

The amendment modifies existing regulations at 39 CFR 266.9 to exempt system of records, USPS 050.080, Finance Records—Suspicious Transaction Reports, from certain provisions of the Privacy Act and corresponding regulations.

**DATES:** This rule is effective December 31, 2002.

**FOR FURTHER INFORMATION CONTACT:** Henry Gibson, (202) 268-4203.

**SUPPLEMENTARY INFORMATION:** The Postal Service published a proposed rule on December 27, 2000, to amend 39 CFR 266.9 to apply certain Privacy Act exemptions to Privacy Act systems of records 050.080. Pursuant to the Bank Secrecy Act, 31 U.S.C. 5318(g), anti-money laundering provisions, and implementing regulations of the U.S. Treasury, 31 CFR part 103, the Postal Service is required to report to the Department of the Treasury certain suspicious financial transactions that are relevant to a possible violation of law or regulation. Further, the Postal Service is prohibited from notifying any participant in the transaction that a report has been made. 31 U.S.C. 5318(g)(2).

In order to permit compliance with the non-notification requirement of the Bank Secrecy Act, the Postal Service is adopting an exemption from the Privacy Act provisions related to individual access. Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system of records is "investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section." Comments on the proposed rule were due on or before January 26, 2001. We did not receive any comments. Therefore, the rule is adopted as final without change.

The Postal Service is hereby giving notice of a final rule to exempt the Suspicious Transaction Report system from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). The reasons for exempting the system of records from sections (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) of the Privacy Act are set forth in the proposed rule.

#### List of Subjects in 39 CFR Part 266

Privacy.

For the reasons set out in the preamble, the Postal Service is amending part 266 of 39 CFR as follows:

#### PART 266—PRIVACY OF INFORMATION

1. The authority citation for part 266 continues to read as follows:

**Authority:** 39 U.S.C. 401; 5 U.S.C. 552a.

2. Section 266.9 is amended by adding paragraph (b)(7) to read as follows:

\* \* \* \* \*

(b) \* \* \*

(7) *Finance Records—Suspicious Transaction Reports, USPS 050.080.* This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1) through (4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2) as material compiled for law enforcement purposes. The reasons for exemption follow.

(i) Disclosure to the record subject pursuant to subsections (c)(3) through (d)(1) through (4) would violate the non-notification provision of the Bank Secrecy Act, 31 U.S.C. 5318(g)(2), under which the Postal Service is prohibited from notifying a transaction participant that a suspicious transaction report has been made. In addition, the access provisions of subsections (c)(3) and (d) would alert individuals that they have been identified as suspects or possible subjects of investigation and thus seriously hinder the law enforcement purposes underlying the suspicious transaction reports.

(ii) This system is in compliance with subsection (e)(1), because maintenance of the records is required by law. Strict application of the relevance and necessity requirements of subsection (e)(1) to suspicious transactions would be impractical, however, because the relevance or necessity of specific information can often be established only after considerable analysis and as an investigation progresses.

(iii) The requirements of subsections (e)(4)(G), (H), and (I) and subsection (f) do not apply because this system is exempt from the individual access and amendment provisions of subsection (d). Nevertheless, the Postal Service has published notice of the record source categories and the notification, access, and contest procedures.

An appropriate revision of 39 CFR 266.9 to reflect the final change will be published.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

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**BILLING CODE 7710-12-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[IN129-1a; FRL-57413-5]

#### Approval and Promulgation of Implementation Plans; Indiana

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** On April 3, 2000, the Indiana Department of Environmental Management (IDEM) submitted a site-specific State Implementation Plan (SIP) revision request concerning volatile organic compound (VOC) reasonably available control technology (RACT) requirements for the Naval Surface Warfare Center, Crane Division (NSWC Crane) in Crane, Indiana. The SIP submission allows the Department of the Navy to use military specification coatings containing a VOC content of up to 5.45 pounds per gallon for the painting operations in Building 2728 at NSWC Crane. This rulemaking action approves, using the direct final process, the Indiana SIP revision request.

**DATES:** This rule is effective on March 3, 2003, unless EPA receives adverse written comments by January 30, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of this SIP revision request are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Francisco J. Acevedo at (312) 886-6061 before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** Francisco J. Acevedo, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312)886-6061, E-mail: [acevedo.francisco@epa.gov](mailto:acevedo.francisco@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms "you" and "me" refer to the reader of this rulemaking and to sources subject

to the State rule addressed by this proposed rulemaking, and the terms “we,” “us,” or “our” refer to the EPA.

- A. What Action Is EPA Taking?
- B. Why Is EPA Taking This Action?
- C. How Does This Action Change Pollution Control Requirements for NSWC Crane?
- D. How Did EPA Make This Determination?
- E. Will This Action Adversely Impact Air Quality in the Area?
- F. What Is EPA’s Final Determination?

#### **A. What Action Is EPA Taking?**

EPA is approving a revision to Indiana’s SIP to allow the Department of the Navy to use military specification coatings containing a VOC content up to 5.45 pounds of VOC per gallon of coating less water for the projectile renovations operations in Building 2728 at NSWC Crane.

#### **B. Why Is EPA Taking This Action?**

SIP rule 326 IAC 8–2–9 (General Provisions Relating to VOC Rules: Miscellaneous Metal Coating Operations) generally prohibits miscellaneous metal coating operations from using coatings with a VOC content greater than 3.5 pounds of VOC per gallon of coating less water. NSWC Crane submitted a petition to the Commissioner of IDEM on July 13, 1999 requesting the use of military specification coatings containing a VOC content greater than 3.5 pounds per gallon. NSWC Crane requested the change because it could not locate any low VOC substitute that would meet the military specification TT–E–516, TT–P–664D, or TT–T–306 requirements. These coatings are required to meet the performance specifications for coating of the military projectiles currently manufactured at NSWC Crane.

According to 326 IAC 8–1–7 (General Provisions Relating to VOC Rules: Military Specifications), if emission limitations established in 326 IAC Article 8 (General Provisions Relating to VOC) conflict with military specifications, the owner or operator of the source may petition the Commissioner of IDEM to have military specifications be the controlling limitation. If the Commissioner approves the petition, the modified limitation shall be submitted to EPA as a SIP revision.

IDEM evaluated the petition for military specifications and the proposed SIP limit of 5.45 pounds of VOC per coating less water. The coatings that NSWC Crane is currently using meet the requirements of Composition L, which according to the corresponding Military Specifications is the low-VOC version of these materials. Based on the Material

Safety Data Sheets for the materials used in this operation, IDEM calculated that the VOC content for all the coatings used ranged from 4.88 to 5.45 pounds of VOC per coating less water. Therefore, the 5.45 pounds of VOC per coating less water is the highest allowable limit which will enable all coatings in this operation to be in compliance.

On April 3, 2000, IDEM submitted to EPA the modified limitations as a revision to the SIP. NSWC Crane submitted additional information on October 18, 2001 and June 28, 2002, in response to requests for additional justification from IDEM and EPA. In this notice, we are taking action to approve the submittal.

#### **C. How Does This Action Change Pollution Control Requirements for NSWC Crane?**

In the early 1990s Indiana adopted RACT regulations for the entire State. We approved these regulations and incorporated them into Indiana’s SIP for ozone (40 CFR 52.770). NSWC Crane manufactures ammunition, rockets and other military ordinances and, under these rules, is subject to a limit of 3.5 pounds of VOC per gallon of coating less water for coatings used on military projectiles.

Our approval of alternate control requirements for NSWC Crane exempts the painting operations in Building 2728 from the 3.5 pounds of VOC per gallon of coating limit required for any miscellaneous metal coating operation and will allow the use of military specification coatings, containing a VOC limit of up to 5.45 pounds of VOC per gallon of coating less water.

#### **D. How Did EPA Make This Determination?**

EPA reviewed the military specifications provided by NSWC Crane and submitted by IDEM, and independently investigated the availability of alternate coatings. EPA has determined that there are currently no approved alternative coatings available that meet the military specifications for the 155mm projectiles painted at NSWC Crane.

In making this determination, EPA consulted with the Armament Research Development and Engineering Center (ARDEC), in Picatinny, NJ, the agency responsible for identifying the paint requirements for the 155mm projectiles used at NSWC Crane. ARDEC is currently executing a low-VOC ammunition coating project to address the environmental coating issue at the NSWC Crane facility and is in the process of testing VOC compliant coatings to determine if they will

comply with military specifications used at NSWC Crane. The laboratory testing phase of selected VOC compliant coating candidates was completed this summer and the next phase consists of field testing selected coatings to determine if they meet the specifications. Once ARDEC identifies that complying coatings are available, NSWC Crane will need to modify its operations to allow for the use of coatings complying with the 3.5 pounds of VOC per gallon of coating less water.

#### **E. Will This Action Adversely Impact Air Quality in the Area?**

NSWC Crane is located in Martin County which is designated as attainment for ozone. All available monitoring data indicates that the area is in attainment of the 1-hour standard and regional modeling indicates that the area will meet the 8-hour standard when Indiana’s nitrogen oxide rule is in effect. Since 1999, NSWC Crane has been operating under a State-approved variance which allows emissions equivalent to the emissions allowed under the SIP revision that we are approving with this action. Consequently, our approval of the alternate control requirements for NSWC Crane should not interfere with attainment or continued maintenance of the ozone standard.

#### **F. What Is EPA’s Final Determination?**

Based on the rationale set forth above, we are approving a revision to the VOC control requirements for the painting operations in Building 2728 at NSWC Crane. Our approval of this revision makes federally enforceable the portion of the State’s October 12, 1999, Significant Source Modification No. SSM101–11153–00005, which establishes alternate control requirements for NSWC Crane.

We are publishing this action without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless we receive relevant adverse written comment by January 30, 2003. Should we receive such comments, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action will be effective on March 3, 2003.

## Administrative Requirements

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. For this reason, 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). 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.*). 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).

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). 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. 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.

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. 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.*).

The Congressional Review Act, 5 U.S.C. section 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

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 March 3, 2003. Filing a 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

Environmental protection, Air pollution control, Hazardous air pollutants, Incorporation by reference, Volatile organic compounds, Ozone.

Dated: November 14, 2002.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

For the reasons stated in the preamble, part 52, chapter I, 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 *et seq.*

## Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(156) to read as follows:

### § 52.770 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(156) On April 3, 2000 the State submitted a revision to Indiana's State Implementation Plan to allow the Department of the Navy use of military specification coatings containing volatile organic compound (VOC) control requirements with content up to 5.45 pounds of VOC per gallon of coating less water for the projectile renovations operations in Building 2728 at the Naval Surface Warfare Center, Crane Division.

(i) Incorporation by reference.

(A) Part 70 Significant Source Modification No.: 101-11153-00005 as issued by the Indiana Air Pollution Control Board on October 12, 1999.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 82

[FRL-7428-2]

RIN 2060-AK44

### Protection of Stratospheric Ozone: Additional Reconsideration of Petition Criteria and Incorporation of Montreal Protocol Decisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** With this action, EPA is making minor revisions to the accelerated phaseout regulations that govern the production, import, export, transformation and destruction of substances that deplete the ozone layer under the authority of Sections 604, 605, 606, and 614 of Title VI of the Clean Air Act Amendments of 1990 (CAA or the Act). As part of this action, EPA is clarifying the petition process for imports of used class I controlled substances. Today's amendments also reflect changes in U.S. reporting obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) due to a recent decision