

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use (voluntary consensus standards) (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994), establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. Because this rule amendment rescinds a federal implementation plan for a source that has closed down, this rule amendment that does not relax the control measures on sources regulated by the rule and therefore will not cause emissions increases from these sources.

K. 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). This rule will be effective July 13, 2007.

L. Petitions for Judicial Review

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 August 13, 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 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, Reporting and recordkeeping requirements.

Dated: June 5, 2007.

Stephen L. Johnson,
Administrator.

■ Part 52, Chapter I, 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 DD—Nevada

§ 52.1475 [Amended]

■ 2. Section 52.1475 is amended by removing paragraphs (c), (d), and (e).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2006-0716; FRL-8319-8]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Exemption from VOC Requirements for Sources Subject to the National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing or Reinforced Plastics Composites Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving a revision to the Indiana Department of Environmental Management's (IDEM) volatile organic compound (VOC) rules for new facilities into the Indiana State Implementation Plan (SIP). This revised rule, submitted by IDEM on July 17, 2006, exempts facilities subject to the boat manufacturing and reinforced plastics composites production national emission standards for hazardous air pollutants (NESHAPS) from the requirement to do a case-by-case State Best Available Control Technology (BACT) analysis under the Indiana SIP, provided that they comply with the applicable NESHAPS. This rule revision is approvable because the only hazardous air pollutant covered by these NESHAPS rules is styrene, a toxic substance which is also classified as a VOC. Therefore, the VOC control requirements in these rules are always applicable. In addition, the provisions in these rules are enforceable and result in a clearly defined level of VOC reductions dependent upon the specific type of operation. These rules were proposed for approval on January 25, 2007, and comments were received supporting EPA's approval.

DATES: This final rule is effective on July 13, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2006-0716. 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 Steven Rosenthal, Environmental Engineer, at (312) 886-6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052, rosenthal.steven@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 Public Comments Were Received on the Proposed Approval and What is EPA’s Response?
- II. What Action is EPA Taking and What is the Reason for this Action?
- III. Statutory and Executive Order Reviews

I. What Public Comments Were Received on the Proposed Approval and What Is EPA’s Response?

Comment: EPA received one comment on its January 25, 2007 proposal. The American Composites Manufacturers Association (ACMA) stated that it agreed with EPA that the VOC emissions from these facilities are subject under the NESHAPS to enforceable emission reductions, and added that an additional requirement to comply with the SIP VOC rules would place a redundant and unnecessary administrative burden on both the facilities and Indiana. ACMA referenced a study conducted for it in 2003 that concluded that a facility that meets the NESHAPS requirements would also comply with VOC SIP requirements, including lowest achievable emission rate (LAER), BACT and reasonably available control technology (RACT). ACMA strongly supports EPA’s approval of this proposed amendment to the Indiana SIP.

EPA response: Although ACMA stated its strong support for EPA approval of this exemption for new sources subject to the boat manufacturing and reinforced plastic composites production NESHAPS, it claimed that a facility meeting the NESHAPS requirements would also meet LAER, BACT and RACT. LAER is the new source control requirement for nonattainment areas, as required by 326 IAC 2-3 (Nonattainment New Source

Review). Best available control technology, in the context of ACMA’s comment, appears to refer to the new source control requirement for attainment areas, as required by 326 IAC 2-2 (Prevention of Significant Deterioration). (Please note that this is not the same BACT analysis performed by the State under SIP rule 326 IAC 8-1-6). RACT is the VOC control SIP requirement for existing sources in ozone nonattainment areas.

In contrast to NESHAPS requirements, LAER and BACT are the result of case-by-case analyses which, as new and improved control technologies are introduced, tend to become more stringent over time. EPA has established a presumptive norm for RACT for a number of source categories, not including boat manufacturing and reinforced plastic composites production. For these other categories, RACT is a case-by-case analysis based upon the technical and economic feasibility of control, in contrast to the subject NESHAPS, which were based upon a set of industry average parameters.

II. What Action Is EPA Taking and What Is the Reason for This Action?

EPA is approving Indiana’s revision to its SIP consisting of an amendment to 326 IAC 8-1-6, new facilities; general reduction requirements. This rule exempts boat manufacturers subject to 326 IAC 20-48, NESHAPS for boat manufacturing, or reinforced plastics composites manufacturers subject to 326 IAC 20-56, NESHAPS for reinforced plastics composites production facilities, from the requirement to do a case-by-case State BACT analysis, for the purposes of 326 IAC 8-1-6, provided they comply with the applicable NESHAPS. Previously, new boat manufacturing or reinforced plastics composites manufacturing facilities with potential emissions of 25 tons or more per year of VOC were required to reduce VOC emissions by using BACT under 326 IAC 8-1-6. In this case, establishing specific standards in place of a case-by-case analysis improves the clarity, predictability, and timeliness of permit decisions that are currently subject to 326 IAC 8-1-6.

It should be noted, however, that approval of this exemption to 326 IAC 8-1-6 does not address (or take action on) whether the boat manufacturing or reinforced plastics composites production NESHAPS represent RACT, BACT (under PSD) or LAER (under Nonattainment New Source Review).

III. 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 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 regulatory 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 (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). 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 August 13, 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 enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 18, 2007.

Gary Gulezian,

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) (179) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(179) On July 17, 2006, Indiana submitted final adopted revisions, which add 326 IAC 8–1–6 (3)(B) and (C), to its VOC rules for new facilities in 326 IAC 8–1–6 as a requested revision to the Indiana state implementation plan. EPA is approving these revisions, which exempt boat manufacturers subject to NESHAPS for boat manufacturing, or reinforced plastics composites manufacturers subject to NESHAPS for reinforced composites production facilities, from the requirement to do a best available control technology analysis provided they comply with the applicable NESHAPS.

(i) Incorporation by reference.

(A) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 1: General Provisions, Section 6: New facilities; general

reduction requirements. Final adopted by the Air Pollution Control Board on March 1, 2006. Filed with the Secretary of State on May 25, 2006, and became effective June 23, 2006. Published in the Indiana Register on July 1, 2006 (29 IR 3350).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0559; FRL–8133–2]

Diuron; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for diuron in or on cactus (with regional restrictions for use); spearmint, tops; peppermint, tops; and fish–freshwater finfish, farm raised. Interregional Research Project Number 4 (IR–4) and the Catfish Farmers of America requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 13, 2007. Objections and requests for hearings must be received on or before August 13, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0559. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., 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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP