Metals—South plants. 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, Ozone, Reporting and recordkeeping requirements.

Dated: May 17, 1996.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(110) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(110) Alternative Compliance Plans submitted on November 4, 1986 by the Virginia State Air Pollution Control Board:

(i) Incorporation by reference.

(A) Letter of November 4, 1986 from the Virginia State Air Pollution Control Board transmitting alternative compliance plans for the Reynolds Metals—Bellwood and South Plants, Richmond, Virginia.

(B) The below-described Consent Agreements and Orders between the Commonwealth of Virginia and the Reynolds Metals Company, effective October 31, 1986:

(*1*) DSE–413A–86—Consent Agreement and Order Addressing Reynolds Metals Company's Bellwood Printing Plant (Registration No. 50260).

(*2*) DSE–412A–86—Consent Agreement and Order Addressing Reynolds Metals Company's Richmond Foil Plant (Registration No. 50534).

(ii) Additional material.

(A) Remainder of November 4, 1986 State submittal.

(B) Letter of February 12, 1987 from the Virginia State Air Pollution Control Board.

[FR Doc. 96–14967 Filed 6–12–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IN61–1–7230a; FRL–5509–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On September 19, 1995, and November 8, 1995, the State of Indiana submitted a State Implementation Plan (SIP) revision request to the EPA establishing regulations for automobile refinishing operations in Clark, Floyd, Lake, and Porter Counties, as part of the State's 15 percent (%) Rate of Progress (ROP) plan control strategies for Volatile Organic Compounds (VOC) emissions. VOC is an air pollutant which combines with oxides of nitrogen in the atmosphere to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. ROP plans are intended to bring areas which have been exceeding the public health-based Federal ozone air quality standard closer to attaining the ozone standard. This rule establishes VOC content limits for suppliers and users of coating and surface preparation products applied in motor vehicle/mobile equipment refinishing operations, as well as requires subject refinishing facilities to meet certain work practice standards to further reduce VOC. Indiana expects that the control measures specified in this automobile refinishing SIP will reduce VOC emissions by 4,679 pounds per day (lbs/day) in Lake and Porter Counties and 1,172 lbs/day in Clark and Floyd Counties. This rule is being approved because it meets all the applicable Federal requirements.

DATES: The ''direct final'' rule is effective on August 12, 1996, unless EPA receives adverse or critical comments by July 15, 1996. If the effective date is delayed, timely notification will be published in the Federal Register.

ADDRESSES: Copies of the revision request are available for inspection at the following address: Environmental Protection Agency, Region 5, Air and Radiation Division, Air Programs Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office.)

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.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Submittal Background

Section 182(b)(1) of the Clean Air Act (the Act) requires all moderate and above ozone nonattainment areas to achieve a 15% reduction of 1990 emissions of VOC by November 15, 1996. In Indiana, Lake and Porter Counties are classified as ''severe'' nonattainment for ozone, while Clark and Floyd Counties are classified as ''moderate'' nonattainment. As such, these counties are subject to the 15% ROP requirement.

The Act specifies under section 182(b)(1)(C) that the 15% emission reduction claimed under the ROP plan must be achieved through the implementation of control measures through revisions to the SIP, the promulgation of federal rules, or the issuance of permits under Title V of the Act, by November 15, 1996. Control measures implemented before November 15, 1990, are precluded from counting toward the 15% reduction. In addition, section 172(c)(9) requires moderate areas to adopt contingency measures by November 15, 1993. The General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (April 28, 1992, 57 FR at 18070), states that the contingency measures generally must provide reductions of 3% from the 1990 base-year inventory, which can be met through additional SIP revisions.

Indiana has adopted and submitted automobile refinishing rules for the control of VOC as a revision to the SIP for the purpose of meeting the 15% ROP plan control measure requirement for Clark and Floyd Counties, as well as meeting the contingency measure requirement for Lake and Porter Counties. Determination of what emission credit the State can take for these rules for purposes of the 15% ROP plan and contingency measures will be addressed in a subsequent rulemaking action addressing the 15% ROP plan and measures as a whole.

On June 7, 1995, the Indiana Air Pollution Control Board (IAPCB) adopted the automobile refinishing rule. Public hearings on the rule were held on January 11, 1995, April 5, 1995, and June 7, 1995, in Indianapolis, Indiana. The rule was signed by the Secretary of State on October 3, 1995, and became effective on November 2, 1995; it was published in the Indiana State Register on November 1, 1995. The Indiana

Department of Environmental Management (IDEM) formally submitted the automobile refinishing rule to EPA on September 19, 1995, as a revision to the Indiana SIP for ozone; supplemental documentation to this revision was submitted on November 8, 1995. EPA made a finding of completeness in a letter dated February 9, 1996.

The September 19, 1995, and November 8, 1995, submittals include the following rules:

326 Indiana Air Code (IAC) 8–10 Automobile Refinishing

(1) Applicability
(2) Definitions
(3) Requirements
(4) Means to limit volatile organic compound emissions
(5) Work practice standards
(6) Compliance procedures
(7) Test procedures
(8) Control system operation, maintenance, and monitoring
(9) Record keeping and reporting

The rule establishes, for Clark, Floyd, Lake, and Porter Counties, VOC content limits for motor vehicle/mobile equipment refinishing coatings and surface preparation products which must be met by both the suppliers of the coatings and products and the refinishers which use them. As an alternative to using compliant coatings, owners or operators of subject refinishing facilities can install and operate add-on control systems, such as incinerators, carbon adsorbers, etc., which must achieve an overall reduction of VOC by 81% for compliance with the rule. The rule also establishes certain work practice standards for subject refinishers to further reduce VOC, including equipment, housekeeping, and training requirements. Indiana based its rules upon EPA's draft Control Techniques Guidelines (CTG) for automobile refinishing, Alternative Control Techniques (ACT) for automobile refinishing, EPA's 1992 VOC model rules, as well as automobile refinishing rules adopted in other states.

II. Evaluation of Submittal

As previously discussed, Indiana intends that this SIP revision submittal will be one of the control measures which will satisfy 15% ROP plan and contingency measure requirements under the Act.

A review of what emission reduction this SIP achieves for purposes of the Indiana 15% ROP plans and contingency measures will be addressed when EPA takes rulemaking action on the Lake and Porter 15% ROP and contingency measures SIP, and the Clark and Floyd 15% ROP and contingency measures SIP. (EPA will take rulemaking on the overall 15% ROP and contingency measures in a subsequent rulemaking action(s).) It should also be noted that Indiana's automobile refinishing rules are not required to be reviewed for purposes of Reasonably Available Control Technology (RACT) requirements under the Act, because no automobile refinishing facility in Indiana has the potential to emit at least 25 tons of VOC, which would qualify a major source for RACT purposes.

In order to determine the approvability of the Indiana automobile refinishing SIP, the rule was reviewed for its consistency with section 110 and part D of the Act, and its enforceability. Used in this analysis were EPA policy guidance documents, including the draft CTG for automobile refinishing; the ACT for automobile refinishing; the June 1992, model VOC rules as they pertain to add-on control systems; and a memorandum from G.T. Helms to the Air Branch Chiefs, dated August 10, 1990, on the subject of '' Exemption for Low-Use Coatings.'' A discussion of the rule and EPA's rule analysis follows.

Applicability

The rule's applicability criteria in section 1 establishes that manufacturers and suppliers of refinishing coatings used in the subject counties, as well as the owners or operators of the facilities that refinish motor vehicles or mobile equipment in those counties, are subject to this rule. Activities exempt by section 1 from this rule are aerosol coating, graphic design, and touch-up coating applications.

For purposes of this rule, ''motor vehicles'' is defined in section 2(31) to mean automobiles, buses, trucks, vans, motor homes, recreational vehicles, and motorcycles. ''Mobile equipment'' is defined in section 2(30) to mean any equipment which may be driven or drawn on a roadway, including but not limited to the following: truck bodies; truck trailers; cargo vaults; utility bodies; camper shells; construction equipment such as mobile cranes, bulldozers, and concrete mixers; farming equipment such as tractors, plows, and pesticide sprayers; and miscellaneous equipment such as street cleaners, golf carts, ground support vehicles, tow motors, and fork lifts.

The activities exempt from the requirement of the rule are defined as follows. Section 2(2) defines ''aerosol coating products'' to mean a mixture of resins, pigments, liquid solvents, and gaseous propellants, packaged in a disposable can for hand-held application. Section 2(24) defines ''graphic design application'' to mean the application of logos, letters, numbers, and graphics to a painted surface, with or without the use of a template. ''Touch-up coating'' is defined in section 2(52) to mean a coating applied by brush or hand held, nonrefillable aerosol can to repair minor surface damage and imperfections.

The applicability criteria in section 1 clearly indicate the industry and activities subject to the rule. The rule's applicability criteria are, therefore, approvable.

Definitions

The rule's definitions in section 2, which are based upon similar definitions in the ACT and draft CTG, accurately describe the subject industry, the subject and exempt coating categories, and the applicable control methods and equipment specified in the rule. These definitions are, therefore, approvable.

Compliance Dates

Section 3 clearly identifies all the required components of the rule and corresponding compliance dates. Each manufacturer or distributor of coating or surface preparation products manufactured or distributed for use in Clark, Floyd, Lake, and Porter Counties must comply with the rule's applicable VOC content limits and compliance procedures by November 1, 1995.

Any person commercially providing refinishing coatings or surface preparation products for use in the four subject counties which were manufactured after November 1, 1995, must meet the rule's applicable VOC content and compliance procedures by February 1, 1996. Section 3 does allow the distribution of non-compliant coatings intended to be used by sources which meet the rule requirements through an add-on control system rather than through compliant coatings, if certain compliance procedures are followed in section 6.

Section 3 further provides that any person applying any refinishing coating or surface preparation product must meet the applicable control requirements, work practice standards, compliance procedures, test procedures, control system provisions, and record keeping and reporting requirements of the rule, by May 1, 1996.

Finally, on and after May 1, 1996, section 3 prohibits any person from soliciting or requiring any refinishing facility to use a refinishing coating or surface preparation product that does not comply with applicable VOC content limits contained in the rule,

unless that facility operates a compliant add-on control system. These dates are all well within the November 15, 1996, deadline by which rules must be implemented in order to be creditable toward the 15% ROP plan.

Emission Limitations

The rule's VOC content limits for coatings and surface preparation products are established in section 4, and are generally consistent with option 1 limits specified in the ACT and draft CTG. The limits specified in section 4 of the rule are as follows:

Coating category	VOC content limit	
	grams/liter	lbs/gallon
Pretreatment wash primer	780	6.5
Precoat	660	5.5
Primer/Primer surfacer	576	4.8
Primer sealer	552	4.6
Topcoat:		
Single and two stage	600	5.0
Three and four stage	624	5.2
Specialty	840	7.0
Surface Preparation Products (Plastic)	780	6.5
Surface Preparation Products (Other)	168	1.4

For purposes of this rule, ''VOC content,'' is defined under section 2(54) to mean the weight of VOC, less water, and less exempt solvent, per unit volume, of coating or surface preparation product. Subject refinishers must meet these VOC content limits on an as-applied basis.

As an alternative to meeting the VOC content limits of this rule, section 4 allows subject refinishers to operate a control system which must achieve an overall reduction of VOC of at least 81% in order to be in compliance. For purposes of this rule, overall control efficiency is defined in section 2 as the product of the capture and control device efficiencies of the control system. The capture efficiency is the fraction of all VOC applied that is directed to a control device and control device efficiency is the ratio of the pollution destroyed or secured by a control device and the pollution introduced into the control device, expressed as a fraction.

Section 4 also requires that the application of all specialty coatings except anti-glare/safety coatings shall not exceed 5% by volume of all coatings applied on a monthly basis, based upon a draft CTG recommendation to assure that specialty coatings are not used as substitutes for coatings which have more stringent emission limits. ''Specialty coatings'' is defined at section 2(45) to mean coatings which are necessary due to unusual and uncommon job performance requirements, including but not limited to, the following: weld-through primers, adhesion promoters, uniform finish blenders, elastomeric materials, gloss flatteners, bright metal trim repair, and multi-color coatings. These sub-categories of specialty coatings are further defined in section 2 of the rule.

Work Practice Standards

In addition to coating and surface preparation product emission limits, subject owners or operators of refinishing facilities must comply with certain work practice standards under section 5, which include equipment, housekeeping, and training requirements, to further reduce VOC. The rule's work practice standards require certain equipment be used to apply coatings, to clean the coating applicators, and to store waste solvent, coating, and other materials used in surface preparation, coating application, and clean-up. These equipment standards are based upon similar provisions in the ACT and draft CTG.

Section 5 specifies that coating applicators be cleaned in an enclosed device that: (1) is closed during coating applicator equipment cleaning operations except when depositing and removing objects to be cleaned, (2) is closed during non-cleaning operations with the exception of the device's maintenance and repair, (3) recirculates cleaning solvent during the cleaning operation so that the solvent is available for reuse on-site or for disposal off-site.

Section 5 also specifies that subject refinishers can only use the following equipment for coating application: (1) High-Volume Low-Pressure (HVLP) spray equipment, (2) electrostatic equipment, or (3) any other coating application equipment that has been demonstrated, to the satisfaction of IDEM, to be capable of achieving at least 65% transfer efficiency. For purposes of this rule, ''HVLP spray'' is defined under section 2(27) to mean technology used to apply coating to a substrate by means of coating application equipment which operates between 0.1 and 10 pounds per square inch gauge air pressure measured dynamically at the center of the air cap and at the air horns of the spray system. ''Electrostatic application'' is defined under section 2(20) to mean the application to a substrate of charged atomized paint droplets which are deposited by electrostatic attraction. Equipment which matches any of the above definitions is acceptable to be used under the rule. To determine whether applicator equipment other than HVLP or electrostatic equipment meet the 65% transfer efficiency requirement, the refinisher is required under section 5 to submit sufficient data for IDEM to be able to determine accuracy of the transfer efficiency claims. All coating applicators as well as applicator cleaning devices are further required under section 5 to be operated and maintained according to the manufacturer's recommendations, and those recommendations shall be available for inspection by IDEM or EPA upon request.

As for storage equipment requirements, section 5 specifies that closed, gasket-sealed containers must be used exclusively to store spent solvent, waste coating, spray booth filter, paper and cloth used in surface preparation and surface cleanup, and used automotive fluids until disposed of off-site.

In addition to equipment standards, section 5 requires subject refinishers to adopt certain housekeeping practices, such as scheduling operations of a similar nature to reduce VOC material and applying coatings and surface preparation products in a manner that minimizes overspray. Operators and owners of subject refinishing facilities must also, under section 5, develop an annual training program using written and hands-on procedures to properly instruct employees on how to implement these housekeeping practices, how to properly use and maintain the equipment required by section 5, prepare coatings for application according to manufacturer's instructions so that coatings meet applicable VOC content limits as applied, and comply with the recordkeeping requirements of the rule. Untrained employees are allowed to perform regulated activities for not more than 180 days.

Compliance Procedures, Record Keeping, and Reporting

VOC Content Limits

In order to demonstrate compliance with the VOC content limits of the rule, section 6(a) requires refinishing product manufacturers to keep, for each coating or surface preparation product supplied, the following: (1) the product description; (2) the date of manufacture; (3) the thinning instructions; (4) the VOC content in grams per liter and pounds per gallon, as supplied and as applied after any thinning recommended by the manufacturer; (5) a statement that the coating is, or is not, in compliance with the VOC limits in section 4(b) of the rule, and that if the coating is not in compliance, this rule

prohibits its application at a refinishing facility that does not control VOC emissions with the application of a control system; and (6) the name, address, telephone number, and signature of the person purchasing the product. The manufacturer must also provide a document containing this information to the owner or operator of the refinishing facility.

Commercial providers of coating or surface preparation products in the subject counties are required under section 6(b) to both provide to the recipient and keep the following records of all such products supplied in those counties: (1) the product description; (2) the amount supplied; (3) the date supplied; (4) the VOC content in grams per liter and pounds per gallon, as supplied and as applied after thinning recommended by the manufacturer; and (5) the name, address, telephone number, and signature of the person purchasing the product.

The owner or operator of a refinishing facility subject to this rule is required under section 6(c) to submit to IDEM a statement certifying that the facility has acquired and will continuously employ coating or surface preparation products meeting the rule's VOC limits, or that an add-on control system in compliance of this rule has been installed, including a description of the control system. Further, the owner or operator must meet coating and surface preparation record keeping requirements under section 9 which includes keeping, for a minimum of 3 years, records of each refinishing job performed, the job identification number and the date or dates the job was performed, and for each coating or surface preparation product used: (1) the records of the category the coating or product falls under the rule; (2) the quantity of coating or product used; (3) the VOC content of the coating as supplied; (4) the name and identification of additives added; (5) the quantity of additives added; (6) the VOC content of the additives; and (7) for each surface preparation product, the type of substrate to which the product is applied. Although the VOC policy memo ''Exemptions for Low-Use Coatings'' recommends usage limitations and record keeping of rule-exempt coatings in order to assure exempted coatings are not used as substitutes for coatings subject to limits under the rule, additional record keeping to cover the aerosol coating, graphic design application coatings, and touch-up coatings exempted under section 1 of the rule is not needed, because these coatings are typically dispensed from small containers and are not capable of being used as substitutes for the subject coatings.

Owners and operators must also, under section 9(a)(3), maintain documents such as Material Safety Data Sheets (MSDS), product, or other data sheets provided by the coating manufacturer, distributor, or supplier, of the coatings or surface preparation products for a period of 3 years following use of the product, which may be used by EPA or IDEM to verify the VOC content, as supplied. Except when using a control system, section 9(a)(4) requires any incidence in which a non-compliant coating was used to be reported to IDEM within 30 days, along with the reasons for use of the non-compliant coating and corrective actions taken.

Owners and operators are allowed under section 7 to use data provided with the coatings or surface preparation products formulation information, such as the container label, the product data sheet, and the MSDS sheet, in order to comply with the limits and record keeping; however, section 7 provides that owners and operators of refinishing facilities are nonetheless subject to the applicable test methods of 326 IAC 8–1–4 and 40 CFR part 60, Appendix A. 326 IAC 8–1–4, the State's VOC rule testing procedures, was approved by EPA and incorporated in the Indiana SIP on March 6, 1992 (57 FR at 8082). 40 CFR Part 60 Appendix A is Method 24, EPA's established test method for determining VOC content.

IDEM and EPA are allowed under section 7 to require VOC content verification of any coating or surface preparation product using EPA Method 24. In the event of any inconsistency between Method 24 and product formulation data used by the facility, section 7 provides that Method 24 shall govern in determining compliance.

The record keeping/reporting requirements for subject facilities are generally consistent with the draft CTG and assure compliance on an as-applied basis. Additionally, the rule's requirements for manufacturers and distributors to meet the coating limits should assure sufficient supply of compliant coatings so that owners or operators of refinishing facilities can comply with the rule. The compliance, testing, and record keeping requirements for coatings and surface preparation products are, therefore, approvable.

Add-on Control Systems

For demonstration of compliance with the control system requirements, section 4 requires the source to perform an initial compliance test of the system on or before May 1, 1996, in accordance with the test method and requirements of section 7, which, as stated before, include 40 CFR 60 Appendix A and 326 IAC 8–1–4. Section 4 also requires an operating parameter value be established during the initial compliance test, that, when measured through control system monitoring, indicates compliance with the 81% overall control efficiency requirement. Section 8(b) establishes the procedures for determining and monitoring the operating parameter for each type of control device, which are consistent with the 1992 VOC model rules. Section 7(c) requires additional compliance tests every two years after the date of the initial compliance test, whenever the control system is operated under conditions different from those which were in place at the time of the previous compliance test, and within 30 days of a written request by IDEM or the EPA. These compliance tests are required to be submitted to IDEM as required by section 7(c).

Section 4(c)(5) specifies that continuous compliance is demonstrated when the operating parameter value remains within a specified range from the operating parameter measured during the most recent compliance test that demonstrated the facility was in compliance. Section 9(b) requires that continuous monitoring records of the control system's operating parameter measured shall be maintained, as well as records of all 3 hour periods of operation when controls systems exceed parameter deviations acceptable under section 4(c)(5).

Section 8(a) requires control systems be operated and maintained according to the manufacturer's specification and instructions, with a copy of these operating and maintenance procedures maintained as close to the control system as possible for reference of personnel and inspectors. The operation of the control system may be modified upon written request of IDEM or EPA based on the results of the initial or subsequent compliance test. Section 9(b) requires that a log of the operating time of the facility and the facility's capture system, control device, and monitoring equipment, along with a maintenance log for the control system, and the monitoring equipment detailing all routine and nonroutine maintenance performed. The log shall include the dates and duration of any outages of the capture system, the control device, or the monitoring system. Control system and monitoring record keeping, shall, like coating record keeping, be kept for at least 3 years. Section 9(b)(7) requires that sources report within 30 days of

occurrence of maintenance or repairs on control system or monitoring equipment, and any 3 hour period of operation where the acceptable parameter range under section 4(c)(5) is exceeded, along with the corrective action taken.

The above requirements are generally consistent with the 1992 VOC model rules' compliance procedures and record keeping/reporting requirements as they pertain to add-on control equipment, except that the 1992 VOC model rules do not allow for acceptable operating parameter deviations from the parameter value established through compliance testing, and EPA has no technical support which demonstrates that control systems still meet the 81% requirement when operating under the rule's allowable performance deviations. However, because compliant coatings will be readily available due to the rule's coating supplier requirements, and add-on control equipment is cost prohibitive for most autobody shops, EPA does not expect that many refinishing facilities will comply with the Indiana rule through means of a control system. Since control systems are expected to be rarely used by Indiana's automobile refinishing facilities, EPA will not request Indiana to remove the operating parameter deviation allowance for approval. It should be noted that such acceptable parameter deviations will not be acceptable in RACT rules without sufficient technical support. Based on the above analysis, the compliance, testing, and record keeping provisions for add-on control systems are approvable.

Work Practice Standards

The draft CTG recommends record keeping be required to assure compliance with equipment standards under the rule, including maintenance and repair records, and for equipment cleaners, records of guns cleaned and solvent added and removed.

Although the Indiana rule does not identify specific record keeping for equipment covered under the rule, inspection of coating applicators, cleaning equipment, and storage containers used at a given facility, along with the manufacturer's maintenance instructions required to be available at the facility under the rule, should suffice to indicate compliance with the equipment standards.

As for the Indiana rule's housekeeping and annual training requirements, section 5 requires that the owner or operator keep for a minimum of 3 years a list of persons, by name and activity, and the topics in which they have been trained, and the date by which the trainee completed each training topic, as well as a statement signed by the trainer certifying each trainee who satisfactorily completed training in the equipment, housekeeping, and record keeping requirements of the rule as they apply to the specific job responsibilities of the employee. These record keeping requirements are approvable.

Enforcement

The Indiana Code (IC) 13–7–13–1, states that any person who violates any provision of IC 13–1–1, IC 13–1–3, or IC 13–1–11, or any regulation or standard adopted by one (1) of the boards (i.e., IAPCB), or who violates any determination, permit, or order made or issued by the commissioner (of IDEM) pursuant to IC 13–1–1, or IC 13–1–3, is liable for a civil penalty not to exceed twenty-five thousand dollars per day of any violation. Because this submittal is a regulation adopted by the IAPCB, a violation of which subjects the violator to penalties under IC 13–7–13–1, and because a violation of the ozone SIP would also subject a violator to enforcement under section 113 of the Act by EPA, EPA finds that the submittal contains sufficient enforcement authority for approval. In addition, IDEM has submitted a civil penalty policy document which accounts for various factors in the assessment of an appropriate civil penalty for noncompliance with IAPCB rules, among them, the severity of the violation, intent of the violator, and frequency of violations. EPA finds these criteria sufficient to deter non-compliance.

III. Final Rulemaking Action

Based upon the analysis above, the EPA finds that Indiana's regulation covering automobile refinishing operations, 326 IAC 8–10, as submitted on September 19, 1995, and November 8, 1995, includes enforceable state regulations consistent with Federal requirements. EPA is, therefore, approving this SIP revision submittal.

IV. Procedural Background

A. Direct Final Action

The EPA is publishing this action without prior proposal because EPA views this action as a noncontroversial revision and anticipates no adverse comments. However, EPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on August 12, 1996, unless EPA receives adverse or critical comments by July 15, 1996. If EPA receives comments adverse to or critical of the approval discussed above, EPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Any parties interested in commenting on this action should do so at this time. If no such comments are received, EPA hereby advises the public that this action will be effective on August 12, 1996.

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

C. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

D. Unfunded Mandates

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the EPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the EPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the EPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be

prepared. The EPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the EPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

This final rule only approves the incorporation of existing state rules into the SIP and imposes no additional requirements. This rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year. EPA, therefore, has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Furthermore, because small governments will not be significantly or uniquely affected by this rule, the EPA is not required to develop a plan with regard to small governments.

E. 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 Clean Air Act do not create any new requirements, but simply approve requirements a State has already imposed. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *EPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

F. 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 12, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Volatile organic compounds.

Dated: May 13, 1996.

Valdas V. Adamkus,

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 52.770 is amended by adding paragraph (c)(106) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(106) On September 19, 1995, and November 8, 1995, Indiana submitted automobile and mobile equipment refinishing rules for Clark, Floyd, Lake, and Porter Counties as a revision to the State Implementation Plan. This rule requires suppliers and refinishers to meet volatile organic compound content limits or equivalent control measures for coatings used in automobile and mobile equipment refinishing operations in the four counties, as well as establishing certain coating applicator and equipment cleaning requirements.

(i) Incorporation by reference. 326 Indiana Administrative Code 8–10: Automobile refinishing, Section 1: Applicability, Section 2: Definitions, Section 3: Requirements, Section 4: Means to limit volatile organic compound emissions, Section 5: Work practice standards, Section 6: Compliance procedures, Section 7: Test procedures, Section 8: Control system operation, maintenance, and monitoring, and Section 9: Record keeping and reporting. Adopted by the Indiana Air Pollution Control Board June 7, 1995. Filed with the Secretary of State October 3, 1995. Published at Indiana Register, Volume 19, Number 2, November 1, 1995. Effective November 2, 1995.

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[FR Doc. 96–14965 Filed 6–12–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[NM 28–1–7312; FRL–5514–2]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New Mexico; Approval of the Vehicle Inspection and Maintenance Program, Emissions Inventory, and Maintenance Plan; Redesignation to Attainment; Albuquerque/Bernalillo County, New Mexico; Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is redesignating to attainment the Albuquerque/Bernalillo County carbon monoxide (CO) nonattainment area. This action is in response to a request from the Governor of New Mexico on behalf of the Albuquerque and Bernalillo County carbon monoxide nonattainment area. The Governor's request included a revision to the State Implementation Plan (SIP) for the administration of a vehicle inspection and maintenance (I/M) program, a 1993 emissions inventory for Albuquerque/Bernalillo County, and an attainment maintenance plan. On February 16, 1996, the EPA proposed approval of the Albuquerque/ Bernalillo County I/M program, 1993 periodic emissions inventory, the maintenance plan, and the request for redesignation, because all met the requirements set forth in the Clean Air Act (Act). This final action promulgates the rule, redesignating the area to attainment, and incorporating the request into the SIP.

EFFECTIVE DATE: July 15, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the addresses listed below. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket Room M1500), Environmental Protection Agency, 401 M Street SW., Washington, D. C. 20460

Environmental Protection Agency, Region 6, Air Planning Section (6PD–