

technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves security of certain vessels and facilities and is not expected to result in any significant adverse environmental impact as described in NEPA.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under

ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.805 to read as follows:

§ 165.805 Security Zones; Calcasieu River and Ship Channel, Louisiana.

(a) *Location.* (1) The following areas are designated as fixed security zones (all coordinates are based upon North American Datum of 1983 [NAD 83]):

(i) *Trunkline LNG basin.* All waters encompassed by a line connecting the following points, beginning at 30°06'36" N, 93°17'36" W, south to a point

30°06'33" N, 93°17'36" W, east to a point 30°06'30" N, 93°17'02" W, north to a point 30°06'33" N, 93°17'01" W, then tracing the shoreline along the water's edge to the point of origin.

(ii) *Cameron LNG basin.* All waters encompassed by a line connecting the following points, beginning at 30°02'33" N, 093°19'53" W, east to a point at 30°02'34" N, 093°19'50" W, south to a point at 30°02'10" N, 093°19'52" W and west to a point at 30°02'10" N, 93°19'59" W, then tracing the shoreline along the water's edge to the point of origin.

(iii) *PPG Industries basin.* All waters encompassed by a line connecting the following points: Beginning at 30°13'29" N, 93°16'34" W, southwest to a point at 30°13'11" N, 93°16'51" W, then proceeding southerly following 100 feet off the shoreline to a point at 30°12'57.2" N, 93°16'53.2" W, then east to a point at 30°12'57.2" N, 93°16'50.6" W then southerly to a point at 30°12'47.7" N, 93°16'50.3" W then west to the shoreline and then following along the water's edge to the point of origin.

(2) The following areas are moving security zones: All waters within the Captain of the Port, Port Arthur zone commencing at U.S. territorial waters and extending channel edge to channel edge on the Calcasieu Channel and shoreline to shoreline on the Calcasieu River, 2 miles ahead and 1 mile astern of certain designated vessels while in transit. Meeting, crossing or overtaking situations are not permitted within the security zone unless specifically authorized by the Captain of the Port. Coast Guard patrol assets will be on scene with flashing blue lights energized when the moving security zones are in effect.

(b) *Regulations.* (1) Entry into or remaining in a fixed zone described in paragraph (a)(1) of this section is prohibited for all vessels except:

(i) Commercial vessels operating at waterfront facilities within these zones;

(ii) Commercial vessels transiting directly to or from waterfront facilities within these zones;

(iii) Vessels providing direct operational or logistical support to commercial vessels within these zones;

(iv) Vessels operated by the appropriate port authority or by facilities located within these zones; and

(v) Vessels operated by federal, state, county, or municipal agencies.

(2) Entry into or remaining in moving zones described in paragraph (a)(2) of this section is prohibited for all vessels except:

(i) Moored vessels or vessels anchored in a designated anchorage area. A

moored or an anchored vessel in a security zone described in paragraph (a)(2) of this section must remain moored or anchored unless it obtains permission from the Captain of the Port to do otherwise;

(ii) Commercial vessels operating at waterfront facilities located within the zone;

(iii) Vessels providing direct operational support to commercial vessels within a moving security zone;

(iv) Vessels operated by federal, state, county, or municipal agencies.

(3) Other persons or vessels requiring entry into security zones described in this section must request permission from the Captain of the Port, Port Arthur or designated representatives.

(4) To request permission as required by these regulations, contact Marine Safety Unit Lake Charles at (337) 491-7800 or the on scene patrol vessel.

(5) All persons and vessels within a security zone described in this section must comply with the instructions of the Captain of the Port, Port Arthur, designated on-scene U.S. Coast Guard patrol personnel or other designated representatives. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Designated representatives include federal, state, local and municipal law enforcement agencies.

(c) *Informational Broadcasts:* The Captain of the Port, Port Arthur will inform the public when moving security zones have been established around vessels via Broadcast Notices to Mariners and written notice provided by escort vessels.

Dated: March 12, 2010.

J.J. Plunkett,

Captain, U.S. Coast Guard, Captain of the Port, Port Arthur.

[FR Doc. 2010-8375 Filed 4-12-10; 8:45 am]

BILLING CODE 9910-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2009-0118; FRL-9124-9]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Alternate Monitoring Requirements for Indianapolis Power and Light—Harding Street Station

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Indiana requested on December 31, 2008, that EPA approve as

a revision to its State Implementation Plan (SIP) alternative monitoring requirements for the Indianapolis Power and Light Company (IPL) at its Harding Street Generating Station. The alternative monitoring requirements allow the use of a particulate matter (PM) continuous emissions monitoring system (CEMS) in place of a continuous opacity monitor system (COMS).

DATES: This direct final rule will be effective June 14, 2010, unless EPA receives adverse comments by May 13, 2010. 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-2009-0118, by one of the following methods:

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

- *E-mail:* damico.genevieve@epa.gov.
- *Fax:* (312) 385-5501.

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

- *Hand Delivery:* Genevieve Damico, Acting 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-2009-0118. 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, 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 <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 Matt Rau, Environmental Engineer, at (312) 886-6524 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, rau.matthew@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 Is the Background for This Action?
- II. What Is EPA's Analysis of the Revision?
- III. What Are the Environmental Effects of This Action?
- IV. What Action Is EPA Taking?
- V. Statutory and Executive Order Reviews

I. What Is the Background for This Action?

Indiana has requested a revision to its SIP that would authorize an alternative monitoring plan contained in a State Commissioner's Order for Unit 7 at IPL's Harding Street Station, located in

Indianapolis (Marion County), Indiana. Indiana submitted its request to EPA on December 31, 2008. The alternative monitoring plan allows IPL to use a particulate matter CEMS in place of a COMS to demonstrate compliance with applicable PM limits.

IPL has installed a wet scrubber control device to control sulfur dioxide at its Harding Street Station Unit 7. The scrubber adds moisture to the exhaust gas, which condenses as the gas stream cools. According to Indiana Department of Environmental Management (IDEM), the condensation causes unreliable readings from the COMS on Unit 7. COMS measures opacity optically, so it cannot distinguish between light impairment caused by particulate and light impairment caused by moisture. The scrubber also removes some PM, so that placing the COMS prior to the exhaust entering the scrubber would also incorrectly measure those emissions from Unit 7.

IDEM has requested EPA approval of the alternative monitoring requirements under 326 IAC 3-5-1(c)(2)(A)(iii) of the SIP, which EPA approved on December 28, 2009 (74 FR 68541). This provision authorizes IDEM to approve an alternative monitoring requirement for fossil fuel-fired steam generators when IDEM determines that "installation of an opacity monitoring system would not provide accurate determinations of emissions as a result of interference from condensed uncombined water." The PM CEMS will be placed after the scrubber. A PM CEMS with proper calibration should provide accurate PM emission readings, even with moisture from the scrubber in the exhaust stream. Indiana certified the Harding Street Station's PM CEMS on June 22, 2009.

The alternative monitoring plan for the Harding Street Station was adopted by Indiana on October 31, 2008, in Commissioner's Order #2008-02. It is not effective, however, until EPA approves the plan as a SIP revision. See 326 IAC 3-5-1(c)(2)(A)(iv).

Indiana notified the public of an opportunity to request a public hearing on this action on November 12, 2008. It did not receive any comments or requests for a public hearing.

II. What Is EPA's Analysis of the Revision?

Under the alternative monitoring plan approved by Indiana in Commissioner's Order #2008-02, IPL will continuously monitor PM emissions in place of opacity. The visible emissions exiting the stack are primarily composed of PM. Visible emissions observations under 40 CFR Part 60, Appendix A, Method 9 may be taken in the atmosphere after

any moisture has condensed and left the plume. A COMS, like the one at the Harding Street Station, reads the opacity in the stack. The addition of a wet scrubber will remove pollutants from the exhaust, but will add moisture. This moisture condenses as the exhaust cools in the stack causing a higher opacity reading from the COMS. Installing the COMS to read the opacity before the scrubber would also not give an accurate measurement of the facility's emissions because the COMS would not reflect any emission reductions from the scrubber.

The PM CEMS will be calibrated to provide accurate measurements even with moisture in the stack. The PM CEMS provides the particulate emissions from the facility. Knowing the emissions from the facility, IPL will be able to make adjustments or control device repairs should the emissions rise too high. This facility will average the PM CEMS data at time intervals specified in its Title V permit. IPL is also required to monitor other pollutants and their operating parameters. The alternate monitoring requirement removes the need to operate the COMS, but does not remove the opacity limits at the facility under SIP rules 326 IAC 5-1. Visible emissions observations in accordance with Method 9 can still be made to determine whether the opacity limits are being met.¹

III. What Are the Environmental Effects of This Action?

PM interferes with lung function when inhaled. Exposure to PM can cause heart and lung disease. It also aggravates asthma. Airborne particulate is also a source of haze, which reduces visibility. PM deposited on the ground and in the water harms the environment by changing the nutrient and chemical balance.

This action only changes the PM monitoring requirements for Unit 7 at the Harding Street Station. All other applicable air pollution control requirements remain in place. No changes in any emissions from the Harding Street Station are expected as a result of this action.

IV. What Action Is EPA Taking?

EPA is approving the alternative monitoring plan in Commissioner's

Order #2008-02 into the Indiana SIP. The alternative monitoring plan for IPL's Harding Street Station is to use a PM CEMS on Unit 7 in place of a COMS. This action is consistent with Indiana SIP rule 326 IAC 3-5-1(c)(2)(A)(iii) because moisture in the facility's exhaust stream could cause inaccurate opacity readings from a COMS.

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 June 14, 2010 without further notice unless we receive relevant adverse written comments by May 13, 2010. 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 June 14, 2010.

V. Statutory and Executive Order Reviews

Under the Clean Air 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 Clean Air 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 Clean Air 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 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 June 14, 2010. 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

¹ The Commissioner's Order also contains a section granting a variance to IPL for the period of time between the completion of the CEMS certification and EPA's approval of the alternative opacity monitoring plan. As noted in the variance provision: "This is a variance from State law only and does not change Federally approved SIP requirements." Order at 4.

petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 25, 2010.

Walter W. Kovalick Jr.,

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)(194) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(194) On December 31, 2008, Indiana submitted a Commissioner's Order that provided an alternative monitoring plan for Indianapolis Power and Light—Harding Street Generating Station in Marion County that is being incorporated into its SIP. The alternative monitoring requirements allow the use of a particulate matter continuous emissions monitoring system in place of a continuous opacity monitor.

(i) *Incorporation by reference.* Commissioner's Order #2008–02 for Indianapolis Power and Light as issued by the Indiana Department of Environmental Management on October 31, 2008.

[FR Doc. 2010–8295 Filed 4–12–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 89

RIN 0991–AB60

Organizational Integrity of Entities That Are Implementing Programs and Activities Under the Leadership Act

AGENCY: U.S. Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Department is issuing a final rule establishing the organizational integrity requirements for Federal funding recipients under the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Leadership Act). This rule requires that funding announcements and agreements with funding recipients include a clause that states that the recipient is opposed to prostitution and sex trafficking because of the psychological and physical risks they pose for women, men and children. This rule also modifies the requirements for recipient-affiliate separation and eliminates the requirement for an additional certification by funding recipients.

DATES: This rule is effective May 13, 2010.

FOR FURTHER INFORMATION CONTACT: John Monahan, Office of Global Health Affairs, Hubert H. Humphrey Building, Room 639H, 200 Independence Avenue, SW., Washington, DC 20201, Tel: 202–690–6174, E-mail: ogha.os@hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Background

Congress enacted the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (“Leadership Act”) in May 2003. Public Law 108–25 [22 U.S.C. 7601–7682]. The Leadership Act contains limitations on the use of funds provided to carry out HIV/AIDS activities under the Act. Subsection 7631(f) prohibits the use of Leadership Act HIV/AIDS funds “to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking.” Subsection 7631(f) was amended in 2004 to exempt certain public international organizations. Consolidated Appropriations Act of 2004, Public Law 108–199, Div. D, Title II (2004).

The United States government is opposed to prostitution and sex trafficking. In enacting the Leadership Act, Congress specifically found “Prostitution and other sexual

victimization are degrading to women and children and it should be the policy of the United States to eradicate such practices. The sex industry, the trafficking of individuals into such industry, and sexual violence are additional causes of and factors in the spread of the HIV/AIDS epidemic.” Leadership Act § 2(23) Public Law 108–25. Congressional hearings at the time of the Act showed a high incidence of HIV among prostitutes and that prostitution fueled the demand for sex trafficking. Accordingly, Congress unambiguously called for the elimination of prostitution and sex-trafficking as part of the United States’ fight against HIV/AIDS.

Section 301(f) [22 U.S.C. 7631(f)] of the Leadership Act requires that funding recipients have a policy explicitly opposing prostitution and sex trafficking. Additionally, recipients of Leadership Act funds cannot engage in activities that are inconsistent with their opposition to prostitution and sex trafficking.

Congress did not dictate the means by which the Department would implement the policy and the Congressional intent of the Act was not to overburden applicants with unnecessary requirements. For example, during legislative debate on the Leadership Act, in response to a question from Senator Leahy on the Senate floor regarding section 301(f), Senator Frist stated that “a statement in the contract or grant agreement between the U.S. Government and such organization that the organization is opposed to the practices of prostitution and sex trafficking because of the psychological and physical risks they pose for women * * * would satisfy the intent of the provision.” 149 CONG. REC. S6,457 (daily ed. May 15, 2003) (statement of Sen. Frist).

B. Litigation and Regulatory Background

The Leadership Act was challenged on constitutional grounds in two separate lawsuits after its enactment. In a case filed in the U.S. District Court for the District of Columbia, plaintiffs claimed the anti-prostitution provision compelled speech when the organization had no policy either opposing or supporting prostitution. *DKT Int'l v. United States Agency for Int'l Dev. (USAID)*, 435 F. Supp. 2d 5 (D.D.C. 2006). Ultimately, the U.S. Court of Appeals for the District of Columbia Circuit upheld the anti-prostitution provision, holding that the government had a legitimate interest in ensuring that organizations chosen to communicate its particular viewpoint did so in an efficient and effective fashion. *DKT Int'l v. USAID*, 477 F.3d 758 (DC Cir. 2007).