

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

| State citation (9 VAC 5) | Title/subject | State effective date | EPA approval date | Explanation [former SIP citation] |
|--------------------------|-------------------|----------------------|--|---|
| 5-40-1670 | Definitions | 04/01/99 | 10/19/07 [Insert page number where the document begins]. | Added: Neutral sulfite semichemical pulping operation, New design recovery furnace, Pulp and paper mill, Semichemical pulping process; Revised: Cross recovery furnace, Straight kraft recovery furnace, Total reduced sulfur; Removed: Agreement |
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| 5-40-1750 | Compliance | 04/01/99 | 10/19/07 [Insert page number where the document begins]. | |
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| 5-40-1810 | Permits | 04/01/99 | 10/19/07 [Insert page number where the document begins]. | |
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 [FR Doc. E7-20568 Filed 10-18-07; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2007-0173;FRL-8484-2]

Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Central Indiana To Attainment of the 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On March 26, 2007, the Indiana Department of Environmental Management (IDEM) submitted a request for EPA approval of a redesignation of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby Counties (the Central Indiana Area) to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS). IDEM also requested EPA approval of an ozone maintenance plan for this area as a revision of the Indiana State Implementation Plan (SIP). The maintenance plan demonstrates maintenance of the ozone NAAQS in

this area through 2020 and establishes 2006 and 2020 motor vehicle Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_x) emission budgets for this area. EPA is making a determination that the Central Indiana Area has attained the 8-hour ozone NAAQS. EPA is approving, as a SIP revision, the State's ozone maintenance plan for this area. Indiana has satisfied the criteria for the redesignation of the Central Indiana Area to attainment of the 8-hour ozone NAAQS, and, therefore, EPA is approving Indiana's ozone redesignation request for this area. Further, EPA is approving, for purposes of transportation conformity, the VOC and NO_x Motor Vehicle Emission Budgets (MVEBs) for 2006 and 2020 that are contained in the 8-hour ozone maintenance plan. EPA proposed these actions on July 31, 2007, and received only one comment in response supporting the proposed actions.

DATES: This final rule is effective on October 19, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID NO. EPA-R05-OAR-2007-0173. All documents in the docket are listed on the 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 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 Edward Doty, Environmental Scientist, at (312) 886-6057 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6057, doty.edward@epa.gov.

SUPPLEMENTARY INFORMATION: In the following, whenever "we," "us," or "our" are used, we mean the United States Environmental Protection Agency.

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I. What Is the Background for This Rule?

The background for today's action is discussed in detail in EPA's July 31, 2007, proposed rule (72 FR 41658). In that proposed rule, we noted that, under EPA regulations at 40 CFR part 50, the 8-hour ozone standard is attained in an area when the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 parts per million parts of air (ppm) at all ozone monitoring sites in the area. (See 69 FR 23857 (April 30, 2004)).

The Clean Air Act (CAA) requires EPA to designate as nonattainment any area that is violating the 8-hour ozone NAAQS based on three consecutive years of air quality monitoring data. EPA designated the Central Indiana Area as a nonattainment area for the 8-hour ozone NAAQS in a **Federal Register** notice published on April 30, 2004 (69 FR 23857). At the same time, EPA classified the Central Indiana Area as a subpart 1 8-hour ozone nonattainment area, based on quality assured air quality data for the period of 2001–2003.

Under the CAA, a nonattainment area may be redesignated to attainment if sufficient complete, quality-assured data are available for the Administrator to determine that the area has attained the air quality standard and if the area meets other redesignation requirements in section 107(d)(3)(E) of the CAA. On March 26, 2007, Indiana submitted a request for redesignation of the Central Indiana Area to attainment of the 8-hour ozone NAAQS. The redesignation request included three years of complete, quality-assured data for the period of 2004–2006, indicating attainment of the 8-hour ozone NAAQS (we have also reviewed available 2007 ozone data for this area, and, to date, have seen no violations of the 8-hour ozone standard). The redesignation request demonstrated that the Central Indiana Area had met the redesignation criteria contained in the CAA. The redesignation request included an ozone maintenance plan and documentation of 2006 and 2020 VOC and NO_x MVEBs for this area. Our July 31, 2007, proposed rule (72 FR 41658) provides a discussion of how the Central Indiana Area and the State of Indiana have met the redesignation requirements for this area.

On December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard. (69 FR 23951, April 30, 2004). *South Coast Air Quality*

Management Dist. v. EPA, 472 F.3d 882 (DC Cir. 2006). For the reasons set forth in the July 31, 2007, proposed rule, EPA does not believe that the Court's rulings alter any requirements relevant to this redesignation action so as to preclude redesignation, and do not prevent EPA from finalizing this redesignation.

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

EPA provided a 30-day review and comment period. The comment period closed on August 31, 2007. We received only one comment letter from the City of Indianapolis, which supported our proposed approval of Indiana's ozone redesignation request.

III. What Are Our Final Actions?

EPA is taking several related actions for the Central Indiana Area. First, EPA is making a determination that the Central Indiana Area has attained the 8-hour ozone standard. EPA is approving Indiana's ozone maintenance plan SIP revision for the Central Indiana Area. EPA is approving the State's request to change the legal designation of the Central Indiana Area from nonattainment to attainment of the 8-hour ozone NAAQS. Finally, for the Central Indiana Area, EPA is approving 2006 MVEBs of 54.32 tons VOC per day and 106.19 tons NO_x per day and 2020 MVEBs of 29.52 tons VOC per day and 35.69 tons NO_x per day.

In accordance with 5 U.S.C. 553(d), EPA finds that there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the State of planning requirements for this 8-hour

ozone nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Review

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and, therefore, is not subject to review by the Office of Management and Budget.

Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant energy action," this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(E) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and

Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Redesignation is an action that merely affects the status of a geographical area, and does not impose any new requirements on sources, or allows a State to avoid adopting or implementing additional requirements, and does not alter the relationship or distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a State rule implementing a Federal Standard.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 18, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to force its requirements. (See Section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness areas.

INDIANA—OZONE (8-HOUR STANDARD)

Dated: October 10, 2007.

Walter W. Kovalick, Jr.,
Acting Regional Administrator, Region 5.

■ Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations are 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 52.777 is amended by adding paragraph (jj) to read as follows:

§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(jj) Approval—On March 26, 2007, Indiana submitted a request to redesignate Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby Counties (the Central Indiana Area) (Indianapolis ozone nonattainment area) to attainment of the 8-hour ozone National Ambient Air Quality Standard. As part of the redesignation request, the State submitted an ozone maintenance plan as required by section 175A of the Clean Air Act. Part of the section 175A maintenance plan includes a contingency plan. The ozone maintenance plan establishes 2006 motor vehicle emission budgets for the Central Indiana Area of 54.32 tons per day for volatile organic compounds (VOC) and 106.19 tons per day for nitrogen oxides (NO_x) and 2020 motor vehicle emission budgets for the Central Indiana Area of 29.52 tons per day for VOC and 35.69 tons per day for NO_x.

PART 81—[AMENDED]

■ 3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 4. Section 81.315 is amended by revising the entries for Indianapolis, Indiana: in the table entitled "Indiana-Ozone (8-Hour Standard)" to read as follows:

§ 81.315 Indiana.

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| Designated area | Designation ^a | | Classification | |
|-----------------|--------------------------|------|-------------------|------|
| | Date ¹ | Type | Date ¹ | Type |

* * * * *
Indianapolis, IN: October 19, 2007

