2008.

DATES: Comments must be received on or before November 16, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2009-0704, 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.*

3. *Fax: (312) 692-2551.*

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-2009-0704. 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 *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 and 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 this document.

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 *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 Steven Rosenthal 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.

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 Should I Consider as I Prepare My Comments for EPA?
- II. What Action Is EPA Taking Today?
- III. What Is the Purpose of This Action?
- IV. What Is EPA's Analysis of Indiana's Submitted VOC Rules and Negative Declaration?
- V. Statutory and Executive Order Reviews

I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

II. What Action Is EPA Taking Today?

EPA is proposing to approve several new VOC rules into Indiana's SIP because they are consistent with the Act, including its VOC RACT requirements. These include source categories for which IDEM had previously indicated it had no sources (negative declarations) and rules intended to satisfy CTGs issued in 2006, 2007 and 2008. EPA is also approving a negative declaration for the 2008 CTG "Control Technique Guidelines for Fiberglass Boat Manufacturing Materials" in which IDEM documents that it has no sources subject to this CTG.

III. What Is the Purpose of This Action?

The primary purpose of these rules is to satisfy the requirement in section 182(b) of part D of title I of the Act that VOC RACT rules be adopted for ozone nonattainment areas. This would include the Chicago-Gary-Lake County, IL-IN, 8-hour ozone nonattainment area. These rules satisfy the requirement for VOC RACT rules for existing, pre-2006, CTG and major non-CTG source categories which were due on September 15, 2006, as well as the requirement to adopt VOC RACT rules for the CTG documents issued by EPA in 2006, 2007 and 2008. Section 182(b)(2)(A) of the Act provides that for nonattainment areas classified as moderate or above, States must revise their SIPs to include RACT for each category of VOC sources covered by a CTG document issued between November 15, 1990, and the date of attainment.

On March 24, 2008 (73 FR 15416), EPA made a finding that Indiana failed to submit those VOC RACT rules which were due on September 15, 2006, for the Chicago-Gary-Lake County, IL-IN, 8-hour ozone nonattainment area. Indiana submitted the fully adopted required

VOC RACT rules to EPA on September 4, 2009. Failure to submit a complete VOC RACT submittal would have triggered the offset sanction identified in section 179(b)(2) of the Act on September 24, 2009, and the highway funding sanction in accordance with section 179(b)(1) of the Act on March 24, 2010.

EPA would be required by section 110(c) of the Act to promulgate a Federal Implementation Plan (FIP) if it has not approved these VOC RACT rules into Indiana's SIP by March 24, 2010. Finalization of the action proposed here would end any obligation for EPA to promulgate a FIP addressing this VOC RACT requirement.

IV. What Is EPA's Analysis of Indiana's Submitted VOC Rules and Negative Declaration?

Indiana's VOC rules for Lake and Porter Counties are consistent with the Act and EPA VOC RACT guidance, and are all approvable. A brief description of the rules that IDEM has submitted is provided below. This description contains information on the applicability cutoffs, control requirements and the relevant EPA VOC RACT guidance. These rules all have appropriate compliance test methods and recordkeeping requirements. Compliance with these rules is required by April 11, 2011.

(A) 326 IAC 8-2-2—Automobile and Light Duty Truck Coating Operations

This rule requires application of new coating limits, development of work practice plans for coating and cleaning operations, and is applicable to facilities with uncontrolled emissions exceeding 15 pounds per day of VOC. These revised requirements are based on and consistent with the 2008 CTG document "Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings." IDEM's Compliance methods, in 326 IAC 8-1-2, have also been revised to reference EPA's 2008 revised Automobile Topcoat Protocol in the document "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat Operations."

(B) 326 IAC 8-2-5—Paper Coating

This rule has been revised to add more stringent coating limits that apply to individual coating lines with potential emissions of at least 25 tons per year. The new limits can either be achieved through the use of low VOC compliant coatings or installation of VOC control devices to achieve a 90

percent overall VOC control efficiency, or a combination of the two options that is equivalent to the low VOC coating limit. Additional solvent cleaning work practices apply to facilities emitting at least 15 pounds per day of uncontrolled VOC emissions from all coating lines and related cleaning activities at the facility. These revisions are based on and consistent with EPA's 2007 CTG "Control Techniques Guidelines for Paper, Film and Foil Coatings."

(C) 326 IAC 8-2-6 Metal Furniture Coating Operations

This rule has been revised to add more stringent coating limits by coating type for metal furniture coating facilities in which actual VOC emissions equal or exceed 15 pounds per day, before add-on controls. As an alternative to complying with low VOC coating limits, compliance can be achieved with a capture and control device that achieves an overall control efficiency of at least 90 percent or by using a combination of lower VOC coatings and add-on control that is equivalent to the low VOC coating limit. There are also application equipment standards, including the use of high volume low-pressure (HVLP) spray equipment and other application methods equivalent to or better than HVLP. Work practices must be implemented that minimize VOC emissions from mixing operations and storage tanks and handling operations for cleaning and coating related materials. These revisions are based on and consistent with EPA's 2007 "Control Techniques Guidelines for Metal Furniture Coatings."

(D) 326 IAC 8-2-7 Large Appliance Coating Operations

This rule has been revised to add more stringent coating limits by coating type for large appliance coating facilities in which actual VOC emissions equal or exceed 15 pounds per day, before add-on controls. As an alternative to complying with low VOC coating limits, compliance can be achieved with a capture and control device that achieves an overall control efficiency of at least 90 percent or by using a combination of lower VOC coatings and add-on control that is equivalent to the low VOC coating limit. There are also application equipment standards, including the use of HVLP spray equipment and other application methods equivalent to or better than HVLP. Work practices must be implemented that minimize VOC emissions from mixing operations and storage tanks and handling operations for cleaning and coating related materials. These revisions are based on and consistent with EPA's 2007

"Control Techniques Guidelines for Large Appliance Coatings."

(E) 326 IAC 8-2-9 Miscellaneous Metal and Plastic Parts Coating Operation

This rule has been revised to add VOC limits for a number of different miscellaneous metals and plastic parts coating limitations at facilities in which actual VOC emissions equal or exceed 15 pounds per day, before add-on controls, from all such coating operations. The categories covered include metal parts and products (not covered by another metal coating rule for a specific source category, e.g. can coating), plastic parts and products, automotive/transportation coatings, business machines, motor vehicle materials, and pleasure craft surface coating. As alternatives to complying with low VOC coating limits, compliance can be achieved with a capture and control device that achieves an overall control efficiency of at least 90 percent or by using a combination of lower VOC coatings and add-on control that is equivalent to the low VOC coating limit. The two low-VOC options also require the use of specific application methods, including the use of HVLP spray equipment and other application methods equivalent to or better than HVLP. Work practices must be implemented that minimize VOC emissions from mixing operations and storage tanks and handling operations for cleaning and coating related materials. These revisions are based on and consistent with EPA's 2008 "Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings."

(F) 326 IAC 8-2-10 Flat Wood Panel

This rule has been revised to add more stringent coating limits by coating type for flat wood panel manufacturing facilities in which actual VOC emissions equal or exceed 15 pounds per day, before add-on controls. As an alternative to complying with low VOC coating limits, compliance can be achieved with a capture and control device that achieves an overall control efficiency of at least 90 percent or by using a combination of lower VOC coatings and add-on control that is equivalent to the low VOC coating limit. Work practices must be implemented that minimize VOC emissions from mixing operations and storage tanks and handling operations for cleaning and coating related materials. These revisions are based on and consistent with EPA's 2006 "Control Techniques Guidelines for Flat Wood Paneling Coatings."

(G) 326 IAC 8-5-5 Flexible Package Printing

IDEM's Graphic Arts rule has been revised to include work practices to minimize VOC emissions from cleaning operations from all sources in which the total VOC emissions from all flexible printing lines equal or exceed 15 pounds per day, before add-on controls. This rule has also been revised to include more stringent capture and control systems for flexible packaging printing presses at facilities with potential emissions of 25 tons or greater per year, prior to controls, from inks, coatings, and adhesives combined. The overall control requirements vary from 65 percent to 80 percent depending on the installation date of the press and by the first installation date of the add-on control device controlling the flexible packaging printing press. This rule is based on and consistent with EPA's 2006 "Control Techniques Guidelines for Flexible Package Printing."

(H) 326 IAC 8-16 Offset Lithographic Printing and Letterpress Printing

This new rule applies to offset lithographic and letterpress printing operations that emit three tons or more of VOC per 12-month rolling average before controls. Those lithographic presses that exceed this cutoff must control the fountain solution by reducing the VOC content and alcohol content of the fountain solution. Also, both lithographic and letterpresses that exceed this cutoff must restrict the use of cleaning materials that exceed both a 70 percent VOC content and a VOC composite pressure vapor pressure of 10 millimeters of Mercury (mmHg). Individual heatset web offset lithographic printing presses and heatset web letterpresses with potential emissions from the dryer ink of 25 tons of VOC per year or greater must operate a control system that reduces emissions from each dryer by 90 percent or 95 percent, if installed on or after January 1, 2010, or maintain a maximum VOC outlet concentration of 20 parts per million by volume. Any presses that are claimed to be exempt must keep records documenting that their emissions are below the applicability cutoffs. These revisions are based on and consistent with EPA's 2006 CTG "Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing."

(I) 326 IAC 8-17 Industrial Solvent Cleaning Operations

This new rule applies to sources that emit three tons of VOC (or more) per 12-month rolling average from all solvent

cleaning operations. This rule limits the VOC content of specific solvent cleaning operations, including a general product cleaning limit of 0.42 pounds per gallon. As an alternative to these VOC content limits, sources may use solvents for industrial cleaning operations that have a VOC composite partial vapor pressure at or below 8 mmHG. This rule also specifies the types of cleaning devices and methods that can be used, including wipe cleaning, the use of closed containers as well as nonatomized solvent flow. Atomizing any solvent is generally prohibited. Work practices are required to minimize VOC emissions from the use, handling, storage, and disposal of cleaning solvents and shop towels. This rule is based on and consistent with EPA's 2006 "Control Techniques Guidelines for Industrial Cleaning Solvents."

(J) 326 IAC 8-22 Miscellaneous Industrial Adhesives

This new rule applies to sources that emit three tons of VOC (or more) per 12-month rolling average from all miscellaneous industrial adhesive application processes and related cleaning activities, before consideration of controls. This rule contains VOC content limits for adhesives and adhesive primers and specific limits based upon the substrate. Compliance with these adhesive and adhesive primer limits can also be achieved by the use of add-on control equipment if it achieves an overall capture and control efficiency of at least 85 percent and if the add-on control equipment is continuously monitored. This rule also specifies work practices to minimize VOC emissions from mixing operations, storage tanks and handling operations for adhesives, adhesive primers and cleaning materials. Specific application methods, including the use of HVLP spray equipment and other application methods equivalent to or better than HVLP, are also required. There are also specific recordkeeping requirements for sources subject to the coating limits and add-on control requirements and for exempt sources. This rule is based on and consistent with EPA's 2008 "Control Techniques Guidelines for Miscellaneous Industrial Adhesives."

(K) 326 IAC 8-18 Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation, Distillation, and Reactor Processes

This new rule applies to (1) any vent stream originating from an air oxidation process unit that produces one or more of the chemicals listed in 40 CFR 60.617, which is a list of chemicals affected by the New Source Performance

Standards (NSPS) for SOCMI Air Oxidation Unit Processes and (2) any vent stream originating from a reactor or distillation process unit that produces one or more of the chemicals listed in Appendix A of the 1993 CTG "Control of VOC Emissions from Reactor Processes and Distillation Operations in (SOCMI)." SOCMI refers to those facilities which produce organic compounds through industrial synthesis. The control measures in this rule largely involve the destruction of VOC emissions by combustion devices such as boilers, incinerators or flares. EPA has issued both NSPS and CTGs for the control of VOCs from SOCMI air oxidation, distillation and reactor operations. IDEM has incorporated portions of the NSPS SOCMI requirements into its rule because they reflect the requirements in the CTGs and are already in a regulatory framework. This rule is based on and consistent with the 1984 CTG "Control of VOC Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry" and the 1993 CTG "Control of VOC Emissions from Reactor Processes and Distillation Operations in (SOCMI)."

(L) 326 IAC 8-19 Control of VOC Emissions From Process Vents in Batch Operations

This new rule applies to process vents associated with batch operations at sources identified by specified standard industrial classification codes at sources that have the potential to emit greater than or equal to 100 tons per year of VOC from batch processing operations and any other non-CTG source category combined. Unit operations with uncontrolled total annual emissions of less than or equal to 500 pounds per year of VOCs and batch process trains containing process vents that have, in the aggregate, uncontrolled total annual emissions of less than 30,000 pounds per year of VOCs from all products manufactured in the batch process train are exempt from the control requirements in this rule. Any unit operations and batch process trains with an average flow rate (the lower the flow rate the lower the control cost) below the value calculated by the applicability equations in this rule must reduce uncontrolled VOC emissions from such unit operations and process trains by at least 90 percent or to 20 parts per million volume. This rule is based on and consistent with the 1994 "Control of VOC Emissions from Batch Process Alternative Control Techniques (ACT)" document.

(M) 326 IAC 8-20 Industrial Wastewater

This new rule applies to sources that have potential VOC emissions greater than or equal to 100 tons per year from industrial wastewater operations and any other non-CTG source category without a final CTG, such as batch operations. The VOC emissions from industrial wastewater collection and treatment processes evaporate from the waste stream when exposed to the ambient air. Consequently, the VOC RACT requirements consist of implementing technologies and work practice standards that combine to substantially suppress the exposure of the VOC-laden waste stream to the ambient air. More specifically, the requirements include:

- (1) Oil-water separators must be provided with either a floating cover equipped with seals or a fixed cover, equipped with a closed vent system vented to a pollution control device;
- (2) All sewer lines must be completely enclosed so that no liquid surface is exposed to the air;
- (3) All process drains must be equipped with water seal controls or a cover or vented to a process or through a closed vent system to a control device; and
- (4) All junction boxes must be equipped with a tightly fitting solid cover or vented to a process or to a control device.

This rule is based on and consistent with EPA's 1992 draft CTG "Control of VOC Emissions from Industrial Wastewater" and EPA's 1994 "Industrial Wastewater ACT."

(N) 326 IAC 8-21 Aerospace Manufacturing and Rework Operations

This new rule applies to coating application and cleaning at aerospace manufacturing and rework operations at sources that have the potential to emit 25 tons of VOC per year from all coating and cleaning operations combined. This rule consists primarily of aerospace coating limits for primers, topcoats, chemical milling maskants and for a number of specialty coatings, including adhesives and maskants. There are also application equipment standards, including the use of HVLP spray equipment and other application methods equivalent to or better than HVLP as well as solvent cleaning work practices. Air pollution control equipment with an overall capture and control efficiency of 81 percent can be used as an alternative to the VOC content coating limits. This rule is based on and consistent with EPA's 1997 CTG "Control of VOC Emissions from

Coating Operations at Aerospace Manufacturing and Rework Operations."

(O) Negative Declaration for Fiberglass Boat Manufacturing Materials

On May 26, 2009, Indiana submitted a Negative Declaration for Fiberglass Boat Manufacturing Materials. This source category is the subject of a 2008 CTG. IDEM has determined that there are no subject sources (i.e., that construct the molds or tools that are used to build the separate parts of fiberglass boats) from this source category in Lake and Porter Counties. In order to determine if any such sources were located within the two-county area, IDEM reviewed the following sources of information:

- (1) Indiana's inventory of sources in Lake and Porter Counties subject to the Boat Manufacturing National Emission Standards for Hazardous Air Pollutants.
- (2) The emission inventory database that identifies companies and emission units within the two county area.
- (3) Indiana's Computer Assisted Approval and Tracking System that identifies companies within Lake and Porter Counties that are registered in IDEM's permitting system.
- (4) The Harris Directory that provides Standard Industrial Classification information for Boat Building and Repairing.
- (5) Two business search engines, Websters Online and Manta.

After reviewing all of the above sources of information, Indiana did not find any company that would be subject to the 2008 CTG "Control Technique Guidelines for Fiberglass Boat Manufacturing Materials." EPA agrees that IDEM did a thorough evaluation of whether there were any potentially subject sources and is proposing to approve the negative declaration for this source category.

V. Statutory and Executive Order Reviews

Under the Act, the Administrator is required to approve a 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 7, 2009.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

[FR Doc. E9-24925 Filed 10-15-09; 8:45 am]

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