2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

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 May 5, 1992. Under Section 307(b)(2) of the Act, this action may not be challenged later in proceedings to enforce its requirements.

List of Subjects in 40 CFR Part 52

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

Dated: January 27, 1992.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

Part 52, chapter I of 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. 7401–7642.

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(95) to read as follows:

§ 52.2420 Identification of plan.

* * * * * * *

(c) * * *

(95) Revisions to the State Implementation Plan submitted by the Virginia Department of Air Pollution Control on April 29, 1991.

(i) Incorporation by reference.

(A) Letter from the Virginia Department of Air Pollution Control dated April 29, submitting a revision to the Virginia State Implementation Plan.

(B) Consent Agreement and Order No. DTE–179–91 between Nabisco Brands, Inc. and the Virginia State Air Pollution Control Board, effective on April 24, 1991.

(ii) Additional materials.

(A) Technical Support Document for the RACT Determination for Nabisco Brands, Inc., Henrico County, VA; Consent Agreement and Order No. DTE–179–91.

[FR Doc. 92–5203 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[IN 2-2-5177; FRL-4096-5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving State submitted revisions to the Indiana State Implementation Plan (SIP) for ozone. These revisions modify Indiana's Volatile Organic Compound (VOC) emission control regulations (rules) to eliminate rule deficiencies identified in a June 17, 1988, letter from the USEPA to the Indiana Department of Environmental Management (IDEM). The Clean Air Act, as amended in 1990, required States to correct their SIPs to include Reasonably Available Control Technology (RACT) regulations as required under pre-amended section 172(b) as interpreted in USEPA's pre-amendment guidance. The June 17, 1988, letter discussed rule revisions needed to correct the State's rules to comply with RACT guidelines. USEPA proposed approval of these requested revisions to the Indiana SIP on January 2, 1991, (56 FR 51).

USEPA is approving all of the rule revisions (with the exception of revisions to the pneumatic rubber tire manufacturing rule, to be addressed in a separate rulemaking) fully adopted by the State of Indiana and cumulatively addressed in State submittals on November 18, 1988, March 9, 1990, October 23, 1990, May 15, 1991, and August 19, 1991. (The rule revisions addressed in the May 15, 1991, submittal and adopted after the January 2, 1991, NPR were addressed as preliminarily adopted rule revisions in the October 23, 1990, submittal and in the NPR. The State submitted these rule revisions for parallel processing.) These rule revisions eliminate all of the rule deficiencies identified in the June 17, 1988, letter except the lack of acceptable emissions capture efficiency test methods. The State has submitted an acceptable schedule to correct this remaining deficiency.

EFFECTIVE DATE: April 6, 1992.

ADDRESSES: Copies of the SIP revisions are available at the following addresses for review: (It is recommended that you telephone Randolph O. Cano at (312) 886–6036, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Regulation Development Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Indiana Department of Environmental Management, Office of Air Management, 105 South Meridian Street, Indianapolis, Indiana 46206

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT: Edward J. Doty, U.S. Environmental Protection Agency, Region V, Regulation Development Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6057.

SUPPLEMENTARY INFORMATION:

Background

On November 18, 1988, March 9, 1990, and October 23, 1990, the IDEM submitted VOC emission control rules as proposed revisions to Indiana's SIP for ozone. These revisions were submitted to correct deficiencies in Indiana's VOC rules identified in a June 17, 1988, letter from the USEPA to the IDEM. The June 17, 1988, letter was a followup letter to USEPA's May 26, 1988, notification to Indiana under section 110(a)(2)(H) of the Clean Air Act (Act), as amended in 1977, that Indiana's ozone SIP was substantially inadequate.[1]

The Clean Air Act, as amended in 1990, specifically provides that States must correct their RACT rules as required by section 172(b) of the pre-amended Act and as interpreted in USEPA's pre-amendment guidance issued pursuant to section 108. Section 182(a)(2)(A). Since the June 17, 1988, letter informed Indiana of the State's RACT deficiencies as interpreted in USEPA's guidance,[2] the amended Act carries forth the requirement that Indiana make the regulation corrections identified in the June 17, 1988, letter.

On January 2, 1992, (56 FR 51) the USEPA proposed to approve the corrected VOC rules as being consistent with the SIP call and as meeting the RACT "fix-up" requirement of section 182(a)(2)(A) of the amended Act. In this NPR, USEPA noted that some of the corrected rules had only been

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[1] On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, codified at 42 U.S.C. 7401–7671q (1991). The amended Clean Air Act substantially retains the requirement of pre-amended section 110(a)(2)(H). 42 U.S.C. section 7410(a)(2)(H).

[2] The June 17, 1988, letter was based on the Blue Book and USEPA's post-1987 ozone policy.

preliminarily adopted by the Indiana Pollution Control Board (IPCB). The rules that were preliminarily adopted by the IPCB were submitted to the USEPA for parallel processing. These preliminarily adopted rule revisions were proposed for approval in the NPR, but the USEPA noted in the NPR that no final action could be taken on these rule revisions until they had been promulgated by the State.

On May 15, 1991, and August 19, 1991, the IDEM submitted finally adopted rule revisions for those rules subject to the preliminarily adopted rule revisions. The rule revisions were signed by Governor Evan Bayh on May 3, 1991, and were filed with the Secretary of State on May 6, 1991. Under Indiana law, these rule revisions are considered by the State to be promulgated at the time they are filed with the Secretary of State. These rule revisions complete the State promulgation required in the January 2, 1991, NPR.

The January 2, 1991, NPR solicited comments on the proposed SIP (rule) revisions and on USEPA's proposed rulemaking. No comments were received during the public comment period for this proposed rulemaking.

The VOC rule revisions covered by this rulemaking can be thought of as being divided into two subcategories: Those fully adopted by the State prior to the January 2, 1991, NPR; and those adopted after January 2, 1991, but prior to this final rulemaking. The following sections of this final rulemaking address each of these rule revision subcategories.

Rules Fully Adopted by January 2, 1991

These rules were contained in the November 18, 1988, March 9, 1990, and October 23, 1990, State submittals. All rule revisions covered in these submittals amend Volume 326 of the Indiana Administrative Code (326 IAC). A description of the adopted rule revisions is presented on a rule-by-rule basis below. The VOC rule revisions summarized below have been determined to comply with the CAAA and USEPA guidance except as noted for the pneumatic rubber tire manufacturing rule.

326 IAC 1-2-18.5 "Cold Cleaner Degreaser" Definition
326 IAC 1-2-21.5 "Conveyorized Degreaser" Definition
326 IAC 1-2-29.5 "Freeboard Height" Definition
326 IAC 1-2-29.6 "Freeboard Ratio" Definition
326 IAC 1-2-49.5 "Open Top Vapor Degreaser" Definition

Rule 326 IAC 1-2 has been amended by adding these five new definitions related to organic solvent degreasing operations. These definitions clarify Indiana's degreasing regulations in a manner consistent with USEPA policy.

326 IAC 1-2-48 "Nonphotochemically Reactive Hydrocarbon" Definition

This definition was amended to include four new compounds considered by the USEPA to be negligibly photochemically reactive. The definition has also been amended to state that compliance calculations for coatings with VOC concentration units expressed as "pounds VOC per gallon of coating (less water)" should treat nonphotochemically reactive hydrocarbons as water for purposes of calculating the "less water" portion of the coating composition.

326 IAC 1-2-90 "Volatile Organic Compound (VOC)" Definition

This rule has been amended to define "VOC" as any organic material which participates in atmospheric photochemical reactions, that is any organic compound other than those nonphotochemically reactive compounds listed in 326 IAC 1-2-48. VOC coating contents or emission levels are to be measured using procedures given in 326 IAC 8-1-4 (testing procedures).

326 IAC 8-1-0.5 "Coating" Definition

"Coating" is defined to be the application of protective, functional, or decorative films.

326 IAC 8-1-2 Compliance Methods

This rule has been amended to incorporate USEPA's December 1988 "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light Duty Truck Topcoat Operations" (EPA-450/3-88-018). The rule has also been amended to require equivalency calculations to be performed on a coating solids basis. A procedure for calculating the overall capture system and control device efficiency required to comply with surface coating limits has been specified. Use of USEPA's topcoat protocol is required when demonstrating compliance with the equivalent emission limit for automobile and light duty truck topcoating operations.

326 IAC 8-1-4 Testing Procedures

USEPA-approved test methods have been added to this rule to address the following topics: (1) Testing coatings to determine their compliance with the content and emission limits contained in 326 IAC 8 (Article 8); (2) determining the VOC emissions from gasoline vapor recovery systems; and (3) determining the VOC emissions from solvent degreasing operations. The rule has been amended to require sources applying coatings to document that the coating manufacturers used acceptable test methods to determine the VOC contents and percent solids of coatings supplied to the sources.

326 IAC 8-1-4(1) has been added to the rule to allow the IDEM or the USEPA to verify any test results. In the event of any inconsistency between a source's test results and those obtained by the IDEM or the USEPA, IDEM's or USEPA's test results take precedence over the source's test results. The use of equivalent test procedures will be allowed provided they are addressed in site-specific SIP revisions submitted to and approved by the USEPA. It should be noted that the underlying SIP requirements remain in effect until they are changed by final USEPA rulemaking actions.

326 IAC 8-2-5 Paper Coating Operations

This rule has been revised to extend the applicability of paper coating regulations to saturation processes and coating of plastic and metal foils. The rule has also been revised to modify a previous exemption given to single pieces of equipment which conduct rotogravure or flexographic printing operations in line with other surface coating operations. The rule now specifies that only single pieces of equipment that meet the emission limitations given in 326 IAC 8-5-5 (Graphic Arts Operations) may be exempted from the paper coating emission limits.

326 IAC 8-2-9 Miscellaneous Metal Coating Operations

This rule has been revised to eliminate exemptions for maintenance coating of production equipment, preparation and application of adhesives, application of lubricants, and chromiun plating of plastics effective on July 1, 1991.

326 IAC 8-2-11 Fabric and Vinyl Coating

This rule has been revised to: (1) Extend the applicability of fabric coating regulations to saturation operations; (2) extend the applicability of vinyl coating regulations to the application of functional coatings; and (3) specify that organosol and plastisol use cannot be used to bubble emissions from vinyl printing and topcoating.

326 IAC 8-3-1 Organic Solvent Degreasing Operations—Applicability

The applicability criteria for organic solvent degreaser emission control has been changed from degreasers at plants with the potential to emit 100 tons of VOC per year or more to: (1) Cold cleaner degreasers without remote solvent reservoirs; (2) open top vapor degreasers with an air to vapor interface area of one square meter or greater; and (3) conveyorized degreasers with an air to solvent interface area of two square meters or more regardless of the VOC emission level of a facility. Sources subject to these new criteria must comply with the degreasing requirements by July 1, 1991.

326 IAC 8-4-8 Leaks from Petroleum Refineries-Monitoring Reports

Exemptions from monitoring requirements in 326 IAC 8-4-8 have been deleted for inaccessible valves and, after July 1, 1991, for components in lines carrying gases composed of 90 percent methane and/or ethane. Commencing on July 1, 1991, components which are located where monitoring is hazardous shall be monitored when conditions allow these components to be monitored safely. USEPA Reference Method 21 has replaced the method described in the petroleum refinery Control Technology Guideline (CTG) (the method previously included in Indiana's rules) for monitoring for leaks.

326 IAC 8-5-3 Synthesized Pharmaceutical Manufacturing Operations

The VOC emission control requirement for air dryers and production equipment exhaust systems at synthesized pharmaceutical manufacturing facilities with VOC emission levels of 150 kilograms per day or greater has been increased from 85 percent to 90 percent effective July 1, 1991.

326 IAC 8-5-5 Graphic Arts Operations

This rule has been amended as follows: (1) 326 IAC 8-5-5(b)(4) now specifies an alternative compliance method VOC emission limit of 0.5 pounds VOC per pound of ink; (2) 326 IAC 8-5-5(d) (reviewed in the January 2, 1991, NPR as 326 IAC 8-5-5(e)) now specifies the following emission control requirements: (i) 75 percent for publication rotogravures; (ii) 65 percent for packaging rotogravures; and (iii) 60 percent for flexographic printing; and (3) 326 IAC 8-5-5(c) (revised in the January 2, 1991, NPR as 326 IAC 8-5-5-(d)) now requires compliance with 326 IAC 8-5-5(e) by July 1, 1991.

Equivalent and Alternative Methods

Rules referring to the use of equivalent test methods and alternative emission control techniques have been amended to require the submittal of these equivalent test methods and alternative control techniques to the USEPA as SIP revisions. Indiana's language is approvable because it acknowledges that these equivalent test methods and alternative control techniques are not part of the federally approved SIP until they are specifically approved by the USEPA as SIP revisions. The USEPA is adding language to its approval in part 52 of the CFR clarifying that USEPA must approve any such proposed revisions before they are effective in altering the federally enforceable SIP.

Rules Adopted After January 2, 1991

The following rule revisions were reported in their finally adopted forms in the May 15, 1991, and August 19, 1991, submittals. Unless noted otherwise the finally adopted rule revisions were identical to the preliminarily adopted versions reviewed in the January 2, 1991, NPR. The rule revisions summarized below have been determined to comply with USEPA RACT and related regulations and policy.

326 IAC 1-2-14 "Coating Line" Definition

The definition of "coating line" has been modified to mean all operations and equipment which are used to apply, convey, and dry a surface coating. This would include, but not be limited to, one or more of the following components: (1) Spray booths; (2) flow coaters; (3) flash-off areas; (4) air dryers; and (5) ovens. Any operation utilizing one or more of the listed equipment types would qualify as a coating line.

326 IAC 8-1-1 Applicability of Rules

This rule has been revised to require that facilities once subject to the control requirements of any of the VOC rules will remain subject to such rules even if emissions are subsequently reduced below the rules' applicability levels. A facility may be exempted from the applicable rules if: (1) the facility has an enforceable permit issued under 326 IAC 2 or a federally-approved SIP revision that permanently restricts one or more source activities resulting in the lowering of actual VOC emissions before add-on controls to a level below 15 pounds per day (expiration of the permit results in the expiration of the exemption from rule applicability); (2) the permit or SIP revision referenced in (1) also requires the facility owner or operator to keep records demonstrating compliance with the permit or SIP restrictions; and (3) all permits, renewed permits, and other related documents are submitted to the USEPA as SIP revisions. Indiana's language is approvable because the State acknowledges that proposed SIP revisions, including proposed SIP revisions covering changes in rule applicability, are not part of the federally approved SIP until they are specifically approved by the USEPA as SIP revisions. Consistent with the State's interpretation of its rules, the USEPA is adding language to its approval in part 52 of the CFR clarifying that USEPA must approve any such proposed revisions before they are effective in altering the federally enforceable SIP.

326 IAC 8-1-2 Compliance Methods

The term "thermal or catalytic incineration" has been added to 326 IAC 8-1-2(a)(2) to clarify their use as a means of compliance with the requirements of Article 8 (326 IAC 8). The rule has also been revised to clarify requirements and to specify additional recordkeeping requirements.

Subsequent to the January 2, 1991, NPR, Indiana added a new clause to this rule. Subsection 8-1-2(a)(8) has been added to the rule to state that the requirements of Article 8 may be met through the use of an emission control device specifically allowed under provisions of any rule in this Article to meet the emission limitations specified in the rule. This clause was added to clarify that there are other specific emission control requirements (other than those listed in 326 IAC 8-1-2) within rules in Article 8. This additional clause is judged to be nonsubstantive and needed only for the purpose of preventing interference between 326 IAC 8-1-2 and other rules in 326 IAC 8. As such, this rule revision does not require additional proposed rulemaking on the part of the USEPA.

326 IAC 8-1-4 Testing Procedures

Revisions to 326 IAC 8-1-4 (h) and (i) state that the appropriate test methods shall be used for the source categories listed in (h) and (i) (synthesized pharmaceutical manufacturing, pneumatic rubber tire manufacturing, graphic arts, and external floating roof tanks). USEPA-recommended test procedures are referenced. These rule revisions were addressed in the January 2, 1991, NPR.

A minor change in 326 IAC 8–1–4(a)(4)(C) was made by the State after the January 2, 1991, NPR publication. An erroneous reference to an USEPA guideline was corrected. An appropriate reference to EPA 340/1–88–004, "A Guideline for Graphic Arts Calculations", has replaced the erroneous reference. This revision is inconsequential and does not trigger the need for additional rulemaking.

326 IAC 8–2–1 Applicability

This rule has been modified to state that, for sources listed in 326 IAC 8–2–2 through 326 IAC 8–2–13, VOC emission exemption cutoff levels shall be 15 pounds/day actual emissions based on emission levels before add-on controls.

326 IAC 8–3–5 Cold Cleaner Operations
326 IAC 8–3–6 Open Top Vapor Degreaser Operations
326 IAC 8–3–7 Conveyorized Degreaser Operations

Language has been added to these rules to make them consistent with USEPA's RACT requirements. The revisions include both improved emission control requirements and the requirement that the authorization of any equivalent emission controls must be accompanied by the submittal of the equivalent emission control requirements to the USEPA as SIP revisions. The following specific changes have been made to these rules: (1) 326 IAC 8–3–5(a)(5) has been modified to require the use of one of several possible control measures when solvents are heated to temperatures over 48.9 degrees Centigrade (120 degrees Fahrenheit) (possible controls include the use of a freeboard that attains a freeboard ratio of 0.75 or greater, the use of a water cover when the solvents used are insoluble in and heavier than water, or the use of other control systems demonstrated to provide equivalent emissions control and submitted to the USEPA as SIP revisions); (2) 326 IAC 8–3–6(a)(4) has been modified to require, as one control option, the use of a freeboard with a freeboard ratio of 0.75 or greater and a powered cover for an open top vapor degreaser with an opening exceeding one square meter in area; (3) 326 IAC 8–3–6(a)(4)(E) now contains the requirement that all acceptable equivalent emission control systems shall be addressed in requested SIP revisions submitted to the USEPA; (4) 326 IAC 8–3–6(b)(5) has been revised to prohibit the loading of an open top degreaser to the point where the vapor level would drop more than 10 centimeters (4 inches) when the workload is removed; (5) 326 IAC 8–3–7(a)(1) has been revised to require the closure of conveyorized degreaser downtime covers when the degreasers are not in use; (6) 326 IAC 8–3–7(a)(2) has been revised so that the requirement for the use of various switches is not conditioned on the heating of a solvent to its boiling point; and (7) 326 IAC 8–3–7(a)(6)(C) now contains the requirement that all acceptable equivalent (alternative) emissions control systems shall be addressed in SIP revision submittals to the USEPA. It should be noted that the underlying SIP requirements remain in effect until changed by final USEPA rulemaking actions.

326 IAC 8–4–8 Leaks From Petroleum Refineries; Monitoring; Reports

The rule revisions adopted for this rule are as follows: (1) 326 IAC 8–4–8(p) has been revised to specify that recordkeeping and reporting programs varying from the guidelines in subsections specified in 8–4–8(b) through 8–4–8(o) shall be submitted to the USEPA as SIP revisions; (2) 326 IAC 8–4–8–(q)(1) has been revised to state that the Commissioner may require the operator of a refinery to reschedule turnaround based on the number and severity of tagged leaks awaiting repair at the times of turnarounds; and (3) 326 IAC 8–4–8(q)(2) has been revised to state that, except for safety pressure relief valves, no owner or operator of a petroleum refinery shall install or operate a valve at the end of a pipe or line containing organic compounds unless the pipe or line is sealed with a second valve, blind flange, plug, or cap.

326 IAC 8–5–4 Pneumatic Rubber Tire Manufacturing

In the January 2, 1991, NPR, responding to the State's withdrawal of revisions to this rule, the USEPA stated that it would take no action on this rule. The revised rules adopted by the State and submitted on May 15, 1991, contained finally adopted regulations for pneumatic rubber tire manufacturing which significantly differ from rule revisions previously submitted and discussed in the NPR. Because the rule has been substantially revised and because the USEPA proposed to take no action on revisions to this rule, the revisions to this rule submitted on May 15, 1991, will be addressed in a separate rulemaking action.

326 IAC 8–5–5 Graphic Arts Operations

This rule has been revised to drop a previously unacceptable subsection, 326 IAC 8–5–5(f), which allowed an automatic one-year compliance date extension for this source category. The deletion of this subsection was proposed for approval in the January 2, 1991, NPR. The finally adopted rule revision matches the preliminarily adopted revision addressed in the NPR.

Conclusion

All of the rule revisions discussed above, with the exception of the rule revisions for pneumatic rubber tire manufacturing, were found to comply with the Clean Air Act, as amended, and with USEPA RACT guidelines and, therefore, are finally approvable. These rule revisions eliminate all of the rule deficiencies addressed in the June 15, 1988, letter from the USEPA to the IDEM except the lack of capture efficiency test methods. Moreover, the revisions meet the requirement under section 182(a)(2)(A) of the amended Act that States correct their SIPs consistent with guidance issued by the Administrator before the date of enactment of the amended Act.

Response to Public Comments and Final Rulemaking Action

No public comments were received in response to USEPA's January 2, 1991, proposed rule. For the reasons cited above, USEPA approves the incorporation of the following Indiana regulations into the Indiana State Implementation Plan for ozone. These rules were adopted as part of title 326 of the Indiana Administrative Code (326 IAC) by the Air Pollution Control Board and published in the Indiana Register and effective as indicated below.

Published November 1, 1988; Effective October 23, 1988:
- 326 IAC 8–1–0.5 Coating Definition
- 326 IAC 8–2–11 Fabric and Vinyl Coating

Published March 1, 1990; Effective February 15, 1990:
- 326 IAC 1–2–48 Non-Photochemically Reactive Hydrocarbon Defined
- 326 IAC 8–2–5 Paper Coating Operations

Published June 1, 1990; Effective May 18, 1990:
- 326 IAC 1–2–18.5 Cold Cleaner Degreaser Defined
- 326 IAC 1–2–21.5 Conveyorized Degreaser Defined
- 326 IAC 1–2–29.5 Freeboard Height Defined
- 326 IAC 1–2–29.6 Freeboard Ratio Defined
- 326 IAC 1–2–49.5 Open Top Vapor Degreaser Defined
- 326 IAC 8–2–9 Miscellaneous Metal Coating Operations
- 326 IAC 8–3–1 Organic Solvent Degreasing Operations

326 IAC 8–5–3 Synthesized Pharmaceutical Manufacturing Operations
326 IAC 8–5–5 Graphic Arts Operations
Published July 1, 1990; Effective June 8, 1990:
326 IAC 8–1–2 Compliance Methods
326 IAC 1–2–90 Volatile Organic Compound (VOC) Definition
326 IAC 8–1–4 Testing Procedures
Published June 1, 1991; Effective June 5, 1991:
326 IAC 1–2–14 Coating Line Definition
326 IAC 8–1–1 Applicability of Rule
326 IAC 8–1–2 Compliance Methods
326 IAC 8–1–4 Testing Procedures
326 IAC 8–2–1 Applicability
326 IAC 8–3–5 Cold Cleaner Degreaser Operation and Control
326 IAC 8–3–6 Open Top Vapor Degreaser Operation and Control Requirements
326 IAC 8–3–7 Conveyorized Degreaser Operation and Control
326 IAC 8–4–8 Leaks from Petroleum Refineries; Monitoring; Reports
326 IAC 8–5–5 Graphic Arts Operations.

No action is taken on 326 IAC 8–5–4 Pneumatic Rubber Tire Manufacturing.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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 May 5, 1992. Filing 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

Air pollution control, Environmental protection, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

Note: Incorporation by Reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 31, 1991.

Valdas V. Adamkus,

Regional Administrator.

For the reasons set out in the Preamble, chapter I, title 40, Code of Federal Regulations 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. 7401–7642.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(87) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(87) On October 23, 1990, and August 19, 1991, the Indiana Department of Environmental Management submitted regulations adopted by the Indiana Air Pollution Control Board as part of title 326 of the Indiana Administrative Code and intended incorporation into the Indiana ozone plan as part of the stationary source control strategy.

(i) Incorporation by reference.

(A) The following volatile organic compound rules adopted by the Indiana Air Pollution Control Board as part of title 326 of the Indiana Administrative Code (326 IAC) and intended to partially satisfy the requirements of the Clean Air Act.

(*1*) Effective October 23, 1988: 326 IAC 8–1–.05 Coating Definition, 326 IAC 8–2–11 Fabric and Vinyl Coating.

(*2*) Effective February 15, 1990: 326 IAC 1–2–48 Non-Photochemically Reactive Hydrocarbon Defined; 326 IAC 8–2–5 Paper Coating Operations.

(*3*) Effective May 18, 1990: 326 IAC 1–2–18.5 Cold Cleaner Degreaser Defined; 326 IAC 1–2–21.5 Conveyorized Degreaser Defined; 326 IAC 1–2–29.5 Freeboard Height Defined; 326 IAC 1–2–29.6 Freeboard Ratio Defined; 326 IAC 1–2–49.5 Open Top Vapor Degreaser Defined; 326 IAC 8–2–9 Miscellaneous Metal Coating Operations; 326 IAC 8–3–1 Organic Solvent Degreasing Operations; 326 IAC 8–5–3 Synthesized Pharmaceutical Manufacturing Operations; 326 IAC 8–5–5 Graphic Arts Operations.

(*4*) Effective June 8, 1990: 326 IAC 8–1–2 Compliance Methods; 326 IAC 1–2–90 Volatile Organic Compound (VOC) Definition; 326 IAC 8–1–4 Testing Procedures.

(*5*) Effective June 5, 1991: 326 IAC 1–2–14 Coating Line Definition; 326 IAC 8–1–1 Applicability of Rule; 326 IAC 8–1–2 Compliance Methods; 326 IAC 8–1–4 Testing Procedures; 326 IAC 8–2–1 Applicability; 326 IAC 8–3–5 Cold Cleaner Degreaser Operation and Control; 326 IAC 8–3–6 Open Top Vapor Degreaser Operation and Control Requirements; 326 IAC 8–3–7 Conveyorized Degreaser Operation and Control; 326 IAC 8–4–8 Leaks from Petroleum Refineries, Monitoring, Reports; 326 IAC 8–5–5 Graphic Arts Operations.

3. Section 52.777 is amended by adding paragraph (c)(2) to read as follows:

§ 52.777 Control strategy: photochemical oxidants (hydrocarbons).

* * * * *

(c) * * *

(*2*) The stationary source volatile organic control measures submitted by the State on October 23, 1990, and August 19, 1991, are approved as described in 40 CFR 52.770(c)(87) with the exception of 326 IAC 8–5–4 Pneumatic Rubber Tire Manufacturing, on which USEPA has taken no action. It should be noted that although the State's control measures provide that equivalent test methods, alternative emission controls, and revisions in rule applicability must be submitted to the USEPA as proposed revisions to the State Implementation Plan (SIP), such proposed SIP revisions are not part of the SIP unless and until they are approved as such by the USEPA.

* * * * *

[FR Doc. 92–5202 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Parts 148, 264, 265, and 268

[FRL–4112–2]

Land Disposal Restrictions for Third Third Scheduled Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendments.

SUMMARY: On June 1, 1990, EPA published regulations promulgating congressionally-mandated prohibitions on land disposal of certain hazardous wastes. This notice corrects errors and clarifies the language in the preamble and regulations of the June 1, 1990 final rule.

EFFECTIVE DATE: This rule is effective on March 6, 1992.

ADDRESSES: The RCRA docket is open from 9:30 to 3:30, Monday through Friday, excluding Federal holidays, and is located at the following address: EPA RCRA Docket (OS–305), room M–2427, 401 M Street SW., Washington, DC 20460. The public must make an appointment to review docket materials by calling (202) 260–9327. Refer to Docket number F–92–13C2–FFFFF when making appointments to review any background documentation for this correction. The public may copy a maximum of 100 pages of material from any one regulatory docket at no cost; additional copies cost $0.20 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at (800) 424–9346 (toll free) or (703) 920–9810 in the Washington, DC metropolitan area. For technical information contact the Waste Treatment Branch, Office of Solid Waste, 401 M Street SW., Washington, DC 20460, (703) 308–8434.

SUPPLEMENTARY INFORMATION:

Outline

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I. Reasons and Basis for Today's Amendment

It has recently come to the attention of the Agency in regard to the so-called third third rule, which established land disposal prohibitions and treatment standards for characteristic wastes and for listed wastes in the final third of the section 3004(g) schedule (55 FR 22520–720, June 1, 1990), that in some cases the regulatory language was at odds with the intent of the preamble to the final regulation, or failed to express those intentions. This notice corrects those errors, and also restores language inadvertently deleted from the third third rule by an unrelated Federal Register notice.

II. Summary of Corrections to the Third Third Final Rule

An explanation is provided below for each of the corrections made in today's rule.

A. Section 148.1 & .10

In the preamble to the final regulation, EPA discussed at length its reasons for applying land disposal prohibitions at the point of disposal for characteristic wastes that are injected into nonhazardous Class I deep wells (wells in which wastewater is injected below the lowermost geologic formation containing an underground source of drinking water). 55 FR 22658–59; 22645, col. 3. In essence, this means that if a characteristic waste no longer exhibits a characteristic when it is injected into such a deep well, the disposal is not prohibited. *Id.* at 22658–59.

In codifying this principle, however, EPA mistakenly indicated that it applied to characteristic wastes injected into either a nonhazardous or hazardous Class I deep well. See § 148.1(d)(1), 55 FR 22683. The provision should apply only to injection into nonhazardous Class I deep wells because hazardous wells would not be subject to any regulatory disruption if land disposal prohibitions (including the dilution prohibition) for characteristic wastes are applied to them. This is because hazardous Class I deep wells are already subject to such prohibitions by virtue of receiving listed and other hazardous wastes. EPA is consequently correcting § 148.1(d)(1) by removing the reference to hazardous Class I deep wells.

In the technical amendment to the third third, published on January 31, 1991 (55 FR 3864), Table A in 40 CFR 148.10 was incorrectly transposed and several constituents were inadvertently omitted. EPA is correcting Table A in § 148.10 by adding the omitted constituents.

B. Sections 264.13 & 265.13

In the 1986 rulemaking establishing the framework provisions for the land disposal restrictions program, EPA amended the waste analysis plan provisions contained in §§ 264.13(a) and 265.13(a) to require that any waste analysis done by subtitle C facilities must be adequate to comply with the provisions of the land disposal restrictions program in the part 268 regulations. 51 FR at 40637, 638 (Nov. 7, 1986). As amended, the provision consequently read in pertinent part: "(a)(1) Before an owner or operator treats, stores, or disposes of any hazardous wastes * * * he must obtain a detailed chemical and physical analysis of a representative sample of the wastes * * * At a minimum, the analysis must contain all the information which must be known to treat, store, or dispose of the waste in accordance with this part and part 268 of this chapter * * *"

In an August 14, 1989 regulation related to closure requirements, EPA amended the first sentence of §§ 264.13(a)(1) and 265.13(a)(1). The Office of the Federal Register misinterpreted the codification instructions, however, and deleted the second sentence of these provisions. EPA is restoring the mistakenly deleted language in this technical correction.

C. Section 268.3

EPA established treatment standards for D003 reactive cyanide wastes of 590 mg/kg (total cyanide) and 30 mg/kg (amenable cyanide) for nonwastewaters, and 0.86 mg/l (amenable cyanide) for wastewaters. § 268.43(a) Table CCW; 55 FR 22701. At issue here is whether these treatment standards can be achieved by dilution.

EPA stated expressly that these treatment standards had to be achieved through modes of treatment other than dilution: "EPA also notes that it considers * * * reactive cyanide wastes * * * to be toxic characteristic wastes * * * Reactive cyanide * * * wastes obviously contain toxic constituents. Thus, dilution would not be an appropriate method of treatment for [such wastes]." 55 FR 22666, col. 1. See also 54 FR at 48426, col. 2 (Nov. 22, 1989) (proposing that D003 reactive cyanide wastes be subject to the dilution prohibition).

In codifying this regulation, however, EPA inadvertently omitted this prohibition on dilution for reactive cyanide wastewaters that are treated in treatment systems whose ultimate discharges are subject to regulation under the Clean Water Act. The error results from the drafting of § 268.3(b), an exception from the dilution prohibition for characteristic wastes treated in systems whose discharges are subject to Clean Water Act regulation. The exception does not, however, apply to wastes for which "a method has been specified as the treatment standard." § 268.3(b) (final sentence). Since the reactive cyanide standards are levels rather than methods, this limitation on the exclusion would not apply and dilution of D003 reactive cyanide wastewaters would be allowed in Clean Water Act treatment systems. As noted above, this is the opposite result EPA proposed and intended, as stated in the preambles. Therefore, EPA is amending § 268.3(b) to indicate that the treatment standard for reactive cyanide wastes cannot be achieved through dilution as a substitute for adequate treatment under any circumstance, including management in a treatment system whose discharge is subject to the Clean Water Act. As always, the issue of what dilution is impermissible (i.e., serves as a substitute for adequate treatment, see § 268.3(a)) turns on specific facts, and aggregation of different D003 reactive cyanide wastes for centralized treatment that efficiently destroys cyanide is not ordinarily precluded. See, *e.g.*, 55 FR 22666, cols. 1–2; 55 FR 22664.

D. Section 268.41

As part of the third third rule, EPA added language to § 268.41 and .43 indicating that where treatment standards are based on grab sampling, enforcement would also use grab samples. Conversely, where treatment standards are based on composite sampling, so would enforcement. 55 FR 22689, 22701; *see also id.* at 22539. The regulatory language to § 268.41(a), however, suggests that enforcement will invariably be based on grab sampling. EPA is correcting this rule by adding the language already present in § 268.43(a), which states that grab sampling will be used unless noted otherwise in the treatment standard itself. (As an example of how such an instruction is noted, see e.g., standards for U209 to U226, all of which are based on composite samples, as stated in the treatment standard.)

E. Section 268.42

EPA also stated that D003 reactive sulfide wastes remain subject to the dilution prohibition: "EPA also notes that it considers * * * reactive sulfide wastes to be toxic characteristic wastes * * * Reactive * * * sulfide wastes obviously contain toxic constituents. Thus, dilution would not be an appropriate method of treatment for [such waste]." 55 FR 22666, col. 1. (EPA also proposed that reactive sulfide wastes be subject to the dilution prohibition. 54 FR 48426, col. 2 (Nov. 22, 1989).)

EPA specified, as a method of treatment for these wastes, deactivation to remove the characteristic. § 268.42(a) Table 2; 55 FR 22694. As is clear from the discussion in the relevant preambles, EPA did not intend to allow dilution as a substitute for adequate treatment to deactivate reactive sulfide wastes. EPA is consequently adding clarifying language to § 268.42 to confirm that the dilution prohibition applies to reactive sulfide wastes. EPA notes further that because there is a specified method of treatment for these wastes, the exception from the dilution prohibition in § 268.3(b) (for wastes treated in Clean Water Act treatment systems) does not apply.

III. Rationale for Immediate Effective Date

Today's notice does not create any new regulatory requirements; rather, it restates and clarifies requirements already in effect by correcting a number of errors in the June 1, 1990 final rule (55 FR 22520). For these reasons, EPA finds that good cause exists under section 3010(b)(3) of RCRA, 42 U.S.C. 9903(b)(3), to provide for an immediate effective date. In addition, there already was full opportunity to comment on all of these issues during the rulemaking so that further comment is unnecessary. For the same reasons, EPA finds that there is good cause under 5 U.S.C. 553(b)(3) to promulgate today's corrections in final form and that there is good cause under 5 U.S.C. 553(b)(3) to waive the requirement that regulations be published at least 30 days before they become effective. Finally, EPA notes that although it is not withdrawing any existing regulatory language, all of today's revisions operate prospectively.

IV. Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. Due to the nature of this regulation (technical correction), it is not "major"; therefore, no Regulatory Impact Analysis is required.

V. List of Subjects in Parts 148, 264, 265, and 268

Administrative practice and procedure, Confidential business information, Designated facility, Environmental protection, Hazardous materials, Hazardous materials transporting, Hazardous waste, Intergovernmental relations, Labeling, Manifests, Packaging and containers, Recycling, Reportable quantities, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply.

Dated: February 27, 1992.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

1. The authority citation for part 148 continues to read as follows:

Authority: Section 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 et. seq.

2. Section 148.1 is amended by revising paragraph (d) to read as follows:

§ 148.1 Purpose, scope, and applicability.

* * * * *

(d) Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under this part, are not prohibited if the wastes:

(1) Are disposed into a nonhazardous injection well defined under 40 CFR 144.6(a); and

(2) Do not exhibit any prohibited characteristic of hazardous waste identified in subpart C of part 261 at the point of injection.

3. In Section 148.10 Table A is amended by adding entries for "ethyl ether" and "methyl isobutyl ketone" in alphabetical order.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

2. Section 264.13 is amended by revising paragraph (a)(1) to read as follows:

§ 264.13 General waste analysis.

(a)(1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or nonhazardous wastes if applicable under § 264.113(d), he must obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information which must be known to treat, store, or dispose of the waste in accordance with this part and part 268 of this chapter.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935.

2. Section 265.13 is amended by revising paragraph (a)(1) to read as follows:

§ 265.13 General waste analysis.

(a)(1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or nonhazardous wastes if applicable under § 265.113(d), he must obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information which must be known to treat, store, or dispose of the waste in accordance with this part and part 268 of this chapter.

* * * * *

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. Section 268 is amended by revising paragraph (b) to read as follows:

§ 268.3 Dilution prohibited as a substitute for treatment.

* * * * *

(b) Dilution of wastes that are hazardous only because they exhibit a characteristic in a treatment system which treats wastes subsequently discharged to a water of the United States pursuant to a permit issued under section 402 of the Clean Water Act (CWA) or which treats wastes for the purposes of pretreatment requirements under section 307 of the CWA is not impermissible dilution for purposes of this section unless a method has been specified as the treatment standard in § 268.42, or unless the waste is a D003 reactive cyanide wastewater or nonwastewater.

3. Section 268.41 is amended by revising paragraph (a) to read as follows:

§ 268.41 Treatment standards expressed as concentration in waste extract.

(a) Table CCWE identifies the restricted wastes and the concentrations of their associated constituents which may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in Appendix I of this part of the allowable land disposal of such wastes, with the exception of wastes D004, D008, D031, K084, K101, K102, P010, P011, P012, P036, and U136 and the concentrations of their associated constituents which may not be exceeded by the extract of a waste or waste treatment residual developed using the test methods in appendix II of 40 CFR part 261 for the allowable land disposal of such wastes. (Appendix II of this part provides Agency guidance on treatment methods that have been shown to achieve the Table CCWE levels for the respective wastes. Appendix II of this part is not a regulatory requirement but is provided to assist generators and owners/operators in their selection of appropriate treatment methods.) Compliance with these concentrations is required based upon grab samples, unless otherwise noted in the following Table CCW.

* * * * *

4. In § 268.42 Table 2 is amended by revising, under waste code D003, the entry for "Reactive Sulfides based on 261.23(a)(5)." to read as follows:

§ 268.42 Treatment standards expressed as specified technologies.

* * * * *

TABLE 2.—TECHNOLOGY-BASED STANDARDS BY RCRA WASTECODE

Waste code	See also	Waste descriptions and/or treatment subcategory	CAS No. for regulated hazardous constituents	Technology code	
				Wastewaters	Nonwastewaters
*	*	*	*	*	*
D003	....	Reactive Sulfides based on 261.23(a)(5).	NA	DEACT but not including dilution as a substitute for adequate treatment.	DEACT but not including dilution as a substitute for adequate treatment.
*	*	*	*	*	*

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40 CFR Part 271

[FRL-4111-3]

Rhode Island; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Rhode Island has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Rhode Island's application and has made a decision, subject to public review and comment, that Rhode Island's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Rhode Island's hazardous waste program revision. Rhode Island's application for program revision is available for public review and comment.

DATES: Final authorization for Rhode Island shall be effective May 5, 1992, unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Rhode Island's program revision application must be received by the close of business April 6, 1992.

ADDRESSES: Copies of Rhode Island's program revision application are available for inspection and copying, 8:30 a.m.-4 p.m. Monday-Friday at the following addresses: Rhode Island Department of Environmental Management, Division of Air & Hazardous Materials, 291 Promenade Street, Providence, Rhode Island 02908-5767, Phone: 401/277-2797; U.S. EPA Region I Library, One Congress Street, 11th Floor, Boston, Massachusetts 02203, Phone: 617/565-3300. Written comments should be sent to Frank Battaglia, at the address below.

FOR FURTHER INFORMATION CONTACT: Frank Battaglia, MA & RI Waste Regulation Section, U.S. EPA Region I, HRR-CAN3, JFK Federal Building, Boston, Massachusetts 02203, Phone: 617/573-9643.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260-266, 268, 124 and 270.

B. Rhode Island

Rhode Island initially received final authorization on January 31, 1986, (51 FR 3780, January 30, 1986) to implement its base hazardous waste program. Rhode