

Executive Orders 12866 and 13563*Regulatory Impact Analysis*

Under Executive Order 12866, the Secretary must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an “economically significant” rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing this proposed priority only upon a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this proposed priority is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Programs have been well established over the years, as projects similar to the one envisioned by the proposed priority have been completed successfully. Establishing new RERCs based on the proposed priority would generate new knowledge through research and development and improve the lives of individuals with disabilities. The RERC that would be established under this proposed priority would generate, disseminate, and promote the use of new information that would improve the options for individuals with disabilities to fully participate in their communities.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

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print, audiotope, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363.

If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

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Dated: April 10, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–08559 Filed 4–15–14; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R05–OAR–2012–0366; FRL–9909–48–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Particulate Matter Limitations for Coating Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Indiana State Implementation Plan (SIP) under the Clean Air Act (CAA). The particulate matter (PM) rules that were submitted consist of emission control requirements for coating operations along with exemptions from certain coating operations that produce minimal PM emissions. EPA is also proposing to take no action on one section submitted by

Indiana, as it pertains to a definition in an unapproved portion of Indiana's Title V regulations. Indiana submitted this request to approve PM rules on April 27, 2012.

DATES: Comments must be received on or before May 16, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2012-0366, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *Email*: blakley.pamela@epa.gov.

3. *Fax*: (312) 692-2450.

4. *Mail*: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: Pamela Blakley, Chief, Control Strategies 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-2012-0366. 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*, 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 *www.regulations.gov* or email. The *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 email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to

technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *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* 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, Control Strategies 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 should I consider as I prepare my comments for EPA?
- II. What is the background for this action?
- III. What is EPA's analysis?
- IV. What action is EPA proposing to take?
- 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—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 is the background for this action?

On April 27, 2012, Indiana submitted a request to revise its SIP under the CAA to incorporate the revised rules. Specifically, Indiana requested that EPA approve the following sections as part of the SIP: 326 Indiana Administrative Code (IAC) 6-3-1, 326 IAC 6.5-1-1, 326 IAC 6.5-1-2, 326 IAC 6.5-1-5, 326 IAC 6.5-1-6, 326 IAC 6.8-1-1, 326 IAC 6.8-1-2, 326 IAC 6.8-1-5, and 326 IAC 6.8-1-6. These provisions would replace requirements that EPA has previously been approved into the Indiana SIP. EPA approved 326 IAC 6-3 on July 25, 2005 (70 FR 42495). EPA approved the addition of 326 IAC 6.5 and 326 IAC 6.8 into the Indiana SIP on March 22, 2006 (71 FR 14383). EPA approved subsequent revisions of sections of 326 IAC 6.5 and 326 IAC 6.8 into the Indiana SIP on April 30, 2008 (73 FR 23356).

Article 6 of 326 IAC contains Indiana's PM rules. Article 6.5 of 326 IAC contains statewide PM emission limitations except for Lake County and Article 6.8 of 326 IAC provides the PM emission limits for Lake County sources.

The language Indiana added in 326 IAC 6.5-1-2(h) and 326 IAC 6.8-1-2(h) is very similar to the language in 326 IAC 6-3-2(d). As noted, EPA approved 326 IAC 6-3 including 326 IAC 6-3-2(d) on July 25, 2005 (70 FR 42495).

III. What is EPA's analysis?

Indiana made the same revisions to the rules of 326 IAC 6.5-1 and 326 IAC 6.8-1. Thus, EPA analyzed the revisions to the same rules and sections of 326 IAC 6.5-1 and 326 IAC 6.8-1 together and concluded that the changes were acceptable in both regulations.

A. Applicability: 326 IAC 6-3-1; 326 IAC 6.5-1-1; 326 IAC 6.8-1-1

In 326 IAC 6-3-1, Indiana revised two sections. Indiana submitted a revision to 326 IAC 6-3-1(b)(13) to reference the definition of trivial activities as found in

326 IAC 2-7-1, part of Indiana's Title V rules. The definition of "trivial activities" is not currently in either Indiana's Title V permitting program or SIP. For that reason, EPA is proposing to take no action at this time on the revision of 326 IAC 6-3-1(b)(13). It should be noted that the term "trivial activities" is not contained in any of the regulations that EPA is approving in this action.

Indiana moved a phrase in 326 IAC 6-3-1(c) to improve clarity. There is no material change from what is approved into the Indiana SIP and thus EPA is proposing approval of the 326 IAC 6-3-1(c) revision.

Indiana revised both 326 IAC 6.5-1-1 and 326 IAC 6.8-1-1 by adding a new subsection (c) that exempts certain surface coating operations from PM emission limits. The exempt processes are dip coating, roll coating, flow coating, and brush coating. The primary emissions of concern from surface coating are the volatile organic compound emissions that arise from solvent evaporation. PM emissions from coatings primarily are from overspray, the fine coating droplets that are not applied as desired. Overspray, the portion of coating solids that does not land on the item and is exhausted as PM emissions, is common on spray coating operations but is not an issue with the four exempt coating methods: Dip coating, roll coating, flow coating, and brush coating. EPA expects minimal PM emission will occur from the exempted coating methods and thus is proposing to approve the exemptions.

Indiana also included in 326 IAC 6.5-1-1(c) and 326 IAC 6.8-1-1(c) an exemption from the PM limits for facilities that use less than five gallons of coating per day. EPA is satisfied that facilities that use less than five gallons of coating daily will have *de minimis* PM emissions because of the limited potential for overspray. Thus, EPA is proposing to approve the exemptions from PM limits in these cases.

The remaining changes to 326 IAC 6.5-1-1 and 326 IAC 6.8-1-1 are simply updates to the section references from the version approved into the Indiana SIP. For example, 326 IAC 6.5-1-1(c) became 326 IAC 6.5-1-1(d) and 326 IAC 6.8-1-1(c) became 326 IAC 6.8-1-1(d) following the addition of a new section (c) in both articles.

B. Particulate Emission Limitations, Modifications by Commissioner: 326 IAC 6.5-1-2; 326 IAC 6.8-1-2

Indiana also revised both 326 IAC 6.5-1-2 and 326 IAC 6.8-1-2. Indiana made revisions by rewording and moving phrases to 326 IAC 6.5-1-2(a),

(b), (c), (d), and (e). Identical revisions were made to 326 IAC 6.8-1-2(a), (b), (c), (d), and (e). The changes to the revised sections are insubstantial when compared to the approved sections.

Indiana added requirements for PM emission controls on surface coating operations in 326 IAC 6.5-1-2(h) and 326 IAC 6.8-1-2(h). Sources are required to operate a dry particulate filter, a water wash, or an equivalent PM control device. If overspray occurs, 326 IAC 6.5-1-2(h)(2) and 326 IAC 6.8-1-2(h)(2) require the source to inspect and repair the control device or adjust operations to eliminate the overspray within four hours. The source must keep a record of its action to remedy the overspray. Select sources are allowed under 326 IAC 6.5-1-2(h)(3) and 326 IAC 6.8-1-2(h)(3) to follow the control device inspection and repair requirements in its permit if overspray is detected in place of the general control device inspection and repair requirements in 326 IAC 6.5-1-2(h)(2) and 326 IAC 6.8-1-2(h)(2). As usual, the most stringent requirement applies and thus the permit requirements must be at least as stringent as the requirements in 326 IAC 6.5-1-2(h)(2) and 326 IAC 6.8-1-2(h)(2). EPA finds that the addition of the PM emission control requirement for coating operations to be satisfactory and thus is proposing approval. The requirements of these sections will require any sources lacking the requirement to take corrective action once overspray is detected. Overspray is sign that the control equipment is not properly operating.

Indiana further added, at 326 IAC 6.5-1-2(h)(4) and 326 IAC 6.8-1-2(h)(4), a provision that if a facility increases its use of coatings to exceed five gallons per day, it is no longer exempt from the regulation; and Indiana must require appropriate PM emissions controls, even if the source subsequently reduces its coating use back to using less than five gallons of coating per day. Indiana's Federally approved permitting rules require each source to keep records for ensuring compliance with applicable emission limits. Therefore, each source will be required in its permits (title V or Federally enforceable state operating permit) to maintain records of its coating usage to establish applicability according to the criteria in 326 IAC 6.5-1-2(h)(4) or 326 IAC 6.8-1-2(h)(4).

Indiana renamed 326 IAC 6.5-1-2(h) to 326 IAC 6.5-1-2(i) and 326 IAC 6.5-1-2(i) to 326 IAC 6.5-1-2(j) following the addition of the new 326 IAC 6.5-1-2(h). Identical section renaming was also made in 326 IAC 6.8-1-2. EPA is proposing to approve the addition of 326 IAC 6.5-1-2(h) and 326 IAC 6.8-1-

2(h) along with the revision to the other sections of 326 IAC 6.5-1-2 and 326 IAC 6.8-1-2 into the Indiana SIP.

C. Control Strategies and SIP Revisions: 326 IAC 6.5-1-5; 326 IAC 6.5-1-6; 326 IAC 6.8-1-5; 326 IAC 6.8-1-6

References to other rule sections in 326 IAC 6.5-1-5, 326 IAC 6.5-1-6, 326 IAC 6.8-1-5, and 326 IAC 6.8-1-6 were updated to reflect the revised section and subsection numbering in the referenced rules. The revisions improve the clarity of the rules with clear language and current references without changing the PM limits or any requirements that have previously been approved. 326 IAC 6.5-1-6 and 326 IAC 6.8-1-6 specifically require that any exemptions or provisions granted by the state in sections 2(a), 2(g), 2(i), 2(j), 4, and 5 of the rule shall be submitted to EPA as revisions to the SIP. Thus, EPA is proposing to approve the modifications to 326 IAC 6.5-1-5, 326 IAC 6.5-1-6, 326 IAC 6.8-1-5, and 326 IAC 6.8-1-6 into the Indiana SIP.

IV. What action is EPA proposing to take?

EPA is proposing to approve into the Indiana SIP revisions to PM rules submitted by Indiana on April 27, 2012. These revisions add PM control requirements for coating operations. The other primary revisions provide PM limit exemptions for coating operations that produce minimal PM emissions. The remaining modifications are clerical revisions that increase the lucidity of the rules without altering the PM limits.

Specifically, EPA is proposing approval of 326 IAC 6-3-1(c), 326 IAC 6.5-1-1, 326 IAC 6.5-1-2, 326 IAC 6.5-1-5, 326 IAC 6.5-1-6, 326 IAC 6.8-1-1, 326 IAC 6.8-1-2, 326 IAC 6.8-1-5, and 326 IAC 6.8-1-6. EPA is proposing to take no action on 326 IAC 6-3-1(b).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. 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 CAA; 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 3, 2014.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2014-08638 Filed 4-15-14; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2014-0241; FRL-9909-49-Region 8]

Partial Approval and Partial Disapproval and Promulgation of Air Quality Implementation Plans; South Dakota; Revisions to South Dakota Administrative Code; Permit: New and Modified Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove State Implementation Plan (SIP) revisions submitted by the State of South Dakota on June 14, 2010, June 20, 2011, and July 29, 2013. All three SIP revisions revise the Administrative Rules of South Dakota (ARSD) that pertain to the issuance of South Dakota air quality permits; in addition the June 14, 2010 submittal revises certain definitions and dates of incorporation by reference. The June 14, 2010 revisions contain new, amended and renumbered rules; the June 20, 2011 revisions contain new rules, and the July 29, 2013 revisions contain amended rules. In this proposed rulemaking, we are taking action on the entire June 14, 2010 submittal, except for those portions of the submittal which do not belong in the SIP. We are also taking action on portions of the June 20, 2011 submittal that were not acted on in other rulemaking regarding greenhouse gases and the State's Prevention of Significant Deterioration (PSD) program. We are taking action on portions of the July 29, 2013 submittal that supersede portions of the two previous submittals; the remainder of the July 29, 2013 submittal will be acted on at a later date. This action is being taken under section 110 of the Clean Air Act (CAA).

DATES: Comments must be received on or before May 16, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2014-0241, by one of the following methods:

- www.regulations.gov. Follow the on-line instructions for submitting comments.

- Email: leone.kevin@epa.gov
- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- Mail: Carl Daly, Director, Air Program, Environmental Protection

Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

- Hand Delivery: Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

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Docket: All documents in the docket are listed in the 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