(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 30, 2000.

R.E. Bennis,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 00–14507 Filed 6–7–00; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN117–1a, FRL–6708–2]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving nine negative declarations submitted by the State of Indiana on November 8, 1999, and January 10, 2000. Each of these negative declarations concerns sources located in Lake and Porter Counties, which are classified as a severe nonattainment area for the pollutant ozone. Each of the negative declarations indicates that the State has searched its emissions source inventory and permit files for Lake and Porter Counties and determined there are no sources with a potential to emit 25 tons per year or more of volatile organic compounds (VOC) in the following source categories: aerospace coating operations, industrial clean up solvents, industrial wastewater processes, offset lithographic operations, business plastics, automotive plastics, and synthetic organic chemical manufacturing industries (SOCMI) batch processes, reactors and distillation units.

DATES: This rule is effective on August 7, 2000, unless EPA receives adverse written comments by July 10, 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 negative declarations 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?

The Clean Air Act (Act), as amended in 1977, required States to adopt emission controls reflective of reasonably available control technology (RACT) for sources of VOC emissions in ozone nonattainment areas. Subsequently, EPA issued three sets of control technique guidelines (CTGs) documents, establishing a ''presumptive norm'' for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. EPA determined that an area's State Implementation Plan (SIP) approved attainment date established which RACT rules the State needed to adopt and implement and for which areas. In those areas where the State sought from EPA an extension of the attainment date under section 172(a)(2) of the Act to as late as December 31, 1987, the Act as amended in 1977 required RACT for all CTG sources and for all major VOC non-CTG sources. The 1977 amendments to the Act defined as major any VOC non-CTG source with a potential to emit 100 tons per year or more of VOC emissions. Indiana sought and received such an extension from EPA for Lake and Porter Counties.

Congress amended the Act in 1990. The 1990 amendments to the Act reduced the size definition of major source to 25 tons per year or more of VOC emissions for sources located in severe ozone nonattainment areas. Section 182(b)(2) of the Act, as amended, requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the amended Act of 1990; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG. These section 182(b)(2) RACT requirements are referred to as the RACT ''catch-up'' requirements.

Section 183 of the amended Act requires EPA to issue CTGs for 13 source categories by November 15, 1993. EPA published a CTG by this date for the following source categories—Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactors and Distillation, aerospace manufacturing coating operation, shipbuilding and ship repair coating operations, and wood furniture coating operation; however, EPA has not completed the CTGs for the remaining source categories. The amended Act requires States to submit rules for sources covered by a post-enactment CTG in accordance with a schedule specified in a CTG document.

The EPA created a CTG document as appendix E to the *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.* (57 FR 18070, 18077, April 28, 1992). In appendix E, EPA interpreted the Act to allow a State to submit a non-CTG rule by November 15, 1992, or to defer submittal of a RACT rule for sources that the State anticipated would be covered by a post-enactment CTG, based on the list of CTGs EPA expected to issue to meet the requirement in section 183. Appendix E states that if EPA fails to issue a CTG by November 15, 1993 (which it did for 11 source categories), the responsibility shifts to the State to

submit a non-CTG RACT rule for those sources by November 15, 1994. In accordance with section 182(b)(2), implementation of that RACT rule should occur by May 31, 1995.

II. What Are Negative Declarations and What Is Their Purpose?

The EPA does not require States to develop plans or regulations to control emissions from sources which are not located in the planning area. In order to determine whether this might be the case, the State may examine its emissions inventory before initiating the planning and regulation development process. If the State finds no subject sources, then the State may prepare and submit to EPA, a negative declaration stating there are no sources in the planning area which would be subject to the required rule, rather than a control plan for sources in a particular category. In addition to reviewing its emissions inventory, Indiana reviewed its permit files for sources with a potential to emit 25 tons or more of VOC annually located in Lake and Porter Counties.

III. What Types of Sources Are Covered by These Negative Declarations?

The State negative declarations addressed two CTG categories: Control of Volatile Organic Compound Emissions from Industrial Wastewater (EPA Document Number: EPA–453/D–93–056) and Control of Volatile Organic Emissions from Coating Operations at Aerospace Manufacturing and Rework Facilities (EPA Document Number: EPA–453/R–97–004, December 1997). The State's negative declarations also includes two source categories addressed by the Alternative Control Document: [1] Surface Coating of Automotive/ Transportation and Business Machine Plastic Parts (EPA 4531R–94–017, February 1994 including page 4–3a as revised April 4, 1994). The State negative declarations also addressed five non-CTG source categories because the State must control VOC emissions from all sources with a potential to emit 25 tons or more of VOC annually located in Lake and Porter Counties. Indiana searched its inventory and determined that no sources with a potential to emit 25 tons or more of VOC per year were located in Lake and Porter Counties in the following five non-CTG source categories: industrial clean up solvents, offset lithography operations, and SOCMI batch processes, reactors and distillation units.

[1] Alternative Control Documents are prepared by EPA to provide information on emissions, controls, control options and costs which the State can use in developing rules based on RACT.

IV. If New Sources Are Constructed in Lake and Porter Counties, Will the VOC Emissions From These Source Categories Be Uncontrolled?

No, new major sources locating in a nonattainment area are subject to the more stringent emission control requirements of New Source Review under part D of the Clean Air Act.

V. EPA Rulemaking Action

EPA has examined the State's negative declarations regarding the lack of need for regulations controlling emissions from the source categories identified above and located in Lake and Porter Counties. EPA also examined the supporting evidence provided by the State. Based on these examinations, EPA agrees there are currently no major sources in the nine categories for which the State submitted negative declarations located in the Lake and Porter Counties severe ozone nonattainment area. As a result, EPA approves Indiana's negative declarations for these sources.

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 July 10, 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 August 7, 2000.

VI. Administrative Requirements

A. Executive Order 12866

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

B. 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 Executive Order 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 Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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, Executive Order 13084 requires EPA to develop an effective process permitting elected officials 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. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 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 Executive Order 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 Executive Order 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 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 Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order 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 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 sections 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 costs to State, local, or tribal governments in the aggregate; or to the 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 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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective August 7, 2000 unless EPA receives adverse written comments by July 10, 2000.

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 August 7, 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, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 24, 2000.

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 52.777 is amended by adding paragraph (w) to read as follows:

§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(w) Negative declarations—Aerospace coating operations, industrial clean up solvents, industrial wastewater processes, offset lithography operations, business plastics, automotive plastics, and synthetic organic chemical manufacturing industries (SOCMI) batch processes, reactors and distillation units categories. On November 8, 1999, and January 10, 2000, the State of Indiana certified to the satisfaction of the Environmental Protection Agency that no major sources categorized as part of the nine categories listed above and have a potential to emit 25 tons or more of volatile organic compounds annually are located in Lake or Porter Counties in northwest Indiana.

[FR Doc. 00–13841 Filed 6–7–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR part 52

[IN112–1a, FRL–6708–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving nine negative declarations submitted by the State of Indiana on November 8, 1999. Each of these negative declarations concerns sources located in Clark and Floyd Counties, which are classified as a moderate nonattainment area for the pollutant ozone. Each of the negative declarations indicates that the State has searched its emissions source inventory and permit files for Clark and Floyd Counties and determined that there are no sources with a potential to emit 100 tons per year or more of volatile organic compounds (VOC) in the following source categories: aerospace coating operations, industrial clean up solvents, industrial wastewater processes, offset lithographic printing, business plastics, automotive plastics, and synthetic organic chemical manufacturing industries (SOCMI) batch processes, reactors and distillation units.

DATES: This rule is effective on August 7, 2000 unless EPA receives adverse written comments by July 10, 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.

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When Congress amended the Act in 1999, it included section 182(b)(2) which required States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG— *i.e.,* a CTG issued prior to the enactment of the amended Act of 1990; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG. These section 182(b)(2) RACT requirements are referred to as the RACT ''catch-up'' requirements.

Section 183 of the 1990 Amendments required EPA to issue CTGs for 13 source categories by November 15, 1993. EPA published a CTG by this date for the following source categories: Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactors and Distillation, aerospace manufacturing coating operation, shipbuilding and ship repair coating operations, and wood furniture coating operation; however, EPA has not completed the CTGs for the remaining source categories. The amended Act requires States to submit rules for sources covered by a post-enactment CTG in accordance with a schedule specified in a CTG document.

The EPA created a CTG document as appendix E to the *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.* (57 FR 18070, 18077, April 28, 1992). In appendix E, EPA interpreted the Act to allow a State to submit a non-CTG rule by November 15, 1992, or to defer submittal of a RACT rule for sources that the State anticipated would be covered by a post-enactment CTG, based on the list of CTGs EPA expected to issue to meet the requirement in section 183. Appendix E states that if EPA fails to issue a CTG by November 15, 1993 (which it did for 11 source categories), the responsibility shifts to the State to submit a non-CTG RACT rule for those sources by November 15, 1994. In accordance with section 182(b)(2), implementation of that RACT rule should occur by May 31, 1995.