

LEWIS has passed until and including 11:59 p.m. on September 11, 2010. The opposite connecting spans on the south side while not under repair will continue to open for vessels;

(3) Closed to vessels beginning at 6 a.m. on September 12, 2010 until and including 11:59 p.m. on October 6, 2010; however, vessels openings will be provided if at least 48 hours advance notice is given;

(4) Single leaf operation on the northeast side span starting at 5 a.m. on October 8, 2010 until and including 11:59 p.m. on October 28, 2010. The opposite connecting spans on the south side while not under repair will continue to open for vessels;

(5) Closed to vessels beginning at 6 a.m. on October 29, 2010 until and including 11:59 p.m. on December 1, 2010; however, vessels openings will be provided if at least 48 hours advance notice is given.

Coast Guard vessels bound for the Coast Guard Yard at Curtis Bay, as well as a significant amount of commercial vessel traffic, must pass through the Pennington Avenue Bridge. The Coast Guard has carefully coordinated the restrictions with the Yard and the commercial users of the waterway. Additionally, the Coast Guard will inform unexpected users of the waterway through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

Vessels may pass underneath the bridge while the bridge is in the closed position. There are no alternate routes for vessels transiting this section of Curtis Creek and the drawbridge will be able to open in the event of an emergency.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 5, 2010.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. 2010-20250 Filed 8-16-10; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2010-0529; FRL-9189-8]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Transportation Conformity Consultation Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Indiana State Implementation Plan (SIP) submitted on June 4, 2010. This revision consists of criteria and procedures related to the State's interagency consultation and certain control and mitigation measures addressing "Transportation Conformity." This approval will meet a requirement of the Clean Air Act (Act) and EPA's Transportation Conformity regulations.

DATES: This direct final rule will be effective October 18, 2010, unless EPA receives adverse comments by September 16, 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-2010-0529, by one of the following methods:

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

2. *E-mail:* bortzer.jay@epa.gov.

3. *Fax:* (312) 692-2054.

4. *Mail:* Jay Elmer Bortzer, Chief, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Jay Elmer Bortzer, Chief, 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-2010-0529. 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 Patricia Morris, Environmental Scientist, at (312) 353-8656 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Patricia Morris, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8656, morris.patricia@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 Transportation Conformity?
- II. What is the Background for This Action?
- III. What Did the State Submit and How Did We Evaluate It?
- IV. What Action is EPA Taking?
- V. Statutory and Executive Order Reviews

I. What is Transportation Conformity?

Transportation Conformity is required under Section 176(c) of the Act to ensure that Federally supported highway, transit projects, and other activities are consistent with (conform to) the purpose of the approved SIP. Transportation Conformity currently applies to areas that are designated nonattainment and those areas redesignated to attainment after 1990 (maintenance areas), with maintenance plans developed under section 175A of the Act for the following transportation-related criteria pollutants: Ozone, particulate matter (PM_{2.5} and PM₁₀), carbon monoxide (CO), and nitrogen dioxide (NO₂). Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations or delay timely attainment of the relevant National Ambient Air Quality Standards (NAAQS). The Federal Transportation Conformity regulations (Federal Rule) are found in 40 CFR part 93 subpart A, and provisions related to conformity SIPs are found in 40 CFR 51.390.

II. What is the Background for This Action?

On August 10, 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109–59) was signed into law. SAFETEA-LU revised certain provisions of section 176(c) of the Act, related to Transportation Conformity. Prior to SAFETEA-LU, States were required to address all of the Federal Rule’s provisions in their conformity SIPs. After SAFETEA-LU, SIPs were required to contain all or portions of only the following three sections of the Federal Rule, modified as appropriate to each State’s circumstances: 40 CFR 93.105 (consultation procedures); 40 CFR 93.122(a)(4)(ii) (written commitments to implement certain kinds of control measures); and 40 CFR 93.125(c) (written commitments to implement certain kinds of mitigation measures). Pursuant to SAFETEA-LU, States are no longer required to submit conformity

SIP revisions that address the other sections of the Federal Rule.

III. What Did the State Submit and How Did We Evaluate It?

A public hearing on the Transportation Conformity SIP was held on May 11, 2010 in Indianapolis, Indiana. Also, a 30-day public comment period was announced which closed on May 14, 2010. No comments were received from the public. EPA, however, made comments on three items which needed clarification.

On June 4, 2010, the Indiana Department of Environmental Management (IDEM) submitted a revision to its SIP for Transportation Conformity purposes. Indiana provided the requested clarifications in the cover letter.

The SIP revision consists of nine Metropolitan Planning Organization (MPO) board resolutions, one MPO Memorandum of Understanding (MOU), one State and Federal agency statewide MOU and an interagency consultation group conformity consultation guidance document, which will constitute the Indiana SIP for transportation conformity purposes. The MPO board resolutions are for the Delaware-Muncie Metropolitan Plan Commission, the Evansville Metropolitan Planning Organization, the Indianapolis Metropolitan Planning Organization, the Michiana Area Council of Governments, the Madison County Council of Government, the Northeastern Indiana Regional Coordinating Council, the Northwestern Indiana Regional Planning Commission, the Ohio-Kentucky-Indiana Regional Council of Governments, and the West Central Indiana Economic Development District. The Kentuckiana Regional Planning and Development Agency is the MPO that has a signed MOU as the consultation agreement.

The resolutions and MOUs were executed among the State of Indiana, the MPOs in nonattainment and maintenance areas, and the Federal agencies which have responsibility for undertaking transportation conformity in conjunction with transportation planning activities. The statewide MOU adopts the individual MPO resolutions, covers rural nonattainment and maintenance areas and provides for consultation among and between State and Federal agencies. These resolutions and agreements which make up the SIP revision address the three provisions of the Federal Rule required under SAFETEA-LU: 40 CFR 93.105 (consultation procedures); 40 CFR 93.122(a)(4)(ii) (certain control measures); and 40 CFR 93.125(c)

(mitigation measures). Each of the individual MPO resolutions and the MOUs provide detailed consultation procedures specific to each MPO area and adopted by the participants in that MPO area.

Indiana has included several bi-State areas. The Louisville area is a bi-State Indiana/Kentucky area and the MOU for this area provides for consultation with all parties in both States. The MOU has been submitted by Kentucky as part of the Kentucky transportation conformity SIP, and EPA approved the SIP on April 21, 2010 (75 FR 20780). The same MOU has been submitted by Indiana as part of the Indiana transportation conformity SIP.

The Cincinnati area is also a bi-State area with portions of Indiana and Kentucky included in the Cincinnati, Ohio ozone and PM nonattainment areas. The resolution passed by the MPO board for this area provides for consultation between Ohio State and local agencies and Indiana State agencies and Federal agencies in both Indiana and Ohio. The MPO has a separate agreement for the Kentucky portion to provide for consultation on Kentucky conformity determinations. A separate agreement is acceptable because the SIPs provide separate motor vehicle emissions budgets for the Kentucky portion of the Cincinnati area. The Ohio and Indiana portions of the Cincinnati area have combined motor vehicle emissions budgets and thus must work together for conformity determinations.

EPA has evaluated this SIP revision including the nine MPO board resolutions, the one MPO MOU, and the one statewide MOU, and has determined that the nine MPO board resolutions and the MOU for KIPDA have met the requirements of the Federal transportation conformity rules as described in 40 CFR Part 51, Subpart T, and 40 CFR Part 93, Subpart A. As EPA has previously informed Indiana, there were three wording clarifications needed for consistency between the State and Federal agency MOU and the Conformity Rule. EPA believes that the State of Indiana has satisfactorily addressed these concerns, as follows.

First, the statewide MOU seemed to have inadvertently left off a sentence in the conflict resolution section that would allow the Governor of Indiana to delegate the decision on conflicts. In response, IDEM has agreed to incorporate the recommended language into a future revision of the MOU; and, in the interim, IDEM agrees to resolve conflicts in accordance with language provided by EPA.

In addition, the statewide MOU did not address the cost of documents to the public (if there is a cost) in accordance with EPA's fee schedule in 49 CFR 7.43. IDEM responded by citing Indiana's statutory authority which it believes is consistent with the Federal fee rule, and agreed to also clarify this matter in a future MOU revision.

Finally, EPA noted that IDEM had not provided sufficient detail about the public process for "hot spot analysis" reviews. Indiana responded by citing a specific policy document, the "INDOT Public Involvement Manual," which details the public participation process.

Indiana has satisfied the public participation and comprehensive interagency consultation requirement during development and adoption of the resolutions at the MPO level and also with a public hearing and public comment on the entire SIP on May 11, 2010 and public comment period until May 14, 2010. EPA's rule requires the States to develop their own processes and procedures to be followed by the MPO, State Departments of Transportation (DOTs), and United States Department of Transportation (USDOT) in consulting with the State and local air quality agencies and EPA before making conformity determinations.

The conformity SIP revision must also include processes and procedures for the State and local air quality agencies and EPA to coordinate the development of applicable SIPs with MPOs, State DOTs, and USDOT.

EPA has reviewed the submittal to assure consistency with the CAA as amended by SAFETEA-LU and EPA regulations (40 CFR Part 93 and 40 CFR 51.390) governing State procedures for transportation conformity and interagency consultation. Our review used the document "Guidance for Developing Transportation Conformity SIPs" dated January 2009, including "Appendix A: Checklist for Developing a Conformity SIP", and has concluded that the submittal is approvable.

IV. What Action is EPA Taking?

For the reasons set forth above, EPA is taking action under section 110 of the Act to approve the Indiana SIP revision for Transportation Conformity, which was submitted on June 4, 2010.

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 October 18, 2010 without further notice unless we receive relevant adverse written comments by September 16, 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. 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 October 18, 2010.

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.

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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 18, 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 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, Carbon monoxide,

Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 5, 2010.

Bharat Mathur,

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. Part 52 is amended by adding a new § 52.799 to read as follows:

§ 52.799 Transportation conformity.

On June 4, 2010, Indiana submitted the Transportation Conformity Consultation SIP consisting of Metropolitan Planning Organization resolutions and Memorandums of Understanding to address interagency consultation and enforceability of certain transportation related control measures and mitigation measures. EPA is approving the Transportation Conformity SIP from Indiana.

[FR Doc. 2010–20180 Filed 8–16–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2005–OH–0003; FRL–9187–4]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Final Approval and Promulgation of State Implementation Plans; Carbon Monoxide and Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under section 110(k)(3) of the Clean Air Act (CAA), EPA is disapproving an Ohio regulation revision pertaining to volatile organic compound (VOC) limits for high performance architectural coatings contained in Ohio Administrative Code (OAC) 3745–21–09(U)(1)(h). Under section 110(k)(4) of the CAA, we are also conditionally approving a revision of paragraph (BBB)(1) of OAC 3745–21–09, based on a State commitment to provide for enforceability of a pertinent

limit no later than one year from the date of EPA's conditional approval.

DATES: This final rule is effective on September 16, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2005–OH–0003. 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 Anthony Maietta, Environmental Protection Specialist, at (312) 353–8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18)), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, maietta.anthony@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 Were EPA's Proposed Actions?
- II. Public Comments and EPA Responses
- III. What Actions is EPA Taking?
- IV. Statutory and Executive Order Reviews

I. What Were EPA's Proposed Actions?

On January 22, 2010 (75 FR 3668), EPA proposed a variety of actions regarding revisions to OAC 3745–21, from submittals dated October 9, 2000, February 6, 2001, August 3, 2001, and June 24, 2003. We proposed to (1) approve into the State Implementation Plan (SIP) certain revisions in OAC 3745–21 which have been adopted by the State; (2) disapprove a revision pertaining to high performance architectural coatings; (3) conditionally approve a revision of paragraph (BBB)(1) of OAC 3745–21–09, if the State gives EPA a letter that commits to provide for enforceability of the 1 ton per year limit no later than one year from the expected date of EPA's

conditional approval; (4) take no action on certain regulation revisions, and, (5) provide notice that EPA and Ohio have created a mechanism to incorporate into the Ohio SIP permits to facilities operating under previously issued alternate VOC limit and emission control exemptions for miscellaneous metal coating operations under OAC 3745–21–09(U)(2)(f). For administrative convenience, in a separate rulemaking published June 21, 2010, at 75 FR 34939, we approved certain submitted regulation revisions, took no action on others, and recognized various emission control exemptions that have been granted for miscellaneous metal coating operations under OAC 3745–21–09(U)(2)(f). Today's action makes final our disapproval and conditional approval of portions of OAC rule 3745–21–09. You can learn more information about the rule revisions submitted and our evaluation of them in our proposed action.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. We did not receive any comments on the proposed action. On March 1, and July 2, 2010, Ohio EPA committed to remedy deficiencies in OAC 3745–21–09(BBB)(1).

III. What Actions is EPA Taking?

EPA is disapproving the coating VOC content limit for high performance architectural aluminum coatings contained in paragraph (U)(1)(h) of OAC 3745–21–09 because the State has not demonstrated that the relaxation of the VOC content limit for high performance architectural aluminum coatings would not interfere with attainment of the ozone standard and other requirements. EPA is conditionally approving a revision to OAC 3745–21–09(BBB)(1) provided that the State is able to, within one year of our final rulemaking, further revise the paragraph to include test procedures and recordkeeping requirements compatible with the paragraph's revised emission limit. On March 1, and July 2, 2010, Ohio EPA committed to remedy the deficiencies in this revision. If the State fails to correct this rule and confirm this correction within the allowed one year period, this conditional approval will revert to disapproval.