

(l) Section 21.4213—Notice of hearing by Committee on Educational Allowances.

(m) Section 21.4214—Hearing rules and procedures for Committee on Educational Allowances.

(n) Section 21.4215—Decision of Director of VA facility of jurisdiction.

(o) Section 21.4216—Review of decision of Director of VA facility of jurisdiction.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

21. The authority citation for part 21, subpart K, is revised to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

22. Section 21.7133 is revised to read as follows:

§ 21.7133 Suspension or discontinuance of payments.

VA may suspend or discontinue payments of educational assistance. In doing so, VA will apply §§ 21.4210 through 21.4216.

(Authority: 38 U.S.C. 3034, 3690)

§ 21.7135 [Amended]

23. In § 21.7135, paragraph (i) introductory text and paragraph (i)(2) are amended by removing “§ 21.4207” and adding, in its place, “§ 21.4211(d) and (g)”; and paragraphs (i)(1), (j)(1), and (k)(1) are amended by removing “§ 21.4134” wherever it appears, and adding, in its place, “§ 21.4210”.

24. In § 21.7158, the section heading, paragraph (b)(2), and the authority citation for paragraph (b) are revised, to read as follows:

§ 21.7158 False, late, or missing reports.

* * * * *

(b) * * *

(2) If an educational institution or training establishment willfully and knowingly submits a false report or certification, VA may disapprove that institution's or establishment's courses for further enrollments and may discontinue educational assistance to veterans and servicemembers already enrolled. In doing so, VA will apply §§ 21.4210 through 21.4216.

(Authority: 38 U.S.C. 3034, 3690)

Subpart L—Educational Assistance for Members of the Selected Reserve

25. The authority citation for part 21, subpart L is revised to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), ch. 36, unless otherwise noted.

§ 21.7624 [Amended]

26. Section 21.7624(b) is amended by removing “21.4202(b)” and adding, in its place, “21.4210(b)”.

27. Section 21.7633 is revised to read as follows:

§ 21.7633 Suspension or discontinuance of payments.

VA may suspend or discontinue payments of educational assistance. In doing so, VA will apply §§ 21.4210 through 21.4216.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3690)

§ 21.7635 [Amended]

28. In § 21.7635, the introductory text of paragraph (e) is amended by removing “§ 21.4207 of this part”, and adding, in its place, “§ 21.4211(d) and (g)”; paragraph (e)(2) is amended by removing “§ 21.4207 of this part”, and adding, in its place, “§ 21.4211(d) and (g)”; and paragraphs (e)(1), (f)(1), and (g)(1) are amended by removing “§ 21.4134 of this part” wherever it appears, and adding, in its place, “§ 21.4210”.

§ 21.7658 [Amended]

29. In § 21.7658, paragraph (b)(1) introductory text is amended by removing “negligent” and adding, in its place, “negligent”; paragraph (b)(1)(i) is amended by removing “institution of higher learning to report,” and adding, in its place, “educational institution to report” and by removing “reservist,” and adding, in its place, “reservist”; paragraph (b)(1)(ii) is amended by removing “§ 21.7644(b) of this part” and adding, in its place, “§ 21.7644(c)”; and the section heading, the heading of paragraph (b), and paragraph (b)(2) are revised to read as follows:

§ 21.7658 False, late, or missing reports.

* * * * *

(b) *Educational institution or training establishment.* * * *

(2) If an educational institution or training establishment willfully and knowingly submits a false report or certification, VA may disapprove that institution's or establishment's courses for further enrollments and may discontinue educational assistance to reservists already enrolled. In doing so, VA will apply §§ 21.4210 through 21.4216.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3690)

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN84-1a; FRL-6114-8]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On July 9, 1997, the State of Indiana submitted a State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency for rule changes specific to the power plant at the University of Notre Dame located in Saint Joseph County, Indiana. The submittal provides for revised limits on particulate matter (PM) emissions from five of Notre Dame's boilers. The revised limits are less stringent, overall, than the limits in the current SIP. Air quality modeling has been conducted, however, which shows that the National Ambient Air Quality Standards (NAAQS) will still be protected under the new regulations.

DATES: The “direct final” rule is effective on August 31, 1998, without further notice unless EPA receives adverse or critical written comments by July 31, 1998. If adverse written comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Copies of the revision request are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone David Pohlman at (312) 886-3299 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Environmental Scientist, at (312) 886-3299.

SUPPLEMENTARY INFORMATION:

I. Background

Indiana's submittal of July 9, 1997, contains revisions to title 326 Indiana Administrative Code (326 IAC) 6-1-18, Saint Joseph County particulate emissions limitations. The purpose of

these changes is to revise emission limits for the five boilers at the University of Notre Dame power plant.

Public hearings were held on the rules on June 5 and November 6, 1996, in Indianapolis, Indiana. The rules became effective at the State level on May 22, 1997, and were published in the Indiana Register on June 1, 1997.

II. Analysis of State Submittal

The revisions to 326 IAC 6-118 affect particulate matter and/or heat input limits for five boilers at the University of Notre Dame. The particulate matter limit for Boiler 1 is increased from 0.01 pounds per million British Thermal Units (1b/MMBTU) to 0.087 1b/MMBTU; Boiler 4's particulate limit is increased from 0.01 1b/MMBTU to 0.17/MMBTU, and the heat input limit for Boiler 4 is decreased from 284 million British Thermal Units per hour (MMBTU/hr) to 234 MMBTU/hr; and for Boiler 5, the particulate limit is decreased from 0.17 1b/MMBTU to 0.02 1b/MMBTU, while the heat input limit is increased from 137 MMBTU/hr to 244.5 MMBTU/hr. In addition, individual annual particulate limits for each of the five boilers are replaced by a collective annual limit for Boilers 1, 2, 3, 4, and 5 of 118.7 tons/year.

The general criteria used by the EPA to evaluate such emissions trades, or "bubbles", under the Clean Air Act and applicable regulations are set out in the EPA's Emissions Trading Policy statement (ETSP) (see 51 FR 43814). Emissions trades such as Notre Dame's, which result in an overall increase in allowable emissions, require a "Level III" modeling analysis under the ETSP to ensure that the NAAQS will be protected. A Level III analysis is a full-scale ambient dispersion analysis which must include emissions from the facility involved in the emissions trade as well as from any nearby facilities and background pollutant concentrations.

The modeling analysis submitted by the Indiana Department of Environmental Management (IDEM) in support of the proposed Notre Dame SIP revision was consistent with a Level II analysis, which only includes sources directly involved with the trade. This is not acceptable as a demonstration that the NAAQS will not be violated as a result of the Notre Dame rule changes. However, a further analysis was conducted by the EPA to determine the approvability of the State's submittal for Notre Dame. This analysis included the Notre Dame sources involved in the SIP revision, as well as other nearby sources and background pollutant concentrations. The analysis showed that the SIP revision request will not

cause or contribute to any exceedances of the PM NAAQS.

III. Final Rulemaking Action

Indiana's submittal includes revisions to 326 IAC 6-1-18. The EPA has undertaken an analysis of this SIP revision request based on a review of the materials presented by IDEM, and the modeling analysis conducted by the EPA, and has determined that the SIP revision request is approvable because it is consistent with applicable Clean Air Act provisions, including protection of the NAAQS for PM in the Saint Joseph County area. It should be noted that the University of Notre Dame remains subject to all other applicable provisions of 326 IAC 6-1.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should specified written adverse or critical comments be filed. This action will become effective without further notice unless the Agency receives relevant adverse written comments on the parallel proposed rule (published in the proposed rules section of this **Federal Register**) by July 31, 1998. Should the Agency receive such comments, it will publish a final rule informing the public that this action did not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on August 31, 1998.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Executive Order 13045

This final rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. EPA*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(20).

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

E. Submission to Congress and the Comptroller General

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. Section 804, however, exempts from section 801 the following types of rules: rules of

particular applicability; rules relating to agency management of personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

F. Petitions for Judicial Review

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 August 31, 1998. 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, Particulate matter, Incorporation by reference, Intergovernmental relations.

Dated: June 11, 1998.

David A. Ullrich,

Acting Regional Administrator, Region V.

For the reasons stated in the preamble, 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 *35 et seq.*

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(123) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(123) On July 9, 1997, Indiana submitted a site specific SIP revision request for the University of Notre Dame in Saint Joseph County, Indiana. The submitted revision amends 326 IAC 6-1-18, and provides for revised particulate matter and heat input limitations on the five boilers at Notre Dame's power plant.

(i) *Incorporation by reference.* Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6:

Particulate Rules, Rule 1: Nonattainment Area Limitations, Section 18: St. Joseph County. Added at 20 In. Reg. 2299. Effective May 22, 1997.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX98-1-7386; FRL-6117-3]

Approval and Promulgation of Air Quality State Implementation Plans, Texas; Recodification of, and Revisions to the State Implementation Plan; Chapter 114

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving in this action the recodification of and revision to the Texas State Implementation Plan (SIP) for Chapter 114, "Control of Air Pollution from Motor Vehicles." This revision was submitted by the Governor on November 20, 1997, to reformat and renumber existing state Chapter 114 sections into seven new subchapters (A through G) without substantial technical changes and to remove original paragraph 114.1(e), concerning leaded gasoline dispensing labeling requirements.

DATES: This action is effective on August 31, 1998 without further notice unless the agency receives relevant adverse comments by July 31, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Copies of the documents about this action are available for public inspection during normal business hours at the above and following location. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.
Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711-3087.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scoggins, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7354 or via e-mail at scoggins.paul@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region 6 address.

SUPPLEMENTARY INFORMATION:

I. Background

On November 20, 1997, the Governor of Texas formally submitted a recodification of, and revisions to, the Texas SIP for Regulation IV, 30 TAC Chapter 114, "Control of Air Pollution from Mobile Vehicles." These changes were submitted to reformat and renumber existing state Chapter 114 sections into seven new subchapters (A through G) without substantial technical changes and to remove original paragraph 114.1(e), concerning leaded gasoline dispensing labeling requirements.

II. Texas Chapter 114 Format Revisions

Chapter 114 includes the rules and regulations providing for the protection of environment from mobile vehicles which were divided into sections. The resulting new format divides the existing sections into subchapters (A through G) and renumbers the original sections within the new subchapters. The following Chapter 114 subchapters and sections have been adopted by the commission.

SUBCHAPTER A: DEFINITIONS

- 114.1 Definitions.
- 114.2 Inspection and Maintenance (I/M) Definitions.
- 114.3 Low Emission Fleet Vehicle Definitions.
- 114.4 Vehicle Retirement and Mobile Emission Reduction Credit Definitions.
- 114.5 Transportation Planning Definitions.

SUBCHAPTER B: MOTOR VEHICLE ANTI-TAMPERING REQUIREMENTS

- 114.20 Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles.
- 114.21 Exclusions and Exemptions.

SUBCHAPTER C: VEHICLE INSPECTION AND MAINTENANCE

- 114.50 Vehicle Emissions Inspection Requirements.
- 114.51 Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers.
- 114.52 Waivers and Extensions for Inspection Requirements.
- 114.53 Inspection and Maintenance Fees.

SUBCHAPTER D: OXYGEN REQUIREMENTS FOR GASOLINE

- 114.110 Oxygenated Fuels.