

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2. of Commandant Instruction M16475.1 (series), this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available by contacting Commander (mps), Eighth Coast Guard District, 501 Magazine Street, New Orleans, LA 70130-3396.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart F of Part 165 of Chapter 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A new § 165.T08-041 is added to read as follows:

§ 165.T08-041 Safety Zone: St. Andrew Bay, Panama City Florida, Hathaway Landing Marina

(a) Location. The following area is a safety zone: In the vicinity of Hathaway Landing Marina between W 85-44' 9", N 30-11' 5" and W 85-44' 9", N 30-11' 3", and W 85-45' 1", N 30-11' 7" and W 85-45' 1", N 30-11' 4". The zone is needed to protect personnel and property associated with the Jet Ski Waverunner Exhibition.

(b) Effective date. This section becomes effective at 11:30 A.M. July 20, 1997. It terminates at 4:30 P.M. on July 20, 1997 unless terminated sooner by the Captain of the Port. (c) Regulations: In accordance with the general regulations in § 165.23 of this part, entry

into this zone is prohibited unless authorized by the Captain of the Port.

Dated: June 12, 1997.

J.J. Kichner,

Captain, U.S. Coast Guard, Captain of the Port Mobile, Alabama.

[FR Doc. 97-18992 Filed 7-17-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[IN53-3; FRL-5860-4]

Approval and Promulgation of State Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 26, 1995, and June 13, 1997, the State of Indiana submitted a Rate-Of-Progress (ROP) plan to reduce Volatile Organic Compounds (VOC) emissions in Lake and Porter Counties by 15 percent (%) from 1990 baseline levels by November 15, 1996, as a requested revision to the Indiana State Implementation Plan (SIP). On April 3, 1997, EPA issued a direct final approval of the Lake and Porter Counties 15% ROP plan, 3% contingency plan, and an Indiana Agreed Order requiring VOC emission controls on Keil Chemical Division, Ferro Corporation, located in Lake County (Keil). On the same day (April 3, 1997) EPA proposed approval and solicited public written comment on these requested SIP revisions. This proposed rule established a 30-day public comment period noting that if adverse comments were received regarding the direct final rule EPA would withdraw the direct final rule and publish an additional final rule to address the public comments. Adverse comments were received during the public comment period relating to the Keil SIP revision. EPA withdrew the direct final rule on May 23, 1997. In today's action, EPA is finalizing approval of the 15% ROP plan. Final action on the 3% contingency plan and the Keil agreed order will be addressed in a subsequent rulemaking action. The 15% ROP plan has reduced VOC emissions in Lake and Porter Counties by approximately 68,242 pounds (lbs) per day. VOC emissions combine with oxides of nitrogen in the atmosphere to form ground-level ozone, a pollutant which can cause inflammation of the lungs, decrease lung capacity, and aggravate asthma. The rationale for this rulemaking is discussed below.

DATES: This final rule is effective August 18, 1997.

ADDRESSES: Copies of the SIP revision request are available for inspection at the following address: (It is recommended that you telephone Mark J. Palermo at (312) 886-6082, before visiting the Region 5 office.)

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT:

Mark J. Palermo, Environmental Protection Specialist, Air Programs Branch (AR-18J) (312) 886-6082.

SUPPLEMENTARY INFORMATION:**I. Background on 15% ROP Requirements**

On November 15, 1990, Congress enacted amendments to the 1977 Clean Air Act (Act); Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. Section 182(b)(1) requires States with ozone nonattainment areas classified as moderate and above to submit a SIP revision known as a 15% ROP plan. This plan must reflect an actual reduction in typical ozone season weekday VOC emissions of at least 15% in the area during the first 6 years after enactment (i.e., by November 15, 1996). The emission reductions needed to achieve the 15% requirement must be calculated using a 1990 anthropogenic VOC emissions inventory as a baseline, minus emissions that have been reduced by: (1) The Federal Motor Vehicle Control Program (FMVCP) measures for the control of motor vehicle exhaust or evaporative emissions promulgated before January 1, 1990; and (2) gasoline Reid Vapor Pressure (RVP) regulations promulgated by November 15, 1990 (55 FR 23666, June 11, 1990). In addition, the plan must account for net growth in emissions within the nonattainment area between 1990 and 1996.

In Indiana, two ozone nonattainment areas are subject to the 15% ROP plan requirement: The Lake and Porter Counties portion of the Chicago severe ozone nonattainment area, and the Clark and Floyd Counties portion of the Louisville moderate ozone nonattainment area. This rulemaking action addresses only the plan for Lake and Porter Counties; the Clark and Floyd Counties 15% ROP plan was approved on May 7, 1997 (62 FR at 24815).

II. Indiana's 15% ROP Submittal

The Act requires States to observe certain procedural requirements in developing SIPs and SIP revisions for submission to EPA. Section 110(a)(2)

and section 110(l) of the Act require that each State's SIP revision submitted under the Act be adopted by the State after reasonable notice and public hearing. The State of Indiana submitted a portion of the Lake and Porter Counties 15% ROP SIP revision on January 13, 1994. The SIP revision was reviewed by EPA to determine completeness shortly after submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). However, the submittal was deemed incomplete because the plan had not yet gone through public hearing and did not include fully adopted rules for all of the plan's control measures. Indiana held a public hearing on the plan on March 29, 1994. A summary of comments from that hearing and the Indiana Department of Environmental Management's (IDEM) response was submitted on July 5, 1994. IDEM sent a supplemental submittal on June 26, 1995, which included fully adopted rules for the Lake and Porter Counties 15% ROP plan. In a July 17, 1995, letter to Indiana, the State was notified that the SIP submittal was deemed complete.

III. Criteria for 15% ROP Approvals

The requirements for 15% ROP plans are found in section 182(b)(1) of the Act, and the following EPA guidance documents:

1. *Procedures for Preparing Emissions Projections*, EPA-450/4-91-019, Environmental Protection Agency, July 1991.

2. State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Proposed rule (57 FR 13498), **Federal Register**, April 16, 1992 (General Preamble).

3. "November 15, 1992, Deliverables for Reasonable Further Progress and Modeling Emission Inventories," memorandum from J. David Mobley, Edwin L. Meyer, and G. T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 7, 1992.

4. *Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for the 15 Percent Rate of Progress Plans*, EPA-452/R-92-005, Environmental Protection Agency, October 1992.

5. "Quantification of Rule Effectiveness Improvements," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 1992.

6. *Guidance for Growth Factors, Projections, and Control Strategies for the 15 Percent Rate-of-Progress Plans*, EPA-452/R-93-002, March 1993.

7. "Correction to 'Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for the 15 Percent Rate of Progress Plans'," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 2, 1993.

8. "15 Percent Rate-of-Progress Plans," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 16, 1993.

9. *Guidance on the Relationship Between the 15 Percent Rate-of-Progress Plans and Other Provisions of the Clean Air Act*, EPA-452/R-93-007, Environmental Protection Agency, May 1993.

10. "Credit Toward the 15 Percent Rate-of-Progress Reductions from Federal Measures," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Environmental Protection Agency, May 6, 1993.

11. *Guidance on Preparing Enforceable Regulations and Compliance Programs for the 15 Percent Rate-of-Progress Plans*, EPA-452/R-93-005, Environmental Protection Agency, June 1993.

12. "Correction Errata to the 15 Percent Rate-of-Progress Plan Guidance Series," memorandum from G. T. Helms, Chief, Ozone and Carbon Monoxide Programs Branch, Environmental Protection Agency, July 28, 1993.

13. "Early Implementation of Contingency Measures for Ozone and Carbon Monoxide (CO) Nonattainment Areas," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Environmental Protection Agency, August 13, 1993.

14. "Region III Questions on Emission Projections for the 15 Percent Rate-of-Progress Plans," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 17, 1993.

15. "Guidance on Issues Related to 15 Percent Rate-of-Progress Plans," memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, Environmental Protection Agency, August 23, 1993.

16. "Credit Toward the 15 Percent Requirements from Architectural and Industrial Maintenance Coatings,"

memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, September 10, 1993.

17. "Reclassification of Areas to Nonattainment and 15 Percent Rate-of-Progress Plans," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, September 20, 1993.

18. "Clarification of 'Guidance for Growth Factors, Projections and Control Strategies for the 15 Percent Rate of Progress Plans'," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 6, 1993.

19. "Review and Rulemaking on 15 Percent Rate-of-Progress Plans," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 6, 1993.

20. "Questions and Answers from the 15 Percent Rate-of-Progress Plan Workshop," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Environmental Protection Agency, October 29, 1993.

21. "Rate-of-Progress Plan Guidance on the 15 Percent Calculations," memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, Environmental Protection Agency, October 29, 1993.

22. "Clarification of Issues Regarding the Contingency Measures that are Due November 15, 1993 for Moderate and Above Ozone Nonattainment Areas," memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, Environmental Protection Agency, November 8, 1993.

23. "Credit for 15 Percent Rate-of-Progress Plan Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, December 9, 1993.

24. "Guidance on Projection of Nonroad Inventories to Future Years," memorandum from Philip A. Lorang, Director, Emission Planning and Strategies Division, Office of Air and Radiation, Environmental Protection Agency, February 4, 1994.

25. "Discussion at the Division Directors Meeting on June 1 Concerning the 15 Percent and 3 Percent Calculations," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality

Planning and Standards, Environmental Protection Agency, June 2, 1994.

26. "Future Nonroad Emission Reduction Credits for Court-Ordered Nonroad Standards," memorandum from Philip A. Lorang, Director, Emission Planning and Strategies Division, Office of Air and Radiation, Environmental Protection Agency, November 28, 1994.

27. "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule and the Autobody Refinishing Rule," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, November 29, 1994.

28. "Transmittal of Rule Effectiveness Protocol for 1996 Demonstrations," memorandum from Susan E. Bromm, Director, Chemical, Commercial Services and Municipal Division, Office of Compliance, Environmental Protection Agency, December 22, 1994.

29. "Future Nonroad Emission Reduction Credits for Locomotives," memorandum from Philip A. Lorang, Director, Emission Planning and Strategies Division, Office of Air and Radiation, Environmental Protection Agency, January 3, 1995.

30. "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 22, 1995.

31. "Fifteen Percent Rate-of-Progress Plans—Additional Guidance," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, May 5, 1995.

32. "Update on the Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance Coatings Rule," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 7, 1996.

33. "Date by which States Need to Achieve all the Reductions Needed for the 15% Plan from Inspection and Maintenance (I/M) and Guidance for Recalculation," memorandum from Margo Oge, Director, Office of Mobile Sources, and John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 13, 1996.

34. "Sample City Analysis: Comparison of Enhanced Inspection and Maintenance (I/M) Reductions Versus Other 15 Percent Rate of Progress Plan

Measures," E.H. Pechan and Associates, December 12, 1996.

35. "Modeling 15 Percent Volatile Organic Compound (VOC) Reduction(s) from I/M in 1999: Supplemental Guidance," memorandum from Gay MacGregor, Director, Regional and State Programs Division, and Sally Shaver, Director, Air Quality Strategies and Standards Division, Environmental Protection Agency, December 23, 1996.

36. "15% Volatile Organic Compound (VOC) State Implementation Plan (SIP) Approvals and the 'As Soon As Practicable' Test," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, and Richard B. Ossias, Deputy Associate General Counsel, Division of Air and Radiation, Office of General Counsel, Environmental Protection Agency, February 12, 1997.

For a 15% ROP plan SIP to be approved, the plan must adequately justify how much emission reduction is needed to achieve 15% emission reduction by November 15, 1996, and how the plan's control strategy will secure that reduction. The procedure for calculating the needed emission reduction is as follows:

(A) Calculate the "1990 ROP inventory" by subtracting from the area's "1990 base year inventory"¹ biogenic emissions, emissions outside of the nonattainment area, and pre-enactment banked emission credits;

(B) Calculate the "1990 adjusted base year inventory" by subtracting from the 1990 ROP inventory any emission reductions from the pre-1990 FMVCP and 1990 RVP Federal regulations which occur between 1990 and 1996;²

¹ Sections 172(c)(3) and 182(a)(1) of the Act require that nonattainment plan provisions include a comprehensive, accurate inventory of actual emissions which occurred in 1990 from all sources of relevant pollutants in the nonattainment area. This inventory provides an estimate of the amount of VOC and oxides of nitrogen produced by emission sources such as automobiles, powerplants and the use of consumer solvents in the household. Because the approval of such inventories is necessary to an area's 15% ROP plan and attainment demonstration, the emission inventory must be approved prior to or with the 15% ROP plan submission.

² The 1990 adjusted base year inventory represents the "baseline emissions" from which the 15 percent reduction is to be calculated, as specified under section 182(b)(1)(B) of the Act. Section 182(b)(1)(B) defines baseline emissions to mean the total amounts of actual VOC emissions from all anthropogenic sources in the ozone nonattainment areas during the calendar year of 1990, excluding emissions that are eliminated by the pre-1990 FMVCP and 1990 RVP regulations. In the General Preamble, EPA interprets "calendar year" emissions to consist of typical ozone season weekday emissions, based on the fact that the ozone National Ambient Air Quality Standard (NAAQS) (0.12 parts per million, one-hour average) is generally exceeded or violated during ozone season

(C) Calculate "15% of adjusted base year emissions" by multiplying the 1990 adjusted base year inventory by 15%;

(D) Calculate the "total required reductions by 1996" by adding emission reductions from the pre-1990 FMVCP and 1990 RVP federal rules to 15% of adjusted base year emissions calculation;³

(E) Calculate the "1996 emissions target level" by subtracting from the 1990 ROP base year inventory the total required reductions by 1996;

(F) Calculate the "1996 projected emission estimate" by either adding growth factors to the 1990 adjusted base-year inventory, or adding growth factors and required emission reductions to the 1990 ROP inventory; and,

(G) Calculate the "reduction required by 1996 to achieve 15% net of growth" by subtracting the 1996 target emissions level from the 1996 projected emissions level.

In determining what control measures a State can use in its 15% ROP plan strategy, the Act provides under section 182(b)(1)(C) that emission reductions from control measures are creditable to the extent that they have actually occurred before November 15, 1996. In keeping with this requirement, the General Preamble states that all credited emission reductions must be real, permanent, and enforceable, and that regulations needed to implement the plan's control strategy must be adopted and implemented by the State by November 15, 1996.

IV. Prior Rulemaking Action

On April 3, 1997, EPA published a direct final rulemaking action approving the Lake and Porter Counties 15% ROP plan and a 3% contingency measure plan for Lake and Porter Counties (62 FR 15844). As part of the 15% ROP plan, Indiana also submitted an agreed order requiring VOC emission controls on Keil Chemical Division, Ferro Corporation, located in Lake County (Keil). On the same day (April 3, 1997), EPA proposed approval and solicited public comment on these requested SIP revisions (62 FR 15867). The proposed rule established a 30-day public comment period, noting that if adverse comments were received regarding the

weekdays when ozone precursor emissions and meteorological conditions are most conducive to ozone formation. Ozone seasons are typically the summer months.

³ Under section 182(b)(1)(D), emission reductions pre-1990 and 1990 RVP regulations are not creditable toward meeting 15%. The emission reductions which occurred by 1996 from these regulations are added to emissions required to meet 15% to determine the total amount of emission reduction by 1996 for the area.

direct final rule EPA would withdraw the direct final rule and publish an additional final rule to address the public comments. The only set of comments received during the public comment period was from the Ferro Corporation regarding the Keil agreed order. Because these comments raised questions about the anticipated emissions reductions of the agreed order, EPA withdrew the direct final rulemaking on May 23, 1997 (62 FR at 28349).

Indiana originally claimed emission reductions from the Keil agreed order in the Lake and Porter 15% plan. The July 29, 1994, agreed order (Cause No. A-2250) requires the facility to meet certain control requirements. The agreed order was submitted with the 15% ROP plan for incorporation into the Indiana SIP so that the State could properly take credit for Keil's emission reductions.

Ferro Corporation's comment supported the Lake and Porter Counties 15% ROP plan, but requested that EPA recognize that Keil's VOC control installed pursuant to the agreed order has achieved more emission reductions than required under federal and State control regulations, and, consequently, the excess emission reductions "should

be credited as a banked pollutant for the future." Ferro Corporation also indicated that EPA and Indiana are still reviewing Keil's compliance determination method for the 25 tons per year VOC emission limit under the agreed order. Ferro requested that EPA agree that Keil should not be held in violation of the SIP for the 25 tons per year limit if EPA and Indiana determine that Keil should use a different compliance determination method.

EPA is currently evaluating the Ferro Corporation comments. To expedite final approval of the 15% ROP plan, Indiana submitted a letter on June 13, 1997, which states that it has changed the allocation of control measure reductions between the Lake and Porter Counties 15% ROP plan and the 3% contingency plan. The agreed order emission reductions (5327 lbs VOC per day) will be shifted from the 15% ROP plan to the 3% contingency plan, and remaining reductions from Inland Steel Flat Product's coke oven shutdown (759 lbs VOC per day) and the State's automobile refinishing rule (4619 lbs VOC per day) have been shifted from the 3% contingency plan to the 15% ROP plan. The amount of emission reductions claimed for the coke oven

shutdown and automobile refinishing rule was found by EPA to be acceptable in the April 3, 1997, direct final approval.

In today's action, EPA is promulgating final approval of the 15% ROP plan as adjusted by Indiana's June 13, 1997, letter. Because shifting emission reduction credit between the two plans does not affect the implementation of the plans' control measures, nor the achievement of 15% reduction required under the Act, reproposing approval of the 15% ROP plan is unnecessary. The 3% contingency plan is a separate requirement of the Act, and approval of the 3% contingency plan is not a prerequisite for approval of the 15% ROP plan. EPA will promulgate a final rulemaking on the 3% contingency plan once EPA completes its evaluation of the Ferro Corporation comments.

V. Analysis of Lake and Porter Counties 15% ROP Plan

Indiana's 15% ROP summary for Lake and Porter Counties is provided in the following table. This table has been adjusted from the table which appeared in the direct final to reflect the State's June 13, 1997, letter. (See part IV of this rulemaking).

15% ROP SUMMARY FOR LAKE AND PORTER COUNTIES

Calculation of Reduction needs by 1996		Lbs Voc/ DayAY
1990 Lake and Porter Counties Total VOC Emissions		424,721
1990 ROP Emissions (Anthropogenic only)		381,841
1990-1996 Noncreditable Reductions (Reductions from 1990 RVP and Pre-1990 FMVCP Regulations)		58,838
1990 Adjusted Base Year Emissions (1990 ROP Emissions minus Noncreditable Reductions)		323,003
15% of Adjusted Base Year Emissions		48,450
Total Required Emission Reductions by 1996 (15% of Adjusted Base Year Emissions plus Noncreditable Reductions)		107,288
1996 Target Level (1990 ROP Emissions minus Total Required Emission Reductions by 1996)		274,553
1996 Projected Emissions (1990 Adjusted Base Year Emissions plus Growth Factors)		342,683
Reduction needs by 1996 to achieve 15 percent net of growth (1996 Projected Emission minus 1996 Target Level)		68,130
Creditable Reduction from Mandatory Controls		
Mobile Sources:		
Enhanced Vehicle Inspection and Maintenance (I/M) Program (326 IAC 13-1.1)		6,817
Federal Reformulated Gasoline Program (40 CFR Part 80, Subpart D)		14,905
Area Sources:		
Stage II Gasoline Vapor Recovery (326 IAC 8-4-6)		9,824
Federal Architectural and Industrial Maintenance (AIM) Coatings Rule		2,920
Point Sources:		
Non-Control Techniques Guideline (CTG) Reasonably Available Control Technology (RACT) Rule (326 IAC 8-7)		4,559
Subtotal—Reductions from Mandatory Controls		39,025
Creditable Reductions From Non-Mandatory Controls		
Point Sources:		
Coke Oven Battery Shutdowns at Inland Steel Flat Products (326 IAC 6-1-10.1(k)(5))		23,609
Area Sources:		
Automobile Refinishing (326 IAC 8-10)		4,679
Residential Open Burning (326 IAC 4-1)		929
Subtotal—Reduction From Non-Mandatory Controls		29,217
Total Creditable Reductions from 15% ROP plan		68,242

A. Calculation of the 1990 Adjusted Base Year Emission Inventory

To determine the 1990 adjusted base year inventory, Indiana used the 1990 base year emission inventory approved by EPA on January 4, 1995 (60 FR 375), which was found to meet the requirements of sections 172(c)(3) and 182(a)(1) of the Act for Lake and Porter Counties. Total VOC emissions estimated from this inventory are 424,721 lbs VOC/day. Indiana subtracted biogenic emissions and emissions from outside Lake and Porter Counties from the 1990 base year inventory to determine that the 1990 ROP inventory level is 381,841 lbs VOC/day. No pre-enactment banked emission credit was included in this inventory.

Indiana used EPA's Mobile Source Emissions Model (MOBILE)5a to calculate the emission reductions from the pre-1990 FMVCP and 1990 RVP regulations; these reductions were subtracted from the 1990 ROP inventory level to find the 1990 adjusted base year inventory level of 323,003 lbs VOC/day. Indiana's documentation includes the actual 1990 motor vehicle emissions using 1990 vehicle miles traveled (VMT) and MOBILE5a emission factors, and the adjusted emissions using 1990 VMT and the MOBILE5a emission factors in calendar year 1996 with the appropriate RVP for the nonattainment area as mandated by EPA. The plan includes adequate documentation showing how the MOBILE5a model was run to calculate the expected emission reductions from FMVCP and RVP.

B. 1996 ROP Target Emission Level

To calculate the 1996 target emission level for Lake and Porter Counties, Indiana first multiplied the 1990 adjusted base year inventory by 0.15 to determine that the 15% required emission reduction by 1996 is 48,450 lbs VOC/day. Then, 58,838 lbs VOC/day of reductions from non-creditable control measures (pre-1990 FMVCP and 1990 RVP) were added to the 15% required reduction to find that the total required reductions by 1996 is 107,288 lbs VOC/day. Finally, Indiana subtracted the 1996 total required emission reductions from the 1990 ROP emission inventory to determine that the 1996 emission target level for Lake and Porter Counties is 274,553 lbs VOC/day.

The 15% ROP plan submittal adequately documents the calculations used to determine the Lake and Porter Counties target level by showing each step, discussing any assumptions made, and stating the origin of the numbers used in the calculations.

C. Projected Emission Inventory

To determine the 1996 projected emission inventory, Indiana has included in the 15% ROP plan the growth factors used together with documentation for the assumptions made. The point, area, and non-road mobile source emission inventories were projected using either source supplied data, population forecasts, historical data, or, where historical data were unavailable or not suitable to project, the U.S. Department of Commerce Bureau of Economic Analysis (BEA) regional growth data were used. The on-road mobile source emission inventory was projected using MOBILE5a. The State's calculations for growth in the on-road mobile, off-road mobile, industrial, and area source sectors is 10,180 lbs VOC/day, 1,298 lbs VOC/day, 4,692 lbs VOC/day, and 3,510 lbs VOC/day, respectively, for a total of 19,680 lbs VOC/day. These growth estimates were calculated in a manner consistent with EPA's guidance documents. The projected emissions were added to the 1990 adjusted base year inventory to determine that the 1990 projected emission inventory level is 342,683 lbs VOC/day.

D. Creditable Reductions from Control Measures

From the calculation of the 1996 target emission level and 1996 projected emission level, Indiana must reduce emissions in Lake and Porter Counties by 68,130 lbs VOC/day, to secure the 15% ROP reduction. The Lake and Porter Counties 15% ROP plan does meet this requirement. The total creditable emission reductions achieved by the 15% ROP plan are 68,242 lbs VOC/day. Emission reductions not needed to meet the 15% ROP requirement will be applied toward achieving post-1996 ROP reductions, leading to attainment of the ozone air quality standard.

The SIP submittal includes documentation indicating the sources or source categories which are expected to be affected by each control measure, the sources' projected 1996 emissions without controls, and the assumptions used to estimate how much the sources' 1996 emissions would be reduced by each control measure. These assumptions were derived primarily from Midwest Research Institute's April 30, 1993, document entitled "Support Document for Indiana's Lake and Porter Nonattainment Area 1996 Rate of Progress Plan," which was contracted by EPA to assist Indiana in developing the 15% ROP and contingency plans. A

review of the emission reduction credit taken for each control measure follows:

Enhanced I/M Program

Of the 15% ROP plans originally submitted to EPA, most contain enhanced I/M programs because they achieve more VOC emission reductions than most, if not all other, control strategies. However, because most States experienced substantial difficulties implementing enhanced I/M programs, only a few States are currently actually testing cars using the original enhanced I/M protocol.

On September 18, 1995 (60 FR 48029), EPA finalized revisions to its enhanced I/M rule allowing States significant flexibility in designing I/M programs appropriate for their needs. Further, Congress enacted the National Highway Systems Designation Act of 1995 (NHSDA), which provides States with more flexibility in determining the design of enhanced I/M programs. The substantial amount of time needed by States to re-design enhanced I/M programs in accordance with the final enhanced I/M rules and/or the guidance contained within the NHSDA, to secure State legislative approval when necessary, and set up the infrastructure to perform the testing program has precluded States from obtaining emission reductions from enhanced I/M by November 15, 1996.

Given the heavy reliance by many States on enhanced I/M programs to help satisfy 15% ROP plan requirements, and the recent NHSDA and regulatory changes regarding enhanced I/M programs, EPA has recognized that it was not possible for many States to achieve the portion of the 15% ROP reductions that are attributed to enhanced I/M by November 15, 1996. Under these circumstances, disapproval of the 15% ROP plan SIPs would serve no purpose. Consequently, under certain circumstances, EPA will allow States that pursue re-design of enhanced I/M programs to receive emission reduction credit from these programs in their 15% ROP plans, even though the emission reductions from the I/M program will occur after November 15, 1996.

Specifically, the EPA will approve 15% ROP SIPs if the emission reductions from the revised, enhanced I/M programs, as well as from the other 15% ROP plan measures, will achieve the 15% level as soon after November 15, 1996, as practicable. To make this "as soon as practicable" determination, the EPA must determine that the 15% ROP plan contains all VOC control strategies that are practicable for the nonattainment area in question and that

meaningfully accelerate the date by which the 15% level is achieved. The EPA does not believe that measures meaningfully accelerate the 15% date if they provide only an insignificant amount of reductions.

Indiana's enhanced I/M program for Lake and Porter Counties was approved by EPA on March 19, 1996 (61 FR 11142), and the State began testing vehicles under the new program on January 1, 1997. A single contractor, Envirotec, Inc., operates a test-only centralized network for inspections and re-inspection. The Indiana I/M program requires coverage of all 1976 and newer gasoline powered light duty passenger cars and light duty trucks up to 9,000 pounds Gross Vehicle Weight Rating (GVWR). All applicable 1981 and newer vehicles will be subject to a transient, mass emissions tailpipe test that includes the purge and pressure test. All applicable 1976 through 1980 vehicles will be subject to a BAR90 single-speed idle test that includes the pressure test. The I/M contractor has acquired all the emission test sites required under the State I/M contract, and all the test stations required have been constructed.

EPA has analyzed Indiana's enhanced I/M program to predict when the emission reductions claimed in the Lake and Porter Counties 15% ROP plan for the program will actually be secured. This analysis was based on the methodology specified in EPA's policy memorandum, "Date by Which States Need to Achieve all the Reductions Needed for the 15% Plan from I/M and Guidance for Recalculation," August 13, 1996, and "Modeling 15% VOC Reduction(s) from I/M in 1999—Supplemental Guidance," December 23, 1996. MOBILE5b runs were used to evaluate the credit using inputs that reflect actual program startup. Some of the input parameters of the modeling included: a January 1, 1997, program start date; start-up cutpoints as recommended by EPA; and expected evaporative test procedures available at start-up. The State has taken credit in the Lake and Porter Counties 15% ROP plan for 6,817 lbs VOC/day, or 3.41 tons per day reductions from enhanced I/M. Based on EPA's analysis, the emission reduction claimed will be secured by November 1999. See EPA's August 13, 1996, policy memorandum titled "Date by Which States Need to Achieve all the Reductions Needed for the 15% Plan from I/M and Guidance for Recalculation," for further discussion on the November 1999 date.

To determine whether there are other available potential control measures which can meaningfully accelerate the date by which a 15% reduction in VOC

emissions in Lake and Porter Counties can be achieved, EPA compared the Lake and Porter Counties 15% ROP and 3% contingency plans with control measures included in 15% ROP plans nation-wide, which are listed in EPA's report, "Sample City Analysis: Comparison of Enhanced I/M Reductions Versus other 15 Percent ROP Plan Measures," December 12, 1996, referenced in EPA's policy document "15% VOC SIP Approvals and the 'As Soon As Practicable' Test," February 12, 1997. Based upon the report, EPA believes there are no other potential control measures beyond those already included in the Lake and Porter Counties 15% ROP and 3% contingency plans which can secure a significant amount of emission reduction before November 1999.

Because Indiana's enhanced I/M program will secure emission reductions claimed under the Lake and Porter Counties 15% ROP plan by November 1999, and because there are no other potential control measures which can meaningfully accelerate the achievement of a 15% reduction in the counties before November 1999, the EPA finds that the Lake and Porter Counties 15% ROP plan does secure a 15% emission reduction as soon as practicable. On this basis, the emission reduction claimed for the Lake and Porter Counties enhanced I/M program under the 15% ROP plan is approvable.

Federal Reformulated Gasoline Program

The federal reformulated gasoline program (40 CFR part 80, subpart D) requires gasoline providers in Lake and Porter Counties to sell only gasoline which meets certain blending requirements to reduce pollution. The VOC reduction from reformulated gasoline was determined using the MOBILE5a model to estimate the difference between 1996 highway mobile source emissions at RVP 9.0, the level of control upon gasoline in Lake and Porter Counties before the reformulated gasoline requirement, and 1996 highway mobile source emissions with reformulated gasoline. Indiana has credited a 14,905 lbs VOC/day emission reduction from this program, which is acceptable.

Stage II Gasoline Vapor Recovery Rule

Indiana's Stage II rule (326 IAC 8-4-6) requires facilities that sell more than 10,000 gallons of gasoline per month to operate Stage II vapor recovery systems certified to have a control effectiveness of at least 95%. Indiana has estimated that the rule has a 84% program in-use efficiency, accounting for annual inspection program effects and the

exemption of facilities with a monthly gasoline throughput of less than 10,000 gallons. Indiana has credited a 9,824 lbs VOC/day emission reduction from this rule, which is acceptable.

Federal AIM Coatings Rule

Pursuant to section 183(e) of the Act, EPA proposed on June 25, 1996 (61 FR 32729), a national rule requiring manufacturers of AIM coatings to meet VOC content limitations. The March 7, 1996, EPA memorandum "Update on the Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance Coatings Rule" allows States to take credit for a 20% reduction in AIM coating emissions, even though promulgation of the rule has been delayed. Based on this policy, Indiana has taken an emission reduction credit of 2,920 lbs VOC/day, which is acceptable.

Non CTG RACT Rule

Indiana's Non-CTG RACT rule (326 IAC 8-7) requires VOC controls on sources which have the potential to emit 25 tons of VOC emissions per year, and are not already covered under an existing CTG or part of a post-1990 CTG category.⁴ Sources subject to this rule are allowed to demonstrate compliance by choosing among any one of the following three available options: (1) Achieve an overall VOC reduction in baseline actual emissions of 98% by the addition of add-on controls or documented reduction in VOC-containing materials used; (2) achieve a level of reduction equal to 81% of baseline actual emission by the same means as stated above, where it is demonstrated that a 98% reduction in source emissions is not achievable; or (3) achieve an alternative overall emission reduction by the application of RACT as determined by the State and EPA. Indiana estimates that the rule's overall control efficiency is 81%, and has a rule effectiveness of 80%. Indiana has credited 4,559 lbs VOC/day in emission reductions from this rule, which is acceptable.

Coke Oven Battery Shutdowns at Inland Steel Flat Products

Inland Steel is required under Indiana's Particulate Matter rule 326 IAC 6-1-10.1(k)(5) to shut down

⁴ RACT is the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility. CTGs are EPA documents which provide recommendations on what EPA considers the presumptive norm for RACT for particular industries. Indiana was required to adopt the Non-CTG RACT rule by section 182(b)(2) of the Act.

numbers 6 through 11 coke batteries before 1996. The 1990 base year inventory emissions from these coke batteries, 23,609 lbs VOC/day, are being credited as emission reductions. These reductions are acceptable.

Residential Open Burning Rule

Under Indiana's rule 326 IAC 4-1, residential open burning is banned in Lake and Porter Counties. Indiana estimates 80% emission reduction and 80% rule effectiveness from this rule. An emissions reduction credit of 929 lbs VOC/day from the rule is acceptable.

Automobile Refinishing Rule

The State rule 326 IAC 8-10 requires automobile and mobile equipment refinishing shops to use lower VOC coatings, less-emitting spray-gun and spray-gun cleaning equipment, and improved work practices to reduce

VOC. To improve rule effectiveness, this rule also requires refinishing coating suppliers in the area to sell only coatings which meet the VOC limits required in the rule. In addition to documentation contained in the submittal, Indiana submitted supplemental documentation which indicates that an overall 77.8% emission reduction can be expected from all the control measures required by this rule, with 100% rule effectiveness. This documentation has been included in the docket for this rulemaking. Indiana has taken an emission reduction credit of 4,679 lbs VOC/day from this rule, which is acceptable.

E. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (See sections 172(c)(6), 110(a)(2)(A) of the Act, and 57 FR

13556). The EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from the Assistant Administrator for Air and Radiation (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C) of the Act).

The control measures included in the Lake and Porter 15% ROP plan have been fully adopted by Indiana and have been submitted to EPA as revisions to the State's ozone SIP. The EPA has independently reviewed each control measure to determine conformance with SIP requirements under section 110 and part D of the Act, and the overall enforceability of the measure's requirements. Rulemaking action on each control measure is as follows:

Control measure	Date of EPA approval
Enhanced I/M Program (326 IAC 13-1.1)	March 19, 1996 (61 FR 11142).
Reformulated Gasoline (40 CFR Part 80, Subpart D)	Federal regulation promulgated February 16, 1994 (59 FR 7716).
Stage II Gasoline Vapor Recovery (326 IAC 8-4-6)	April 28, 1994 (59 FR 21942).
Federal AIM Coatings Rule	Proposed federal regulation for which Indiana can take credit. (See memorandum dated March 7, 1996, from John Seitz, Director, Office of Air Quality Planning and Standards to Regional Air Division Directors).
Non-CTG RACT (326 IAC 8-7)	July 5, 1995 (60 FR 34857).
Residential Open Burning Ban (326 IAC 4-1)	February 1, 1996 (61 FR 3581).
Auto Refinishing (326 IAC 8-10)	June 13, 1996 (61 FR 29965).
Coke Oven Battery Shutdown (326 IAC 6-1-10.1(k)(5))	June 15, 1995 (60 FR 31412).

F. Transportation Conformity 1996 Mobile Source Emissions Budget

Section 176(c) requires States to submit SIP revisions establishing the State's criteria and procedures for assessing the conformity of federal actions (transportation and general) to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards, and that such activities will not: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. To assure conformity with the SIP, conformity analyses for transportation projects must take into account the amount of on-road mobile source emissions that can be emitted in accordance with SIP emission reduction milestones. For the purposes of EPA transportation conformity determinations, the 1996 emission level for on-road mobile sources that is achieved from the 15% ROP plan,

constitutes the 1996 VOC mobile source emission budget for Lake and Porter Counties. This level, which is derived from MOBILE5a using 1996 projected on-road mobile source emissions with reformulated gasoline and enhanced I/M, is 50,015 lbs VOC/day. Therefore, final approval of the 15% ROP plan also approves the 1996 mobile source VOC emission budget of 50,015 lbs VOC/day.

For years after 1996, conformity determinations addressing VOCs must demonstrate consistency with this plan revision's motor vehicle emissions budget, and satisfaction of the build/no-build test, as defined under 40 CFR part 93.

G. Concluding Statement on 15% ROP Plan

The EPA has reviewed the Lake and Porter Counties 15% ROP plan SIP revision submitted to EPA as described above, and finds that the plans satisfy the requirements of section 182(b)(1) of the Act, as well as EPA guidance for such plans. Therefore, the EPA, in this action, is approving this plan as a revision to the Indiana ozone SIP.

VI. Final Rulemaking Action

The EPA approves Indiana's 15% ROP plan for Lake and Porter Counties, as a revision to the SIP. For transportation conformity purposes, final approval of the 15% ROP plan also approves the 1996 mobile source emission budget of 50,015 lbs VOC/day. This action will be effective on August 18, 1997.

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.

VII. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. section 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. sections 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.

SIP approvals under section 110 and subchapter I, part D of the 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, the Administrator certifies 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 flexibility analysis would constitute Federal inquiry into the economic reasonableness of the 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)(2).

C. 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.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a major rule as defined by section 804(2).

E. 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 September 16, 1997. 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, Hydrocarbons, Intergovernmental relations, Ozone.

Dated: July 8, 1997.

Michelle D. Jordan,
Acting Regional Administrator.

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. 7401-7671q.

2. Section 52.777 is amended by adding paragraph (k) to read as follows:

§ 52.777 Control Strategy: Photochemical Oxidants (hydrocarbon).

* * * * *

(k) On June 26, 1995, and June 13, 1997, Indiana submitted a 15 percent rate-of-progress plan for the Lake and Porter Counties portion of the Chicago-Gary-Lake County ozone nonattainment area. This plan satisfies the counties' requirements under section 182(b)(1) of the Clean Air Act, as amended in 1990.

[FR Doc. 97-18972 Filed 7-17-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185 and 186

[OPP-300507; FRL-5727-9]

RIN 2070-AB78

Vinclozolin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of the pesticide vinclozolin, [3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione] and its metabolites containing the 3,5-dichloroaniline (3,5-

DCA) moiety at 2.0 parts per million (ppm) in or on the food commodity succulent beans. The tolerance will expire and is revoked on October 1, 1999. A petition was submitted by BASF Corporation to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act of 1996 (Pub. L. 104-170) requesting the tolerance. BASF has requested that EPA revoke the tolerances for prunes, plums, tomatoes, grapes (excluding grapes grown for wine production), raisins, dried prunes and grape pomace. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations. BASF has deleted all residential uses, as well as, turf in parks, school grounds and recreational areas which would be expected to result in significant exposure to children from its vinclozolin registrations under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

DATES: This regulation becomes effective on May 30, 1997. Written objections and hearing requests must be received on or before September 16, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP-30507], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number and submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file