

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environmental Analysis

The Coast Guard considered the environmental impact of this rule and has concluded that, under figure 2-1, paragraph (34)(g), of COMDTINST M16475.1C, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion is provided for regulations establishing Regulated Navigation Areas. This particular regulated navigation area is proposed for the purpose of preserving the remediation efforts at a USEPA Superfund Site. The rule itself will not cause nor introduce any environmental impacts and will be transparent in all regards except for prohibiting activities which could disturb the seabed within the established boundaries of the site.

The USEPA has determined that there will be no significant environmental impact arising from the creation of a RNA designed to protect the sediment cap. The actual placement of the cap in Eagle Harbor was determined by USEPA to provide an environmental benefit to the area by allowing organisms to colonize the clean sediments of the cap ("The Proposed Plan for Cleanup of Eagle Harbor"—December 16, 1991). USEPA's authority to place the cap is expressed in a publicly available document known as a "Removal Action Memorandum" dated June 15, 1993, and additional information is available at the Marine Safety Office at the address under ADDRESSES.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new § 165.1309 is added to read as follows:

§ 165.1309 Eagle Harbor, Bainbridge Island, WA.

(a) *Regulated area.* A regulated navigation area is established on that portion of Eagle Harbor bounded by a line beginning at: 47° 36' 56" N, 122° 30' 36" W; thence to 47° 37' 11" N, 122° 30' 36" W; thence to 47° 37' 25" N, 122° 30' 17" W; thence to 47° 37' 24" N, 122° 30' 02" W; thence to 47° 37' 16" N, 122° 29' 55" W; thence to 47° 37' 03" N, 122° 30' 02" W; thence returning along the shoreline to point of origin. [Datum NAD 1983].

(b) *Regulations.* All vessels and persons are prohibited from anchoring, dredging, laying cable, dragging, seining, bottom fishing, conducting salvage operations, or any other activity which could potentially disturb the seabed in the designated area. Vessels may otherwise transit or navigate within this area without reservation.

(c) *Waiver.* The Captain of the Port, Puget Sound, upon advice from the U.S. EPA Project Manager and the Washington State Department of Natural Resources, may, upon written request, authorize a waiver from this section if it is determined that the proposed operation supports USEPA remedial objectives, or can be performed in a manner that ensures the integrity of the sediment cap. A written request must describe the intended operation, state the need, and describe the proposed precautionary measures. Requests should be submitted in triplicate, to facilitate review by U.S. EPA, Coast Guard, and Washington State Agencies. USEPA managed remedial design, remedial action, habitat mitigation, or monitoring activities associated with the Wyckoff/Eagle Harbor Superfund Site are excluded from the waiver requirement. USEPA is required, however, to alert the Coast Guard in advance concerning any of the above-mentioned activities that may, or will, take place in the Regulated Area.

Dated: December 15, 1999.

Paul M. Blayney,

Rear Admiral, USCG 13th District Commander.

[FR Doc. 99-33581 Filed 12-27-99; 8:45 am]

BILLING CODE 4910-15-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[IN110-1a, FRL-6483-2]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revised source specific lead (Pb) emissions limits for the Hammond Group—Halstab Division (Halstab) facility located in Hammond, Indiana which is located in Lake County. This requested revision to the Indiana State Implementation Plan (SIP) was submitted by the State of Indiana on May 18, 1999.

DATES: This rule is effective on February 28, 2000, unless EPA receives adverse written comments by January 27, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

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

Copies of the material submitted by the State in support of this request are available for inspection at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Randolph O. Cano at (312) 886-6036 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR-18J), EPA, Region 5, Chicago, Illinois 60604, (312) 886-6036.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we", "us", or "our" is used we mean EPA.

Table of Contents

- I. What is the Background for This Action?
- II. How do the Requested Emission Limits Compare to the Present SIP Requirements?
- III. How Will the Lead Emission Reductions be Achieved?
- IV. How Will the Revised Lead Emission Limits Affect Air Quality?
- V. EPA Rulemaking Action
- VI. Administrative Requirements
 - A. Executive Order 12866

- B. Executive Orders on Federalism
- C. Executive Order 13045
- D. Executive Order 13084
- E. Regulatory Flexibility Act
- F. Unfunded Mandates
- G. Submission to Congress and the Comptroller General
- H. National Technology Transfer and Advancement Act
- I. Petitions for Judicial Review

I. What Is the Background for This Action?

Halstab manufactures lead stabilizers for use in plastics, wire and cable applications. Halstab requested a rule change from the currently applicable SIP-approved lead emission limits. The current emission limits are codified at title 326 of the Indiana Administrative Code, Article 15, Rule 1, Section 2 (326 IAC 15-1-2). The current rule limits emissions by regulating the allowable pounds of lead per hour, as well as the hours of operation per quarter, at 15 emission points: stacks s-1, and s-4 through s-17. In order to meet its current marketing demands, Halstab requested that Indiana revise Halstab's emission limits by removing all the operating hour restrictions while lowering the hourly emission limits.

II. How Will the Lead Emission Rate Reductions Be Achieved?

Halstab is installing high efficiency particulate air (HEPA) filters at all emission points listed in the proposed SIP in order to lower its emissions.

III. How do the Requested Emission Limits Compare to the Current Federally Approved Emission Limits?

The current federally-approved lead emission rates range from a high of 1 pound per hour to a low of 0.12 pound per hour at the various listed emission points. The proposed lead rule incorporates limits at two additional emission points which range from a high of 0.07 pounds per hour to a low of 0.03 pounds per hour. Total annual allowable lead emissions under the current SIP requirements are 31,546 pounds. Under the revised requirement, Halstab's actual annual lead emissions should not exceed 6,832.8 pounds.

IV. How Will the Revised Emission Limits Affect Air Quality?

Indiana required an air quality modeling demonstration as a part of this rule change request. The modeling analysis used was the Industrial Source Complex Long Term (ISCLT) Model Version 96113. Halstab modeled a series of discrete receptor grids along with three discrete receptors representing the three lead monitors in the area. Halstab took background concentrations from

the closest lead monitor which is located at 2325 Sumner Street in Hammond, Indiana. The modeled concentrations of the proposed allowables added with the background data are below the lead National Ambient Air Quality Standards (NAAQS). This demonstrated that the decreased allowable emission limitations along with the removal of all operating hour restrictions at Halstab should not result in a violation of the lead NAAQS.

V. EPA Rulemaking Action

EPA has examined the State's SIP revision request and the supporting documentation provided by the State. Based on the merits of the information supplied, EPA approves the incorporation of 326 IAC 15-1-2(a)(7)(A) through (G) into the Indiana SIP.

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, EPA is proposing to approve the State Plan should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by January 27, 2000. Should EPA receive such comments, it will publish a final rule informing the public that this action will 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 February 28, 2000.

VI. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces E.O. 12612 (Federalism) and E.O. 12875 (Enhancing the Intergovernmental Partnership). E.O. 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the E.O. to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the

distribution of power and responsibilities among the various levels of government." Under E.O. 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132. Thus, the requirements of section 6 of the E.O. do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a

separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. 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 create 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 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. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to

State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. 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 to the private sector, result from this action.

G. 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. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

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

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

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 28, 2000. 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, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: November 19, 1999.

Francis X. Lyons,

Regional Administrator, Region 5.

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 *et seq.*

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(129) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(129) On May 18, 1999, the Indiana Department of Environmental Management submitted revised site-specific lead emission limits for Hammond Group—Halstab Division located in Hammond (Lake County), Indiana. The revised emission limits are expressed as pounds-per-hour limits ranging from 0.04 to 0.07 applicable to sixteen separate emissions points. The revised emission limits will result in the reduction of total allowable lead emissions from 31,546 pounds per year as provided for in the current federally-approved State Implementation Plan to 6,832.8 pounds per year.

(i) Incorporation by reference.

(A) Indiana Administrative Code 326: Air Pollution Control Board, Article 15 Lead, Rule 1 Lead Emissions

Limitations, Section 2—Source Specific Provisions, subsection (a), subdivision 7, clauses (A) through (G). Amended at 22 Indiana Register 1427, effective February 5, 1999.

[FR Doc. 99-33025 Filed 12-27-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE 047-1024a, MD 089-3042a, PA 140-4092a, VA 104-5043a; FRL-6483-9]

Approval and Promulgation of Air Quality Implementation Plans; Delaware, Maryland, Pennsylvania, and Virginia; Approval of National Low Emission Vehicle Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve State Implementation Plan (SIP) revisions submitted by the Commonwealths of Pennsylvania and Virginia, and by the States of Maryland and Delaware. These SIP revisions formalize each of the respective State's commitments to accept sales of motor vehicles that comply with the requirements of the National Low Emission Vehicle (National LEV) program. Delaware originally submitted its National LEV SIP revision to EPA on February 25, 1999, but later revised the SIP on September 1, 1999 to supercede the prior submittal. Maryland submitted its National LEV SIP revision to EPA on March 3, 1999, and amended the plan on March 24, 1999. Pennsylvania submitted its National LEV SIP revision to EPA on January 8, 1999. Virginia submitted its National LEV SIP revision to EPA on May 27, 1999.

Delaware, Maryland, Pennsylvania, and Virginia have agreed to the sale of National LEV compliant vehicles within their borders, in lieu of implementing a California LEV program. Under the National LEV Program, auto manufacturers have agreed to sell cleaner vehicles meeting the National LEV standards throughout these states for the duration of the manufacturers' commitments to the National LEV Program. A SIP revision from each participating state is required as part of the agreement between states and automobile manufacturers to ensure the continuation of the National LEV Program to supply clean cars throughout most of the country. The sale of vehicles complying with National LEV program standards began with 1999 model year

vehicles in Northeast states, and will extend to other states outside the Northeast beginning with 2001 model year vehicles.

DATES: This rule is effective on February 28, 2000 without further notice, unless EPA receives adverse comment by January 27, 2000. If we receive such comment, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; or at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of state-specific materials may be reviewed at each respective state's offices, at: the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, Dover, Delaware 19903; the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224; the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; or at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Brian K. Rehn, (215) 814-2176, or by e-mail at Rehn.Brian@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The National Low Emission Vehicle (National LEV) program is a voluntary, nationwide clean car program, designed to reduce ground level ozone (or smog) and other air pollution emitted from newly manufactured motor vehicles. On June 6, 1997 (62 FR 31192) and on January 7, 1998 (63 FR 926), the Environmental Protection Agency (EPA) promulgated rules outlining the framework for the National LEV program. These National LEV regulations allow auto manufacturers to commit to meet tailpipe standards for cars and light-duty trucks that are more stringent than EPA could otherwise mandate under the authority of the Clean Air Act. The regulations provided

that the program would come into effect only if Northeast states and auto manufacturers agreed to participate. On March 9, 1998 (63 FR 11374), EPA published a finding that the program was in effect. Nine northeastern states (Connecticut, Delaware, Maryland, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Virginia, and the District of Columbia) and 23 auto manufacturers (BMW, Chrysler, Fiat, Ford, General Motors, Honda, Hyundai, Isuzu, Jaguar, Kia, Land Rover, Mazda, Mercedes-Benz, Mitsubishi, Nissan, Porsche, Rolls-Royce, Saab, Subaru, Suzuki, Toyota, Volkswagen, and Volvo) had opted to participate in the National LEV program. Once in effect, the National LEV Program became enforceable in the same manner as any other Federal new motor vehicle emission control program. The National LEV Program will achieve significant air pollution reductions nationwide. In addition, the program provides substantial harmonization of Federal and California new motor vehicle standards and test procedures, which enables manufacturers to move towards the design and testing of vehicles to satisfy one set of nationwide standards. The National LEV Program demonstrates how cooperative partnership efforts can produce a smarter, cheaper emissions control program, which reduces regulatory burden while increasing protection of the environment and public health.

The National LEV Program will result in substantial reductions in non-methane organic gases (NMOG) and nitrous oxides (NOx), which contribute to unhealthy levels of smog in many areas across the country. National LEV vehicles are 70% cleaner than today's model requirements under the Clean Air Act. This voluntary program provides auto manufacturers flexibility in meeting the associated standards as well as the opportunity to harmonize their production lines and make vehicles more efficiently. National LEV vehicles were estimated to cost an additional \$76 above the price of vehicles otherwise required today, but the actual per vehicle cost is now expected to be even lower, due to factors such as economies of scale and historical trends related to emission control costs. This predicted incremental cost is less than 0.5% of the price of an average new car. In addition, the National LEV Program will help ozone nonattainment areas across the country improve their air quality, as well as reduce pressure to make further, more costly emission reductions from stationary industrial sources.

Because it is a voluntary program, National LEV was set up to take effect, and will remain in effect, only if the