

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

[EPA-R05-OAR-2007-0907; FRL-8541-3]

**Approval and Promulgation of Air Quality Implementation Plans; Indiana****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a request submitted by the Indiana Department of Environmental Management (IDEM) on July 20, 2007, as supplemented on December 19, 2007, to revise the Indiana State Implementation Plan (SIP). The submission revises the Indiana Administrative Code (IAC) by amending the definition of "References to the Code of Federal Regulations," to update the references to the Code of Federal Regulations (CFR) to refer to the 2006 edition. The rule revision also makes minor corrections to amend the definition of "nonphotochemically reactive hydrocarbons" or "negligibly photochemically reactive compounds," and to amend the definition of "volatile organic compound" or "VOC."

**DATES:** This rule is effective on May 19, 2008, unless EPA receives adverse written comments by April 17, 2008. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2007-0907 by one of the following methods:

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

- *E-mail:* [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

- *Fax:* (312) 886-5824.

- *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.

- *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-2007-0907. 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. 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 legal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886-6031 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, [hatten.charles@epa.gov](mailto:hatten.charles@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. Background
  - A. When did the State submit the requested SIP revisions to EPA?
  - B. Did Indiana hold public hearings for each of these SIP revisions?
- II. What are the revisions that the State requests be incorporated into the SIP?
- III. What action is EPA taking today?
- IV. Statutory and Executive Order Reviews

**I. Background***A. When did the State submit the requested SIP revisions to EPA?*

IDEM submitted the requested SIP revisions, consisting primarily of an updated reference to the 2006 CFR, on July 20, 2007. IDEM supplemented its request on December 19, 2007.

*B. Did Indiana hold public hearings for each of these SIP revisions?*

IDEM held public hearings on December 6, 2006, and February 7, 2007. IDEM did not receive any comments concerning the SIP revision.

**II. What are the revisions that the State requests be incorporated into the SIP?**

The State has requested SIP revisions to include: (1) updated references to the CFR at 326 IAC 1-1-3, and (2) deleted references to outdated **Federal Register** citations at 326 IAC 1-2-48 and 326 IAC 1-2-90.

*A. Rule 326 IAC 1-1-3, definition of "References to Code of Federal Regulations."* IDEM updated the reference to the CFR in 326 IAC 1-1-3 from the 2005 edition to the 2006 edition. This is solely an administrative change that allows Indiana to reference a more current version of the CFR.

*B. Rule 326 IAC 1-2-48, "nonphotochemically reactive hydrocarbons" or "negligibly photochemically reactive compounds" defined.* The minor corrections to amend 326 IAC 1-2-48 delete language in sections (a)(1) and (a)(2) that references outdated **Federal Register** citations.

*C. Rule 326 IAC 1-2-90, "volatile organic compound" or "VOC" defined.* The minor corrections to amend 326 IAC 1-2-90 delete outdated references to the **Federal Register**.

### III. What action is EPA taking today?

We are approving revisions to the Indiana SIP to: (1) Update the definitions at 326 IAC 1-1-3, "References to the CFR," and (2) delete language that references outdated **Federal Register** citations in both 326 IAC 1-2-48, "nonphotochemically reactive hydrocarbons" or "negligibly photochemically reactive compounds" defined; and 326 IAC 1-2-90, "volatile organic compound" or "VOC" defined.

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 May 19, 2008 without further notice unless we receive relevant adverse written comments by April 17, 2008. 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 May 19, 2008.

### IV. Statutory and Executive Order Reviews

#### *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 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.

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 (59 FR 22951, 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). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the 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 is not economically significant.

#### *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. 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 May 19, 2008. 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 enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 5**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 3, 2008.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations 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)(186) to read as follows:

#### **§ 52.770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(186) The Indiana Department of Environmental Management submitted revisions to Indiana's State Implementation plan on July 20, 2007, as revised on December 19, 2007, to amend 326 IAC 1-1-3, "References to the Code of Federal Regulations"; 326 IAC 1-2-48, "nonphotochemically reactive hydrocarbons" or "negligibly photochemically reactive compounds" defined; and 326 IAC 1-2-90, "volatile organic compound" or "VOC" defined. The revision to 326 IAC 1-1-3 updates the references to CFR from the 2005 edition to the 2006 edition. In 326 IAC 1-2-48, and 326 IAC 1-2-90, the SIP revision deletes references to outdated **Federal Register** citations.

(i) *Incorporation by reference.* The following sections of the Indiana Administrative Code (IAC) are incorporated by reference.

(A) 326 IAC 1-1-3, "References to the Code of Federal Regulations". Filed with the Secretary of State on April 26, 2007, and effective on May 26, 2007. Published in the Indiana Register, on May 23, 2007 (DIN: 20070523-IR-326060412FRA).

(B) 326 IAC 1-2-48, "nonphotochemically reactive hydrocarbons" or "negligibly photochemically reactive compounds" defined; and 326 IAC 1-2-90, "volatile organic compound" or "VOC" defined. Filed with the Secretary of State on April 26, 2007, and effective on May 26, 2007. Published in the Indiana Register, on May 23, 2007 (DIN: 20070523-IR-326060412FRA).

(ii) *Additional Materials.* A December 19, 2007, letter from Daniel Murray, Assistant Commissioner of the Indiana Department of Environmental Management, Office of Air Quality, which limits the July 20, 2007, SIP

revision request to the following definitions: 326 IAC 1-1-3, "References to the CFR"; 326 IAC 1-2-48, "nonphotochemically reactive hydrocarbons" or "negligibly photochemically reactive compounds" defined; and 326 IAC 1-2-90, "volatile organic compound" or "VOC" defined.

[FR Doc. E8-5287 Filed 3-17-08; 8:45 am]

**BILLING CODE 6560-50-P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 81**

**[EPA-R06-OAR-2007-0969; FRL-8543-5]**

#### **Determination of Nonattainment and Reclassification of the Beaumont/Port Arthur 8-Hour Ozone Nonattainment Area; State of Texas; Final Rule**

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

**ACTION:** Final rule.

**SUMMARY:** This rule finalizes EPA's finding of nonattainment and reclassification of the Beaumont/Port Arthur 8-hour ozone nonattainment area (BPA area). EPA finds that the BPA area has failed to attain the 8 hour ozone national ambient air quality standard ("NAAQS" or "standard") by June 15, 2007, the attainment deadline set forth in the Clean Air Act (CAA) and Code of Federal Regulations (CFR) for marginal nonattainment areas. As a result, on the effective date of this rule, the BPA area is reclassified by operation of law as a moderate 8-hour ozone nonattainment area. The new moderate area attainment date for the reclassified BPA area is "as expeditiously as practicable," but no later than June 15, 2010. The State of Texas must submit a SIP revision that meets the requirements of the CAA on or before January 1, 2009.

**DATES:** This final rule is effective on April 17, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R06-OAR-2007-0969. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information 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 [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

**FOR FURTHER INFORMATION CONTACT:** Carl Young, Air Planning Section, (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7247; fax number 214-665-7263; e-mail address [young.carl@epa.gov](mailto:young.carl@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document "we," "us," and "our" means EPA.

#### **Table of Contents**

- I. What Is the Background for This Action?
- II. What Comments Did EPA Receive on the October 30, 2007 Proposal and How Has EPA Responded to Them?
- III. What Is the Effect of This Action?
  - A. Determination of Nonattainment, Reclassification of the BPA Area To Moderate and the New Attainment Date for the BPA Area
  - B. What Is the Date for Submitting a Revised SIP for the BPA Area?
- IV. Final Action
- V. Statutory and Executive Order Reviews

#### **I. What Is the Background for This Action?**

The BPA area was classified as a marginal 8-hour ozone nonattainment area and, therefore, was required to attain the 8-hour ozone standard by June 15, 2007 (69 FR 23858). On October 30, 2007, we proposed to find that the BPA ozone nonattainment area did not attain the 8-hour ozone NAAQS by June 15, 2007, the applicable attainment date, (72 FR 61310). The proposed finding was based upon ambient air quality data from the years 2004, 2005, and 2006 that showed the area's air quality violated the standard. In addition, as explained in the proposed rule, the area did not qualify for an attainment date extension under the provisions of section 181(a)(5) and 40 CFR 51.907, because the area's 4th highest daily maximum 8-hour