INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
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Frank O'Bannon
Governor

Lori F. Kaplan
Commissioner

100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015
(317) 232-8603
(800) 451-6027
www.in.gov/idem

July 3, 2003

Ms. Cheryl Newton
Acting Director
Air and Radiation Division
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Re: Clean Air Act, Section 112(l)
Delegation Request; Secondary Lead Smelting
NESHAP

Dear Ms. Newton:

This letter is to request delegation of authority to Indiana to implement and enforce the National Emission Standard for Hazardous Air Pollutants from Secondary Lead Smelting, 40 CFR 63, Subpart X. This request is consistent with US EPA's final rule addressing delegation of authority (65 FR 55809, September 14, 2000) and final rule approving Indiana's section 112(l) Program of Delegation (62 FR 36460, July 8, 1997).

The state rule has also been submitted to the US EPA for approval as part of the State Implementation Plan, pursuant to section 110 requirements under the Clean Air Act.

Indiana adopted requirements of the federal rule into state rule, with certain modifications, as detailed below. Therefore, we are seeking approval under 40 CFR 63.92. The criteria for approval are contained in sections 63.91 and 63.92.

Based on prior program submittals and approvals for Indiana's Title V air permit and section 112 delegation programs, Indiana has met the "up-front" approval requirements as specified in 40 CFR 63.91(d). The remaining criterion for approval under section 63.91(d) is a demonstration that the State has adequate legal authority to implement and enforce the applicable federal standard. This authority has been established through state rule, 326 IAC 20-13. The rule went into effect in January 2001.

A copy of the state rule along with a comparison of requirements between the federal and state rule (Attachments A and B) are enclosed. Also, enclosed is the State's response to public comments received during the state rulemaking. The response to comments should be helpful in understanding the rationale for changes made to the federal rule language.

In addition, because Indiana's rule is not identical to the federal rule, Indiana must also meet the criteria for approval contained in 40 CFR 63.92(b). These are as follows:

63.92(b)(1) A demonstration that the public within the State has had adequate notice and opportunity to submit written comment on the state requirements.

Title 13 of Indiana Code contains statutory requirements for the environmental rulemaking process. IC 13-14-9 specifies requirements for providing opportunities for public comment during this process. With respect to the secondary lead smelting rule, opportunities for public comment were made available through three published notices of comment period and two public hearings (see Attachment C).

63.92(b)(2) A demonstration that each State adjustment to the federal rule individually results in requirements that:

(i) Are unequivocally no less stringent than the otherwise applicable federal rule with respect to applicability.

Applicability of Indiana's rule, as defined in 326 IAC 20-13-1, is consistent with the federal rule.

(ii) Are unequivocally no less stringent than the otherwise applicable federal rule with respect to level of control for each affected source and emission point.

The control requirements contained in Indiana's rule are clearly no less stringent and consistent with the types of adjustments that may be approved according to 63.92(b)(3). All emission stacks are subject to an Indiana emission limit (either 1.0 or 0.5 mg/dscm, depending on the type of operation) that is more stringent, in every case, than the federal limit of 2.0 mg/dscm for all stacks. In addition, HEPA filters are required in conjunction with a baghouse for certain process sources, which also is a more stringent requirement compared to the NESHAP's optional use of these high efficiency air filters.

(iii) Are unequivocally no less stringent than the otherwise applicable federal rule with respect to compliance and enforcement measures for each affected source and emission point.

The compliance and enforcement measures contained in Indiana's rule are clearly no less stringent and consistent with the types of adjustments that may be approved according to 63.92(b)(3). In the federal rule, there are no requirements for monitoring or recording indoor air pressure as does Indiana's rule. The NESHAP only requires that the enclosure be under negative pressure. Also, the federal rule does not limit the amount of time that an alarm from a bag leak detection system may be activated, as does Indiana's rule. Indiana's limit of 5% of total operating time for malfunctioning baghouses requires that corrective action be taken immediately and as identified in the standard operating procedures manual. In addition, the threshold for more frequent stack testing in Indiana's rule is more stringent than the federal rule (e.g. for process sources, if results exceed 1.0 mg/dscm, annual testing is required rather than every two years). The cutoff is 0.5 mg/dscm in Indiana's rule for annual testing rather than every two years.

(iv) Assure compliance by every affected source no later than would be required by the otherwise applicable federal rule.

No adjustments were made to deadlines specified in the federal rule.

63.92(b)(3) State adjustments to federal section 112 rules which may be part of an approved rule under this section are:

(i) Lowering a required emission rate or de minimis level.

Indiana's rule establishes lower emission limits for new and existing process sources, and new and existing process fugitive and fugitive dust sources (326 IAC 20-13-2, 326 IAC 20-13-3, 326 IAC 20-13-4).

(ii) Adding a design, work practice, operational standard, emission rate or other such requirement.

Indiana's rule requires use of high efficiency HEPA filters for new control devices on process fugitive and fugitive sources, and continued use if they were in use at the time the rule went into effect. These filters are optional under the federal rule (326 IAC 20-13-2(a), 326 IAC 20-13-3(b), 326 IAC 20-13-4, 326 IAC 20-13-7(a)).

Indiana's rule establishes an opacity limit on all lead-emitting stacks and exterior dust handling systems. Opacity from stacks is not addressed in the Federal rule (326 IAC 20-13-7(b)).

Indiana's rule requires continous monitoring to record negative air pressure of the total enclosure. Additionally, the source is required to submit a monitoring plan and identify corrective action steps. There are no requirements in the Federal rule (326 IAC 20-13-7(c)).

Indiana's rule requires one source to maintain an existing ambient air monitoring network for lead (326 IAC 20-13-7(e)).

(iii) Increasing a required control efficiency.

Indiana's emission rate limits are based on the use of high-efficiency HEPA filters on control devices (326 IAC 20-13-2(a), 326 IAC 20-13-3(b), 326 IAC 20-13-4, 326 IAC 20-13-7(a)).

(iv) Increasing the frequency of required reporting, testing, sampling or monitoring.

Indiana's rule requires a stack test for process sources every two years, or annually if results exceed 0.5 mg/dscm. The Federal rule requires a stack test for process sources every two years, or annually if results exceed 1.0 mg/dscm (326 IAC 20-13-6(a), 326 IAC 20-13-6(b), 326 IAC 20-13-6(e)).

Indiana's rule requires a stack test every two years for process fugitive sources while the Federal rule requires a stack test every two years, or annually if results exceed 1.0 mg/dscm. The state rule meets the stringency requirement because the state emission limit is 0.5 mg/dscm compared to the Federal emission limit of 2.0 mg/dscm. Therefore, any test results exceeding 0.5 mg/dscm would be a violation rather than just requiring an annual stack test (326 IAC 20-13-6(c)).

Indiana's rule requires a one-time stack test for fugitive dust sources. There is no requirement in the Federal rule (326 IAC 20-13-6(c)).

Indiana's rule requires a continuous monitoring system to record negative air pressure of the total enclosure. The Federal rule only requires that the enclosure be under negative pressure. There are no requirements for monitoring in the Federal rule (326 IAC 20-13-7(c)).

Indiana's rule establishes a bag leak detection alarm limit of 5% of total operating time. There is no limit in the Federal rule (326 IAC 20-13-5, 326 IAC 20-13-7(d), 326 IAC 20-13-8(a), 326 IAC 20-13-8(b)).

(v) Adding to the amount of information required for records or reports.

No adjustments made.

(vi) Decreasing the amount of time to come into compliance.

No adjustments made.

(vii) Subjecting additional emission points or sources within a source category to control requirements.

No adjustments made.

(viii) Any adjustments allowed in a specific section 112 rule.

No adjustments made.

(ix) Minor editorial, formatting, and other nonsubstantive changes.

Formatting changes have been made to incorporate state specific requirements consistent with state rulemaking requirements.

(x) Identical alternative requirements previously approved by the Administrator in another local agency within the same State, if previously noticed that the alternative requirements would be applicable in the jurisdiction seeking approval under this section.

This does not apply.

In amendments to the section 112(l) program, US EPA clarified that certain authorities granted to the Administrator may be delegated to the states (65 FR 55809, September 14, 2000). These authorities, identified as Category I authorities, are listed in the final federal rule. Indiana requests delegation of these authorities, as applicable to secondary lead smelting operations, to provide clarity for affected sources.

If you should need any additional information, please fee free to contact me at 317-232-8222, or Kathy Watson of my staff, at 317-233-5694.

Sincerely,

Janet G. McCabe
Assistant Commissioner
Office of Air Quality

Enclosures

JGM/mpb