

Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886-6524.

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever “we,” “us,” or “our” are used we mean the EPA.

**Table of Contents**

- I. What are the changes from the previous rule?
- II. What is the EPA’s analysis of the supporting materials?
- III. Public Comments.
- IV. Summary of EPA action.
- V. Statutory and Executive Order Reviews.

**I. What Are the Changes From the Previous Rule?**

Indiana revised the long-term PM limits in State Implementation Plan (SIP) rule 326 IAC 6-1-14 for the two RPL boilers in order to make them consistent with the SIP’s short-term limits. For boiler no. 1, the new limit is 320 TPY; for boiler no. 2, the new limit is 700 TPY. The previous limits were 71.6 TPY and 233.3 TPY, respectively. RPL’s short-term limits remain at 0.19 pounds per million British Thermal Units (lb/MMBTU) and 0.22 lb/MMBTU, respectively. The combined short-term emissions limit for both boilers stays at 0.22 lb/MMBTU.

**II. What Is the EPA’s Analysis of the Supporting Materials?**

Indiana submitted a PM modeling analysis for RPL on August 8, 1995 as part of the SIP revision request approved by EPA on April 9, 1996 (61 FR 15704). This modeling analysis applies to both the short-term limits approved in 1996 and to the new long-term limits. The maximum modeled annual PM concentration was 42.5 micrograms per meter cubed ( $\mu\text{g}/\text{m}^3$ ). This is 1.7  $\mu\text{g}/\text{m}^3$  above the measured background concentration of 40.8  $\mu\text{g}/\text{m}^3$ . The annual National Ambient Air Quality Standard (NAAQS) for PM is 50  $\mu\text{g}/\text{m}^3$ . As the modeled concentration is below the NAAQS, the air quality of Wayne County, Indiana should be protected.

**III. Public Comments**

EPA did not receive any public comments on the proposed rulemaking.

The comment period closed on May 9, 2003.

**IV. Summary of EPA Action**

EPA is approving revisions to 326 IAC 6-1-14, the PM emission limits for Wayne County, Indiana. EPA proposed approval of these revisions on April 9, 2003 (68 FR 17331) and received no comments during the 30-day comment period. These revisions change the long-term (annual) PM emission limits for both boilers at the RPL facility to make them consistent with short-term limits for these sources. EPA approved revisions to the short-term limits for RPL on April 9, 1996. The PM modeling analysis show concentrations below the NAAQS level, demonstrating that the air quality of Wayne County, Indiana should be protected.

**V. Statutory and Executive Order Reviews**

*Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget.

*Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

*Regulatory Flexibility Act*

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

*Unfunded Mandates Reform Act*

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

*Executive Order 13132: Federalism*

This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action 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.

*Executive Order 13175: Coordination With Indian Tribal Governments*

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

*Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

*Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001).

*National Technology Transfer and Advancement Act*

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

*Congressional Review Act*

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