



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2010-0100; FRL-9641-8]

**Approval and Promulgation of Air Quality Implementation Plans;
Indiana; Lead Ambient Air Quality Standards**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a request submitted by the Indiana Department of Environmental Management (IDEM) on November 24, 2010, to revise the Indiana State Implementation Plan (SIP) for lead (Pb) under the Clean Air Act (CAA). This submittal incorporates the National Ambient Air Quality Standards (NAAQS) for Pb promulgated by EPA in 2008.

DATES: This direct final rule will be effective **[insert date 60 days from date of publication in the Federal Register]**, unless EPA receives adverse comments by **[insert date 30 days from date of publication in the Federal Register]**. 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-2010-0100 by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for

submitting comments.

2. E-mail: aburano.douglas@epa.gov

3. Fax: (312)408-2279.

4. Mail: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. Hand Delivery: Douglas Aburano, Chief, Attainment Planning and Maintenance Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2010-0100. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through

www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental

Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang, Environmental Engineer, at (312) 886-0258 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andy Chang, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0258, chang.andy@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. Background.

A. When and why did the State make this submittal?

B. Did the State hold public hearings for this submittal?

II. What is EPA's analysis of IDEM's submittal?

III. What action is EPA taking?

IV. Statutory and Executive Order Reviews.

I. Background.

A. When and why did the State make this submittal?

The November 24, 2010 submittal incorporates the current primary and secondary NAAQS for Pb, which were published in the Federal Register on November 12, 2008 (73 FR 66964) and codified at 40 CFR 50.16, "National primary and secondary ambient air quality standards for lead." At the State level, these provisions became effective on October 24, 2010.

IDEM submitted the revisions to EPA for incorporation into the Indiana SIP to ensure consistency between the State and Federal definitions of the Pb NAAQS, as well as in the determination of attainment of those NAAQS.

B. Did the State hold public hearings for these submittals?

A public hearing for the Pb NAAQS revision was held on June 2, 2010. No comments were received at this hearing.

II. What is EPA's analysis of IDEM's submittal?

On November 12, 2008, revisions to the Pb NAAQS were published in the Federal Register (73 FR 66964) and codified at 40 CFR 50.16. The primary (health-based) Pb NAAQS was strengthened to 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), measured as a rolling 3-month average and evaluated over a 3-year period. The secondary (welfare-based) Pb NAAQS was revised to be identical to the primary Pb NAAQS.

Under 40 CFR 50.16(a), ambient Pb concentrations are to be measured by either: (1) a reference method based on appendix G

to 40 CFR part 50 ("Reference Method for the Determination of Lead in Suspended Particulate Matter Collected From Ambient Air") and designated in accordance with 40 CFR part 53 ("Ambient Air Monitoring Reference and Equivalent Methods"); or (2) an equivalent method designated in accordance with 40 CFR part 53. In addition, under 40 CFR 50.16(b), determinations as to whether the Pb standards have been met are to be made in accordance with the data handling conventions and computations in 40 CFR part 50, appendix R, "Interpretation of the National Ambient Air Quality Standards for Lead."

In IDEM's November 24, 2010 submittal, the State requested that 326 Indiana Administrative Code (IAC) 1-3-4 (b)(6) be revised to reflect EPA's revised primary and secondary Pb NAAQS. IDEM's requested revisions are nearly identical to the provisions contained in 40 CFR 50.16. Specifically, the definition of the NAAQS, the calculations for determining attainment of the NAAQS, and the mechanism to measure ambient concentrations of Pb are consistent with 40 CFR 50.16.

IDEM's rule contains the primary and secondary NAAQS of $0.15 \mu\text{g}/\text{m}^3$, which are achieved when the maximum arithmetic 3-month mean concentration for a 3-year period is equal to, or less than, $0.15 \mu\text{g}/\text{m}^3$, as determined by appendix R to 40 CFR part

50. Indiana has incorporated appendix R by reference into the SIP.

IDEM's submittal also incorporates by reference appendix G to 40 CFR part 50, which contains the data handling conventions and computations for determining with the Pb NAAQS have been met. It should be noted, however, that a determination of what constitutes a "Federal Equivalent Method" under 40 CFR 50.16(a)(2) can only be made by the Administrator of EPA.

Aligning State and Federal ambient air quality standards, calculations for compliance, and ambient concentration collection methods ensures consistency between EPA's and IDEM's Pb NAAQS; therefore, EPA concludes that IDEM's requested revision is approvable.

III. What action is EPA taking?

EPA is approving a submittal from IDEM that incorporates the Federally promulgated NAAQS for Pb codified at 40 CFR 50.16. Aligning State and Federal ambient air quality standards ensures consistency between EPA's and IDEM's Pb NAAQS.

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 effective [insert date 60 days from the date of publication in the Federal Register] without further notice unless we receive relevant adverse written comments by [insert date 30 days from the date of publication in the Federal Register]. 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; therefore, any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective [insert date 60 days from the date of publication in the Federal Register].

IV. 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 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Public Law 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 Clean Air Act; 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, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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 **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]**. 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, Lead, Reporting and recordkeeping requirements.

Date: February 21, 2012.

Susan Hedman,
Regional Administrator, Region 5.

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 *et seq.*

Subpart P - Indiana

2. In § 52.770 the table in paragraph (c) is amended by revising the entry for "1-3-4" to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana Citation	Subject	Indiana Effective Date	EPA Approval Date	Notes
* * * * *				
1-3-4	Ambient air quality standards	10/24/2010	[insert the date of publication in the Federal Register], [Insert page number where the document begins]	
* * * * *				

* * * * *