

the standard. For example, a standard level of 0.12 ppm means that measurements are to be rounded to two decimal places (0.005 rounds up to 0.01). Thus, 0.125 ppm is the smallest concentration value in excess of the level of the ozone standard.

#### Final Action

EPA is approving Kentucky's request to exempt the Kentucky portion of the Huntington-Ashland area moderate O<sub>3</sub> nonattainment area from the section 182(f) NO<sub>x</sub> RACT requirement. This approval is based upon the evidence provided by Kentucky and the Commonwealth's compliance with the requirements outlined in the applicable EPA guidance. If a violation of the O<sub>3</sub> NAAQS occurs in the Kentucky portion of the Huntington-Ashland area, the exemption from the NO<sub>x</sub> RACT requirement of section 182(f) of the CAA in the applicable area shall no longer apply. This action will be effective June 2, 1995.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the CAA, 42 U.S.C. 7607(b)(2)).

The OMB has exempted these actions from review under Executive Order 12866.

This action is not a SIP revision and is not subject to the requirements of section 110 of the CAA. The authority to approve or disapprove exemptions from NO<sub>x</sub> requirements under section 182 of the CAA was delegated to the Regional Administrator from the Administrator in a memo dated July 6, 1994, from Jonathan Cannon, Assistant Administrator, to the Administrator, titled, "Proposed Delegation of Authority: Exemptions from Nitrogen Oxide Requirements Under Clean Air Act Section 182(f) and Related Provisions of the Transportation and General Conformity Rules"—Decision Memorandum."

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603

and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. This rule approves an exemption from a CAA requirement. Therefore, I certify that it does not have a significant impact on any small entities affected.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 17, 1995.

**Patrick M. Tobin,**

*Acting Regional Administrator.*

Part 52, chapter 1, 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. 7401-7671q.

#### Subpart II—Kentucky

2. Section 52.937 is added to read as follows:

##### § 52.937 Review of new sources and modifications.

(a) Approval—EPA is approving the section 182(f) oxides of nitrogen (NO<sub>x</sub>) reasonably available control technology (RACT) exemption request submitted by the Kentucky Department for Environmental Protection on August 16, 1994, for the Kentucky portion of the Huntington-Ashland ozone (O<sub>3</sub>) moderate nonattainment area. This approval exempts this area from implementing NO<sub>x</sub> RACT on major sources of NO<sub>x</sub>. If a violation of the O<sub>3</sub> NAAQS occurs in the area, the exemption from the requirement of section 182(f) of the CAA in the applicable area shall not apply.

(b) [Reserved]

[FR Doc. 95-10826 Filed 5-2-95; 8:45 am]  
BILLING CODE 6560-50-P

#### 40 CFR Part 52

[IN44-1-6538a; FRL-5190-6]

#### Approval and Promulgation of Implementation Plans; Indiana

**AGENCY:** United States Environmental Protection Agency (USEPA).

**ACTION:** Direct final rule.

**SUMMARY:** On March 23, 1994, the State of Indiana requested a revision to the Indiana State Implementation Plan (SIP) for lead, in accordance with part D, title I requirements of the Clean Air Act (the Act) for the Marion County lead nonattainment area. Supplemental information was received on September 21, 1994. The submittal provides for the control of both stack and fugitive emissions by requiring, among other things, revised emission limitations, improved monitoring, building enclosures, an amended fugitive lead dust plan, and contingency measures in the event that subsequent violations of the lead National Ambient Air Quality Standard (NAAQS) occur. USEPA made a finding of completeness in a letter dated September 23, 1994. Therefore, because the submittal contains all the necessary elements under part D, USEPA is approving it. In the proposed rules section of this **Federal Register**, USEPA is proposing approval of and soliciting public comment on this requested SIP revision. If adverse comments are received on this action, USEPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

**DATES:** This final rule is effective on July 3, 1995 unless an adverse comment is received by June 2, 1995. If the effective date of this action is delayed due to adverse comments, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the SIP revision request and USEPA's analysis are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Rosanne Lindsay at (312) 353-1151, before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** Rosanne Lindsay at (312) 353-1151.

**SUPPLEMENTARY INFORMATION:**

**I. Background/History**

In a final rule published on November 6, 1991, USEPA announced that a portion of Marion County, Indiana was being designated nonattainment for lead under section 107(d)(5) of the Clean Air Act (the Act), based on violations of the lead NAAQS monitored in 1990 in the vicinity of the Refined Metals facility in Marion County [See, 56 FR 56694 (codified at 40 CFR 81.315)]. The lead nonattainment designation for this area became effective on January 6, 1992.

Section 191(a) of the Act requires that States containing areas designated nonattainment for lead submit a SIP meeting the requirements of part D, title I of the Act within 18 months of the nonattainment designation. On February 4, 1992, Indiana submitted to the USEPA a site-specific revision request to the lead implementation plan addressing the 1990 lead NAAQS violations. Because the revision request did not satisfy all part D, title I, requirements, on July 12, 1993, USEPA proposed a limited approval/limited disapproval (58 FR 37450). On September 23, 1993, Indiana officially withdrew the SIP submittal. On March 23, 1994, the State submitted a revised rule which forms the basis for this rulemaking. The State supplemented the submittal on September 21, 1994, and USEPA deemed the submittal complete on September 23, 1994. Finally, on January 24, 1995, Indiana submitted contingency measures in an operating permit which underwent a public hearing.

Section 192(a) further provides that each lead SIP must provide for attainment of the lead NAAQS as expeditiously as practicable, but no later than 5 years from the date of the nonattainment designation. Among other things, the part D, title I requirements include: implementation of all reasonably available control measures (RACM), including reasonably available control technology (RACT); demonstration of reasonable further progress (RFP); a comprehensive, accurate and current inventory of all sources of lead in the nonattainment area; a new source review (NSR) program meeting the requirements of section 173 of the Act (i.e., require permits for construction and operation permits for new or modified major stationary sources of lead in the nonattainment area); enforceable emission limits, timetables and schedules for compliance; the applicable requirements of section 110(a)(2); and provisions for the implementation of specific measures

(contingency measures) upon a determination by USEPA that the nonattainment area fails to make RFP or meet the NAAQS by the applicable date (See, sections 172(c), 173 and 171 of the Act). USEPA provided the States with guidance on SIP requirements for lead nonattainment areas in the April 16, 1992, General Preamble for the Implementation of Title I of the Act of 1990 (See, 57 FR 13498; See also, 57 FR 18070, April 28, 1992), and in a December 22, 1993, Addendum to the General Preamble (See, 58 FR 67748). The State's February 4, 1992, submittal, as well as the final submittal, are available for inspection at the USEPA Region 5 Office.<sup>1</sup>

**II. Identification of Review Criteria**

USEPA has evaluated the revisions to Indiana's lead SIP for consistency with the requirements of sections 191(a) and 192(a) of the Act, and other applicable federal requirements. Additional guidance documents containing USEPA policy include: the April 23 and June 24, 1992, Questions and Answers for Lead, prepared by the Office of Air Quality Planning and Standards (OAQPS); the April 16, 1992, General Preamble (See, 57 FR 13498; See also, 57 FR 18070, April 28, 1992); and the December 22, 1993, Addendum to the General Preamble (See, 58 FR 67748).

**III. USEPA Review and Findings**

*A. Review of Submittal Applicable to Portion of Marion County Designated Nonattainment for Lead*

This revision request provides for the control of both stack and fugitive emissions by requiring revised emission limitations, a new baghouse and stack, and a total enclosure of the buildings housing the sources considered to be responsible for the monitored violations (i.e., blast furnace, dust furnaces, material storage building). The emission limits for the new and existing baghouse stacks are summarized below:

**BAGHOUSE STACK LIMITS**

| Baghouse stack | Old limit (lb/hr) | New limit (lb/hr) |
|----------------|-------------------|-------------------|
| M-1 .....      | 1.132             | 0.91              |
| M-2 .....      | .015              | .15               |
| M-3 .....      | .005              | .15               |
| M-4 .....      | .....             | .30               |

In addition to the above limitations, and a fugitive lead dust control plan, the

<sup>1</sup> USEPA approved the Indiana lead SIP called for in response to the issuance of lead NAAQS and subject to the requirements of then section 110 of the Act [see Title IAC 326 15-1 on April 10, 1988 (53 FR 12896) and October 3, 1988 (53 FR 38719)].

site-specific lead rule (Title 326 IAC 15-1-2, sections 2(1)(A) to 2(1)(I)) contains the following provisions to mitigate the release of lead fugitive emissions to the atmosphere: (1) the installation and operation of several hooding systems in several areas of the facility; (2) enclosure of the screw conveyors used to transport lead dust; (3) a three (3) percent opacity limit for all building openings; (4) a five (5) percent opacity limit for each stack; (5) a continuous monitoring system to ensure negative pressure inside the affected buildings, use of continuous opacity monitors (COMs) for stacks M-1 and M-4; (6) initial certification of COMs; (7) quarterly excess emission reporting of COM data and quality assurance reports; (8) stack testing of all stacks; and authority by the State to require the cessation in production, if necessary, to ensure attainment of the lead NAAQS (See January 12, 1995, operating permit provisions). Compliance with these provisions is to be achieved no later than March 1, 1994, with the exception of the operating permit provisions, which are effective from January 12, 1995 through January 31, 1998.

*B. Review of SIP Submittal*

The following summary describes how Indiana addresses the part D, title I requirements of the Act:

Section 172(c)(1) calls for the implementation of RACM and RACT. Indiana has satisfied the requirement for RACM and RACT through emission limitations on the baghouse stacks, the maintenance of the buildings under negative pressure, and monitoring requirements. An amended fugitive lead dust plan, which mirrors an Agreed Order between the State and the source, further reduces lead emissions through operation and maintenance practices. A sampling survey of lead dust conducted on facility grounds also provided the State with new information needed for accurate inputs to air quality modeling.

In modeling the ambient air quality at Refined Metals, IDEM first evaluated the performance of the Industrial Source Complex Long Term model (ISCLT2) against the performance of the Fugitive Dust Model (FGM), to determine which model would best characterize the air quality in the area. ISCLT2 predicted lead concentrations which more closely matched the monitored lead concentrations for the area. Therefore, ISCLT2 was used in the attainment demonstration for this SIP revision.

The Refined Metals facility's lead emission points include point, area, and volume sources. Building downwash effects were considered for the elevated point sources. Roadway dust, which has

been found to contain a large percentage of lead particles, makes up a significant portion of the area's ambient air lead concentration. The roadway lead emissions were modeled as a series of area sources. The Refined Metals implementation plan calls for measures to limit the amount of lead-containing dust allowed to accumulate on truck tires and leave the plant vicinity. The facility would also be enclosed to prevent additional buildup of dust on the roadways. Indiana used the assumption that the dust mass and the percentage of lead in that dust would be reduced by 90 percent using the planned control measures. The background lead concentration was calculated from monitored data to be  $0.14 \mu\text{g}/\text{m}^3$ . This concentration was added to the modeled concentrations to demonstrate attainment. The maximum quarterly average lead concentration was  $0.66 \mu\text{g}/\text{m}^3$ , which included background totals  $0.80 \mu\text{g}/\text{m}^3$ . This is below the lead NAAQS of  $1.5 \mu\text{g}/\text{m}^3$ .

Section 172(c)(2) requires RFP goals to be met. Indiana maintains that linear progression toward attainment is, in this case, inappropriate due to the fact that Refined Metals is the sole source of lead NAAQS violations. Instead, the State contends that compliance with the emission limitations, provisions of the lead rule and a modified fugitive lead dust control plan will result in immediate attainment of the lead NAAQS in Marion County. This is acceptable to USEPA.

Section 172(c)(3) requires a complete, comprehensive, accurate and current inventory of the nonattainment area. Completed in April of 1994, the inventory adequately demonstrates that Refined Metals is the only significant source of lead emissions in the lead nonattainment area.

Section 172(c)(4) requires the identification and quantification of any pollutant which will be allowed from the construction and operation of major new or modified major sources for such area, in accordance with section 173(a)(1)(B) (targets economic development zones). Indiana states that Marion County is not currently and does not expect to become a targeted economic development zone. This is acceptable to USEPA.

Section 172(c)(5) requires an approved NSR program to be in place in the nonattainment area. USEPA approved Indiana's emission offset rules on October 7, 1994 (326 IAC 2-3; 59 FR 51108). The rules, which became effective on December 6, 1994, satisfy this requirement.

Section 172(c)(6) requires enforceable emission limitations, schedules, and

timetables for compliance. USEPA finds that the site-specific lead rule subject to this rulemaking, effective April 27, 1994, fulfills these requirements because the source is subject to clear emission limits, averaging times, compliance dates, continuous compliance, recordkeeping and reporting requirements, and appropriate testing methods to determine compliance.

Section 172(c)(7) requires compliance with section 110(a)(2) of the Act. Indiana has met these requirements through the existing State air quality rules and this SIP submittal.

Section 172(c)(8) allows the State to use equivalent techniques for modeling, emission inventory, or planning procedures. Indiana believes these alternatives not to be applicable to this submittal. This is acceptable to USEPA.

Section 172(c)(9) requires inclusion of provisions for the implementation of contingency measures if the area fails to meet RFP or attainment of the lead NAAQS by the applicable date. Indiana incorporated contingency measures into an operating permit issued to Refined Metals that was subject to public comment and included in the SIP submittal. The measures are triggered upon notification by the local or State agency that the air quality monitors in the source's vicinity have recorded a violation of the lead NAAQS, or clearly will record a violation when initial data is averaged over the quarter. These measures include: a cessation of operations until a corrective action plan has been approved by the Local and State agencies, an investigation by the source into all possible causes of the excessive lead concentrations, a final report of the investigation and a proposed plan for corrective measures with a schedule, and timely implementation of corrective measures. The Local and State agencies can approve, disapprove and/or request additional information from the source. Source operations can recommence upon approval of the plan. The operating permit has a lifetime of 5 years. In order for these contingency measures to remain permanent and federally enforceable, the permit must be renewed upon each expiration with the same contingency measures while the area remains designated as nonattainment. In meeting these requirements, the State satisfies its obligation for contingency measures.

USEPA also notes that the fugitive lead dust control plan, required under part D, title I of the Act, is satisfied by

this submittal.<sup>2</sup> The newly modified plan for Refined Metals reflects recent changes required by an Agreed Order between the State and Refined Metals.

#### IV. Final Rulemaking Action

USEPA is approving the March 23, 1994, SIP submittal because all of the applicable Federal requirements under section 110(a)(2) and part D, title I, of the Act have been satisfied. The submittal for Marion County also satisfies the requirements of sections 191(a) and 192(a) of the Act by providing for the necessary elements to reach attainment of the lead NAAQS no later than 5 years from the January 6, 1992, nonattainment designation.

The USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the USEPA is proposing to approve the requested SIP revision should adverse or critical comments be filed. This action will be effective on July 3, 1995 unless adverse or critical comments are received by June 2, 1995.

If the USEPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent rule that withdraws this final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The USEPA will not institute a second comment period on this action. 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 July 3, 1995.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA

<sup>2</sup> Pursuant to USEPA's approval of the Indiana SIP, the State is required to submit approvable source-specific fugitive lead dust control plans as revisions to the SIP. Fugitive dust control plans for 9 sources were disapproved in a rulemaking action on February 1, 1993 (58 FR 6606). State plans for these sources, excluding Refined Metals, are still required to be submitted to USEPA.

shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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 it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(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 July 3, 1995. 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, Lead.

Dated: April 3, 1995.

**David A. Ullrich,**

*Acting Regional 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. 7401-7671q.

#### Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(95) to read as follows:

##### § 52.770 Identification of plan.

(c) \* \* \*

(95) On May 22, 1994, the Indiana Department of Environmental Management submitted a request to revise the Indiana State Implementation Plan by adding a lead plan for Marion County which consists of a source specific revision to Title 326 of the Indiana Administrative Code (326 IAC) for Refined Metals.

(i) *Incorporation by reference.*

(A) Amendments to 326 IAC 15-1-2 Source-specific provisions. Filed with the Secretary of State March 25, 1994. Effective April 24, 1994. Published at Indiana Register, Volume 17, Number 8, May 1, 1994.

[FR Doc. 95-10810 Filed 5-2-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 70

[AD-FRL-5200-7]

#### Clean Air Act Final Interim Approval of Operating Permits Program for Nineteen California Air Pollution Control Districts

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

**ACTION:** Final interim approval.

**SUMMARY:** The EPA is promulgating interim approval of the Operating Permits Program submitted by the California Air Resources Board on behalf of Amador County Air Pollution Control District (APCD), Butte County APCD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River Air Quality Management District (AQMD), Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lassen County APCD, Mendocino County APCD, Modoc County APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Siskiyou County APCD, Tuolumne County APCD, and Yolo-Solano AQMD, California (districts) for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

**EFFECTIVE DATE:** June 2, 1995.

**ADDRESSES:** Copies of the nineteen districts' submittals and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: Operating Permits Section, A-5-2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

**FOR FURTHER INFORMATION CONTACT:** For information, please contact: Sara Bartholomew, Operating Permits Section, A-5-2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1170.

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Purpose

###### A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act (the Act)), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On December 8, 1994, EPA proposed interim approval of the operating permits programs for Amador County APCD, Butte County APCD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lassen County APCD, Mendocino County APCD, Modoc County APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Siskiyou County APCD, Tuolumne County APCD, and Yolo-Solano AQMD, California. See 54 FR 63289. The EPA received public comment on the proposal, and is responding to those comments in this document and in a separate "Response to Comments" document that is