



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2018-0734; FRL-10003-02-Region 5]

Air Plan Approval; Indiana; Indiana RACT SIP and Negative Declaration for the Oil and Natural Gas Industry Control

Techniques Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a "Negative Declaration" for the State of Indiana regarding the Control Techniques Guideline (CTG) for the Oil and Gas Industry issued by EPA on October 20, 2016. Indiana has evaluated areas for which the Oil and Natural Gas Industry CTG must be applied under the 2008 ozone National Ambient Air Quality Standard (NAAQS). These areas include Lake and Porter counties, which are part of the Chicago-Naperville, IL-IN-WI Moderate nonattainment area for the 2008 ozone NAAQS. Therefore, reasonably available control technology (RACT) requirements would be applicable for sources covered by the Oil and Natural Gas Industry CTG in Lake and Porter counties. The Indiana Department of Environmental Management (IDEM) did not find any covered sources in Lake and Porter counties. Approval of this Negative Declaration supports EPA's February 13, 2019 approval

of Indiana's volatile organic compounds (VOC) RACT Certification for Lake and Porter Counties. EPA proposed to approve this "Negative Declaration" on June 26, 2019 and received one set of comments.

DATES: This final rule is effective [**insert date 30 days after date of publication in the Federal Register**].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0734. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <http://www.regulations.gov> or at the EPA Region 5 office (please contact the person identified in the "For Further Information Contact" section for availability information).

FOR FURTHER INFORMATION CONTACT: Jenny Liljegren, Physical Scientist, 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) 886-6832, liljegren.jennifer@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 being addressed in this document?
- II. What comments did we receive on the proposed rule?
- III. What Action Is EPA Taking?
- IV. Statutory and Executive Order Reviews

I. What is being addressed in this document?

In this action, EPA is approving a "Negative Declaration" for Lake and Porter Counties in Indiana regarding the CTG for the Oil and Gas Industry issued by EPA on October 20, 2016. As discussed more fully in the June 26, 2019 proposed approval (84 FR 30066), IDEM has adequately documented that there are no sources in Lake and Porter Counties to which the Oil and Gas CTG is applicable.

II. What comments did we receive on the proposed rule?

EPA received both supportive and adverse comments from one commenter. The adverse comments are addressed below.

- 1) Comment - "Looking at Indiana's analysis of all its resources in Lake and Porter Counties coming directly from the department of Oil and Natural Gas Industry which is experienced in its analysis and has a niche in Indiana. However, I also feel that the report that has been provided

may have been biased based on additional cost needed to be spent on RACT related activities.”

EPA response - As stated in the proposal, Indiana searched its own oil and gas well records and air permits and, therefore, did not rely exclusively on the Indiana Department of Natural Resources' (IDNR) Division of Oil and Gas.

2) Comment - “The report that the IDNR released mentions that they did this based on the database and not based on actual research performed by them. I would like to question how often their data base is updated and the sample size they have mentioned consisting of just 3 places seems like a small amount in proportion to the 2 counties.”

EPA Response - The IDNR administers Indiana's oil and gas statutes and regulates petroleum exploration and production operations in Indiana. Its analysis should provide a very sound basis for an accurate database. The sample size did not consist of just three places. Rather, three facilities were selected for further evaluation based upon their industry codes and descriptions.

3) Comment - “EPA's proposal looks pretty dated and has been based on ozone rules back from 2016 and currently there have been so many changes that it is bound to be outdated and not effective, I think the EPA should release another updated rule to judge the negative declaration areas.”

EPA Response - The Oil and Gas CTG is, in fact, EPA's newest CTG and there is no indication that it is outdated. More importantly, Indiana's determination that there are no applicable sources is current.

4) Comment - "The Bulk petroleum facilities which were investigated although not part of Lake and Porter County does exist and the report by the Indiana Department of Natural Resources did not provide much information as to what their findings were."

EPA Response - This comment is not relevant because the negative declaration is only for Lake and Porter Counties.

III. What Action is EPA Taking.

EPA is approving Indiana's Negative Declaration for the Oil and Gas CTG. Indiana has adequately documented that it has no sources in Lake and Porter Counties to which the Oil and Gas CTG would be applicable. Approval of this Negative Declaration also supports EPA's February 13, 2019 approval of Indiana's VOC RACT Certification for Lake and Porter Counties.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA) the Administrator is required to approve a State Implementation Plan (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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 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 **[insert date 60 days after 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. 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: December 2, 2019.

Cathy Stepp,
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 (e) is amended by revising the entry for “Lake and Porter Counties 2008 8-hour Ozone Moderate Planning Elements” and adding an entry for “Lake and Porter Counties 2008 8-hour Ozone Negative Declaration” immediately following the entry “Lake and Porter Counties 2008 8-hour Ozone Moderate Planning Elements” to read as follows:

§ 52.770 Identification of plan.

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(e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
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Lake and Porter Counties 2008 8-hour Ozone Moderate Planning Elements	2/28/2017, 1/9/2018, and 10/25/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	2011 base year emissions inventory, Reasonable Further Progress (RFP) plan, RFP contingency measure plan, 2017 VOC and NOx motor vehicle emissions budgets, nonattainment new source review certification, VOC RACT Certification, and enhanced motor vehicle inspection and maintenance program certification.
Lake and Porter Counties 2008 8-hour Ozone Negative Declarations	10/25/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	Includes: Fiberglass Boat Manufacturing Materials CTG and Oil and Gas Industry CTG
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[FR Doc. 2019-26792 Filed: 12/12/2019 8:45 am; Publication Date: 12/13/2019]