

\* \* \* \* \*

[FR Doc. 2016-19888 Filed 8-22-16; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[EPA-R05-OAR-2015-0523; FRL-9950-84-Region 5]****Air Plan Approval; Indiana; Shipbuilding Antifoulant Coatings****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving, as a revision to the Indiana State Implementation Plan (SIP), a submittal by the Indiana Department of Environmental Management (IDEM) dated July 17, 2015. The submittal contains a new volatile organic compound (VOC) limit for antifoulant coatings used in shipbuilding and ship repair facilities located in Clark, Floyd, Lake, and Porter counties. The submittal also includes a demonstration that this revision satisfies the anti-backsliding provisions of the Clean Air Act (CAA). The submittal additionally removes obsolete dates and clarifies a citation.

**DATES:** This direct final rule will be effective October 24, 2016, unless EPA receives adverse comments by September 22, 2016. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2015-0523 at <http://www.regulations.gov> or via email to [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located

outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-4489, [svingen.eric@epa.gov](mailto:svingen.eric@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

- I. What is the background of this SIP revision?
- II. What is EPA’s analysis of the State’s submittal?
- III. What action is EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

**I. What is the background of this SIP revision?**

On July 17, 2015, IDEM submitted to EPA a request to incorporate into Indiana’s SIP a revised version of 326 Indiana Administrative Code (IAC) 8-12-4, “Volatile organic compound emissions limiting requirements,” with an effective date of June 21, 2015.

Indiana’s rulemaking adds, at 326 IAC 8-12-4(a)(1)(D), a VOC limit of 3.33 lbs VOC per gallon for antifoulant coatings used in shipbuilding and ship repair facilities located in Clark, Floyd, Lake, and Porter counties. In 326 IAC 8-12-3(22)(C), an “antifoulant specialty coating” is defined as any coating that is applied to the underwater portion of a vessel to prevent or reduce the attachment of biological organisms and that is registered with the EPA as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act. The same definition is provided in EPA’s Control Techniques Guidelines (CTG) for Shipbuilding and Ship Repair Operations (Surface Coating) (61 FR 44050, August 27, 1996). Clark and Floyd counties are part of the Louisville, KY-IN maintenance area for the 1997 ozone National Ambient Air Quality Standard (NAAQS), and Lake and Porter counties are part of the Chicago-Naperville, IL-IN-WI nonattainment area for the 2008 ozone NAAQS and the Chicago-Gary-Lake County, IL-IN

maintenance area for the 1997 ozone NAAQS.

Before IDEM added the revised VOC limit of 3.33 lbs VOC per gallon in 326 IAC 8-12-4(a)(1)(D), antifoulant coatings were limited by the specialty coating limit of 2.83 lbs VOC per gallon at 326 IAC 8-12-4(a)(1)(E), which IDEM has moved to 326 IAC 8-12-4(a)(1)(F) in this revision. The revised limit of 3.33 lbs VOC per gallon is consistent with the limit in Table 1-1 of EPA’s Alternative Control Techniques (ACT) Document: Surface Coating Operations at Shipbuilding and Ship Repair Facilities (EPA-453/R-94-032, April 1994). In addition, it is consistent with the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Shipbuilding and Ship Repair (Surface Coating) at 40 CFR part 63, subpart II. EPA’s CTG identifies the limit from the ACT as Reasonably Available Control Technology (RACT), and states that the NESHAP can be used as a model rule for shipbuilding and ship repair facilities.

In Indiana’s rulemaking, 326 IAC 8-12-4 is also revised to remove obsolete dates and clarify a reference to EPA’s NESHAP for Shipbuilding and Ship Repair (Surface Coating) at 40 CFR 63, subpart II.

This SIP revision relies on offsets generated by the Architectural and Industrial Maintenance (AIM) coatings rule at 326 IAC 8-14 to compensate for the increase in allowable VOC emissions.

**II. What is EPA’s analysis of the State’s submittal?**

Revisions to SIP-approved control measures must meet the requirements of, among other statutory provisions, section 110(l) of the CAA in order to be approved by EPA. Section 110(l), known as EPA’s anti-backsliding provision, states:

“The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.”

In the absence of an attainment demonstration, to demonstrate no interference with any applicable NAAQS or requirement of the CAA under section 110(l), states may substitute equivalent emissions reductions to compensate for any change to a SIP-approved program, as long as actual emissions are not increased. “Equivalent” emissions reductions mean reductions which are equal to or greater than those reductions achieved by the control measure approved in the SIP. To show that



IDEM's section 110(l) demonstration identifies available offsets from Indiana's AIM rule of 0.292 tons VOC per summer day, and Indiana's revisions to 326 IAC 8-12-4 require offsets of less than 0.004167 tons VOC per summer day. Therefore, the VOC emissions increase associated with the revisions of 326 IAC 8-12-4 are more than offset by the VOC emission reductions attributed to reductions in AIM coatings emissions.

In an earlier submittal, Indiana requested to use a separate portion of available offsets from Indiana's AIM rule to offset removal of Stage II gasoline vapor recovery requirements for the years 2014 and 2015. EPA finalized approval of that SIP submittal on June 9, 2016 (81 FR 37160). For the year 2014, EPA's final rulemaking relevant to the Stage II rule uses offsets from Indiana's AIM rule of 0.001829695 tons VOC per summer day, and for 2015, that same rulemaking uses offsets from Indiana's AIM rule of 0.002250149 tons VOC per summer day. That rulemaking relevant to Stage II uses no offsets for 2016 or future years.

Indiana's revised version of 326 IAC 8-12-4 has an effective date of June 21, 2015, so offsets are necessary for 2015 and future years. For 2015, IDEM identifies available offsets from Indiana's AIM rule of 0.292 tons VOC per summer day, EPA's proposed rulemaking relevant to Stage II uses offsets of 0.002250149 tons VOC per summer day, and this rulemaking relevant to 326 IAC 8-12-4 uses offsets of 0.004167 tons VOC per summer day. Therefore, offsets from Indiana's AIM rule of 0.285582851 tons VOC per summer day remain available for future use. For 2016 and future years, IDEM identifies available offsets from Indiana's AIM rule of 0.292 tons VOC per summer day, EPA's proposed rulemaking relevant to Stage II uses no offsets, and this rulemaking relevant to 326 IAC 8-12-4 uses offsets of 0.004167 tons VOC per summer day. Therefore, offsets from Indiana's AIM rule of 0.287833 tons VOC per summer day remain available for future use.

Based on the use of permanent, enforceable, contemporaneous, surplus emissions reductions achieved through the offsets from VOC reductions in AIM coatings emissions in Clark and Floyd counties, EPA has concluded that the revisions of 326 IAC 8-12-4 do not interfere with southeast Indiana's ability to demonstrate compliance with the 1997 ozone NAAQS or 2008 ozone NAAQS.

EPA also examined whether the revisions of 326 IAC 8-12-4 will interfere with attainment of any other

air quality standards. Lake and Porter counties are designated attainment for all standards other than ozone, including sulfur dioxide and nitrogen dioxide. Clark and Floyd counties are designated attainment for all standards other than ozone and particulate matter.<sup>1</sup> For the reasons discussed above, EPA has no reason to believe that the revisions will cause the areas to become nonattainment for any of these pollutants. In addition, EPA believes that the revisions will not interfere with the areas' ability to meet any other CAA requirement.

Based on the above discussion and the state's section 110(l) demonstration, EPA has concluded that the revisions to 326 IAC 8-12-4 will not interfere with attainment or maintenance in the Louisville, KY-IN maintenance area for the 1997 ozone NAAQS, the Chicago-Naperville, IL-IN-WI nonattainment area for the 2008 ozone NAAQS, or the Chicago-Gary-Lake County, IL-IN maintenance area for the 1997 ozone NAAQS, and would not interfere with any other applicable requirement of the CAA, and thus, are approvable under CAA section 110(l). Also, as stated in the previous section, the antifouling coating limit satisfies RACT.

### III. What action is EPA taking?

EPA finds that the revision will not interfere with any applicable CAA requirement. For that reason, EPA is approving, as a revision to the Indiana ozone SIP, a revised version of 326 IAC 8-12-4 submitted by IDEM on July 17, 2015.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be

<sup>1</sup> Clark and Floyd counties are currently designated nonattainment for the 1997 Annual fine particulate matter (PM<sub>2.5</sub>) standard. While VOC is one of the precursors for particulate matter (NAAQS) formation, studies have indicated that in the southeast, which includes the Louisville, KY-IN maintenance area for the 1997 ozone NAAQS, emissions of direct PM<sub>2.5</sub> and the precursor sulfur oxides are more significant to ambient summertime PM<sub>2.5</sub> concentrations than emissions of nitrogen oxides and anthropogenic VOC. See, e.g., *Journal of Environmental Engineering-Quantifying the sources of ozone, fine particulate matter, and regional haze in the Southeastern United States* (June 24, 2009), available at: <http://www.journals.elsevier.com/journal-of-environmental-management>. Currently, Clark and Floyd counties are not designated nonattainment for any of the other criteria pollutants (i.e. sulfur dioxide, nitrogen dioxide, lead or carbon monoxide) and those pollutants are not affected by the removal of Stage II requirements.

effective October 24, 2016 without further notice unless we receive relevant adverse written comments by September 22, 2016. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective October 24, 2016.

### IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana Regulations described in the amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>2</sup> EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not

<sup>2</sup> 62 FR 27968 (May 22, 1997).

impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible

methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 action 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 24, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with

objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 5, 2016.

**Robert A. Kaplan,**

*Acting Regional Administrator, Region 5.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

■ 2. In § 52.770 the table in paragraph (c) is amended by revising the entry for 8–12–4 under “Article 8. Volatile Organic Compound Rules” “Rule 12. Shipbuilding or Ship Repair Operations in Clark, Floyd, Lake, and Porter Counties” to read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED INDIANA REGULATIONS**

Indiana citation	Subject	Indiana effective date	EPA Approval date	Notes
*	*	*	*	*
<b>Article 8. Volatile Organic Compound Rules</b>				
*	*	*	*	*
<b>Rule 12. Shipbuilding or Ship Repair Operations in Clark, Floyd, Lake, and Porter Counties:</b>				
8–12–4 .....	Volatile organic compound emissions limiting requirements.		06/21/2015	08/23/2016, [insert <b>Federal Register</b> citation].
*	*	*	*	*

\* \* \* \* \*

[FR Doc. 2016-20016 Filed 8-22-16; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 79

[CG Docket No. 05-231; FCC 16-17]

### Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) allocates the responsibilities of video programming distributors (VPDs) and video programmers with respect to the provision and quality of closed captions on television programming, with each entity responsible for closed captioning issues that are primarily within its control; amends the Commission's captioning complaint procedures to include video programmers in the handling of complaints; and requires video programmers to register contact information and certify compliance with captioning obligations directly with the Commission.

**DATES:** Effective September 22, 2016, except for 47 CFR 79.1(g)(1) through (9), (i)(1) through (3), (j)(1) and (4), (k)(1)(iv), and (m) of the Commission's rules, which contain information collection requirements that are not effective until approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date for those sections.

**FOR FURTHER INFORMATION CONTACT:** Eliot Greenwald, Disability Rights Office, Consumer and Governmental Affairs Bureau, at phone: (202) 418-2235 or email: [Eliot.Greenwald@fcc.gov](mailto:Eliot.Greenwald@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking* Second Report and Order (*Second Report and Order*), document FCC 16-17, adopted on February 18, 2016, and released on February 19, 2016. The full text of document FCC 16-17 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center,

Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. Document FCC 16-17 can also be downloaded in Word or Portable Document Format (PDF) at: <https://www.fcc.gov/general/disability-rights-office-headlines>. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

### Final Paperwork Reduction Act of 1995 Analysis

Document FCC 16-17 contains new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public to comment on the information collection requirements contained in document FCC 16-17 as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, the Commission notes that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, 44 U.S.C. 3506(c)(4), the Commission previously sought comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees." See *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking*, published at 79 FR 17093, March 27, 2014 (Further Notice of Proposed Rulemaking) and 79 FR 17911, March 31, 2014 (Report and Order) (references are to the *Closed Captioning Quality Order* when discussing parts of the Report and Order, and to the *Closed Captioning Quality Further Notice* when discussing parts of the Further Notice of Proposed Rulemaking).

### Synopsis

1. Closed captioning is a technology that provides visual access to the audio content of video programs by displaying this content as printed words on the television screen. In 1997, the Commission, acting pursuant to section 713 of the Communications Act (the Act), 47 U.S.C. 713, adopted rules regarding closed captioning on television. On February 24, 2014, the Commission adopted the *Closed Captioning Quality Order* in which, among other things, it placed responsibility for compliance with the

non-technical closed captioning quality standards on (VPDs) while simultaneously releasing the *Closed Captioning Quality Further Notice* to seek comment on, among other issues, extending some of the responsibilities for complying with the closed captioning quality standards to other entities involved in the production and delivery of video programming. On December 15, 2014, the Commission released a Second Further Notice seeking to supplement the record in this proceeding in response to comments received on the *Closed Captioning Quality Further Notice. Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking, Second Further Notice of Proposed Rulemaking*, published at 79 FR 78768, December 31, 2014 (*Closed Captioning Quality Second Further Notice*).

2. *Responsibilities of VPDs and Video Programmers.* In its 1997 *Closed Captioning Report and Order*, the Commission placed sole responsibility for compliance with its television closed captioning rules on VPDs. *Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility, Report and Order*, published at 62 FR 48487, September 16, 1997 (*1997 Closed Captioning Report and Order*). At that time, the Commission concluded that holding VPDs responsible would most expeditiously increase the availability of television programming with closed captions and promote efficiency in the Commission's monitoring and enforcement of its captioning rules. At the same time, the Commission recognized the Commission's jurisdiction, under section 713 of the Act, over both video programming providers and owners to ensure the provision of closed captioning of video programming, and noted its expectation that both "owners and producers will be involved in the captioning process."

3. In the *Closed Captioning Quality Order*, the Commission similarly placed the responsibility for compliance with the non-technical closed captioning quality standards on VPDs. However, recognizing that the creation and delivery of quality closed captioning is not solely within the control of VPDs and that video programmers play a "critical role" in providing closed captions to viewers, the Commission stated that it would allow a VPD to satisfy its obligations with respect to the caption quality rules by obtaining or making best efforts to obtain