

553(b)(B) and with a delayed effective date pursuant to 5 U.S.C. 553(d)(3). For applicability of the Regulatory Flexibility Act, please refer to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

#### Drafting Information

The principal author of these regulations is Marie C. Milnes-Vasquez of the Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

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

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 1.1502–28T also issued under 26 U.S.C. 1502. \* \* \*

■ 2. Section 1.1502–28T is amended by revising paragraphs (a)(4) and (d) to read as follows:

#### § 1.1502–28T Consolidated section 108 (temporary).

(a) \* \* \*

(4) *Reduction of certain tax attributes attributable to other members.* To the extent that, pursuant to paragraph (a)(2) of this section, the excluded COD income is not applied to reduce the tax attributes attributable to the member that realizes the excluded COD income, after the application of paragraph (a)(3) of this section, such amount shall be applied to reduce the remaining consolidated tax attributes of the group as provided in section 108 and this section. Such amount also shall be applied to reduce the tax attributes attributable to members that arose (or are treated as arising) in a separate return limitation year to the extent that the member that realizes excluded COD income is a member of the separate return limitation year subgroup with respect to such attribute if a SRLY limitation applies to the use of such attribute. In addition, such amount shall be applied to reduce the tax attributes attributable to members that arose in a

separate return year or that arose (or are treated as arising) in a separate return limitation year if no SRLY limitation applies to the use of such attribute. The reduction of each tax attribute pursuant to the three preceding sentences shall be made in the order prescribed in section 108 and pursuant to the principles of § 1.1502–21T(b)(1). Except as otherwise provided in this paragraph (a)(4), a tax attribute that arose in a separate return year or that arose (or is treated as arising) in a separate return limitation year is not subject to reduction pursuant to this paragraph (a)(4). Basis in assets is not subject to reduction pursuant to this paragraph (a)(4). Finally, to the extent that the realization of excluded COD income by a member pursuant to paragraph (a)(3) does not reduce a tax attribute attributable to such lower-tier member, such excess shall not be applied to reduce tax attributes attributable to any member pursuant to this paragraph (a)(4).

\* \* \* \* \*

(d) *Effective dates.* This section other than paragraph (a)(4) of this section applies to discharges of indebtedness that occur after August 29, 2003. Paragraph (a)(4) of this section applies to discharges of indebtedness that occur after August 29, 2003, but only if the discharge occurs during a taxable year the original return for which is due (without regard to extensions) after December 10, 2003. However, groups may apply paragraph (a)(4) of this section to discharges of indebtedness that occur after August 29, 2003, and during a taxable year the original return for which is due (without regard to extensions) on or before December 10, 2003. For discharges of indebtedness that occur after August 29, 2003, and during a taxable year the original return for which is due (without regard to extensions) on or before December 10, 2003, paragraph (a)(4) of this section shall apply as in effect on August 29, 2003.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: December 2, 2003.

**Gregory Jenner,**

*Deputy Assistant Secretary of the Treasury.*  
[FR Doc. 03–30636 Filed 12–10–03; 8:45 am]

**BILLING CODE 4830–01–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[IN159–1a; FRL–7598–6]

#### Approval and Promulgation of Air Quality Implementation Plans; Indiana; Oxides of Nitrogen Regulations

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the oxides of nitrogen (NO<sub>x</sub>) budget trading program submitted by Indiana on June 26, 2003, and August 4, 2003. These changes revise Indiana's NO<sub>x</sub> State Implementation Plan (SIP) and NO<sub>x</sub> budget approved by EPA on November 8, 2001. The most significant change adds 17 units from three sources to the NO<sub>x</sub> trading portion of the Indiana plan. The plan revision also includes: A compliance date change to accommodate revised deadlines under the NO<sub>x</sub> SIP call; a revised definition of "energy efficiency project" to include anaerobic digestion systems; the addition of formulas to describe an energy efficiency and renewable energy "set aside"; and minor wording changes and correction of typographical errors. These changes are consistent with Indiana's previously approved "Phase I budget."

**DATES:** This rule is effective on January 26, 2004, unless EPA receives relevant adverse written comments by January 12, 2004. 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, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov). Comments may also be submitted electronically or through hand delivery/courier, please follow the detailed instructions described in subsection (B)(1)(i) through (iii) of the Supplementary Information section.

You may obtain a copy of the submittal and plan revisions at the above address. Please telephone John Paskevicz at (312) 886–6084 if you intend to visit the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** John Paskevicz, Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Chicago, Illinois 60604. E-Mail Address: [paskevicz.john@epa.gov](mailto:paskevicz.john@epa.gov).

**SUPPLEMENTARY INFORMATION:****Table of Contents**

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Throughout this document, the term “you” refers to the reader of this rule and/or to sources subject to the State rule, and the terms “we”, “us”, or “our” refer to EPA.

**I. General Information****A. How Can I Get Copies of This Document and Other Related Information ?**

1. The Regional Office has established an official public rulemaking file available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under “Region 5 Air Docket IN159”. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air Programs Branch, Air and Radiation Division, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. EPA requests that you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the [regulations.gov](http://www.regulations.gov) Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register** and are open for comment.

For public commenters, it is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper,

will be made available for public review at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

**B. How and to Whom Do I Submit Comments?**

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text “Public comment on Direct Final rulemaking Region 5 Air Docket IN159” in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA’s policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov). Please include the text “Public comment on proposed rulemaking Region 5 Air Docket IN159” in the subject line. EPA’s e-mail system is not an “anonymous access” system. If you send an e-mail comment directly without going through *Regulations.gov*,

EPA’s e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA’s e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulations.gov.* Your use of *Regulations.gov* is an alternative method of submitting electronic comments to EPA. Go directly to *Regulations.gov* at <http://www.regulations.gov>, then click on the button “TO SEARCH FOR REGULATIONS CLICK HERE,” and select Environmental Protection Agency as the Agency name to search on. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an “anonymous access” system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: J. Elmer Bortzer, Chief, Criteria Pollutant Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please include the text “Public comment on Direct Final Rulemaking Regional Air Docket IN159” in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: J. Elmer Bortzer, Chief, Criteria Pollutant Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

**C. How Should I Submit CBI to the Agency?**

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in

accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

## II. Background

On November 8, 2001 (66 FR 56465), EPA approved an Indiana NO<sub>x</sub> SIP revision because it fulfilled the NO<sub>x</sub> SIP Call Phase I emission budget requirements. That plan addressed emissions from electric generating units, large industrial boilers, turbines and cement kilns, in order to achieve reductions and meet the NO<sub>x</sub> budget required by EPA's October 27, 1998, NO<sub>x</sub> SIP Call. (63 FR 57357). The regulations approved include 326 Indiana Administrative Code (IAC) 10-3, the NO<sub>x</sub> reduction program for specific categories, and 326 IAC 10-4, the NO<sub>x</sub> budget trading program.

The amendment to the Indiana plan currently before EPA, also referred to by Indiana as the "NO<sub>x</sub> fix-up rule," addresses additional matters, some of which occurred after State adoption of the rule. The revisions consist of: (1) Regulating Ispat Inland Steel's and U.S. Steel's blast furnace gas boilers in 326 IAC 10-4 instead of 326 IAC 10-3; (2) correcting the omission of three boilers at Purdue University and specifying their allowance allocations in 326 IAC 10-4; (3) amending the definition of "energy efficiency projects" to include anaerobic digestion systems; (4) adding three new formulas to the energy efficiency renewable energy "set-aside" provisions; (5) changing compliance and other dates for all sources subject to the NO<sub>x</sub> trading program, as a result of a judicial decision; and (6) making minor wording changes and correcting typographical errors.

## III. Summary of the State Submittal

### A. What Sources Are Affected by This Rule Change?

There are a number of sources affected by this rule change. Purdue University's heating plant consists of

four boilers which provide steam and electricity to the school. Three of these boilers were originally classified as "small boilers" in the NO<sub>x</sub> SIP Call inventory and therefore, were not included in the NO<sub>x</sub> rules. However, Indiana has determined that these boilers meet the applicable threshold for the NO<sub>x</sub> trading program (250 million BTU per hour). IDEM calculated and allocated allowances for the boilers and included these boilers in 326 IAC 10-4.

When EPA approved Indiana's NO<sub>x</sub> SIP on November 8, 2001, we determined that the Indiana submittal met the Phase I NO<sub>x</sub> SIP Call budget requirement. The plan included Indiana's Phase I budget demonstration and supporting documentation including initial unit allocations and two new rules: 326 IAC 10-3 and 326 IAC 10-4. The final adopted rule included the regulation of blast furnace gas units under 10-3 rather than 10-4. A total of 25 blast furnace gas boilers at 4 facilities with a maximum design heat input of greater than 250 mmBtu/hr were regulated in 326 IAC 10-3. Since all of the units have a low emission rate on a lb/mmBtu basis, IDEM did not include these units in the trading program and did not require further emission reductions. The State inventory notes all of these units use blast furnace gas, natural gas, and/or coke oven gas to make steam. The steam is needed to operate cold air blowers which provide air to stoves and subsequently to the blast furnaces.

The Indiana submittal addressed here moves 14 units from 2 sources (Ispat Inland and U.S. Steel-Gary Works) from 10-3 to 10-4, making the 14 units at these 2 sources part of the trading program, and makes additional allowances available in the trading budget. This approach however, continues to maintain the total overall NO<sub>x</sub> budget for the State as is demonstrated in the revised budget demonstration.

EPA does not generally believe it is appropriate to regulate only a portion of a category of similar sources under a cap and trade program, unless conditions (such as those in the opt-in provisions of the model trading rule in 40 Code of Federal Regulations (CFR) part 96) are imposed in order to address the potential for shifting utilization out of the trading program. When only a portion of a group of similar sources is regulated, there is the potential for utilization to be redistributed from capped to non-capped units in the category in such a way that emissions are shifted from within the trading program, meaning allowances are freed up and total emissions increase. When

emissions from all sources in a source category are regulated and accounted for in a cap and trade program, utilization shifts among sources do not increase total emissions. However, for the particular source category involved here, specifically blast furnace gas boilers in the iron and steel industry, there seems to be little or no ability to shift utilization among plants. The boilers are located in proximity to blast furnaces and burn the by-product gas from the furnaces, which are used in the iron making process. The iron making process is integral to the steel making process at an iron and steel plant. The four plants in Indiana are owned and operated by four separate companies. In order for utilization of the blast furnace gas boilers at one plant to be shifted to those at another plant, steel production would have to be shifted, which seems highly unlikely. Given the low energy content and economic value of blast furnace gas itself, it is also highly unlikely that such gas from one plant would be transported to be burned at another plant.

Considering the relatively small emissions and the unlikelihood of utilization and emissions shifting, EPA in this unique case accepts Indiana's proposal to split this particular source category for the purposes of Indiana's NO<sub>x</sub> budget trading program. However, EPA intends, as part of its review in 2007 of the results of the NO<sub>x</sub> SIP call, to evaluate the impact (including the effect on total emissions) of allowing some, but not all, of the blast furnace gas boilers to participate in the NO<sub>x</sub> budget trading program.

The State has demonstrated and we agree that the changes submitted by Indiana will continue to provide for the timely compliance with the State's NO<sub>x</sub> budget during the 2007 ozone season. The 2 sources which remain in and are subject to the provisions of 326 IAC 10-3 will not adversely affect the overall budget. We are approving the revision because it meets the requirements of § 51.121(b)(1)(I). While the changes increase the trading budget, the overall Phase I budget for Indiana will continue to be met.

These newly included units will make a very small impact on the Indiana overall NO<sub>x</sub> budget. The budget remains within the NO<sub>x</sub> budget approved on November 8, 2001, (66 FR 56465). Specifically, the November 2001 plan contained a budget of 233,633 tons of NO<sub>x</sub> during the 2007 ozone season. The current revision caps NO<sub>x</sub> emissions for the same period at 233,548, well within the previously approved budget.

The rule also adds anaerobic digesters to the list of sources in 326 IAC 10-4-

2 eligible for energy efficiency and renewable energy allowances. Anaerobic digesters are closed, air-tight systems that use bacteria to break down organic matter and produce gases through this natural decomposition. One of the gases produced is methane, a combustible gas which is used to power engines to produce electricity. The purpose of this revision is to expand the number of types of projects eligible for energy efficiency renewable energy "set-asides." Indiana has the flexibility to add to this program projects which it believes will have a positive effect on energy efficiency and generation output, and EPA agrees with this addition.

#### *B. What Additional Changes Has Indiana Made?*

IDEM has added three new formulas to the energy efficiency and renewable energy set aside provisions in 326 IAC 10-4-9(e). The reason for this revision is to make allowances available, during the ozone control period, to producers of electricity using systems which are highly efficient.

In addition, the rule has revised dates for compliance, changed from May 1, 2003 to May 31, 2004 as a result of a court decision affecting the NO<sub>x</sub> SIP call, *Appalachian Power Co. et al. v. EPA*, F.3d (D.C. Cir 2001). Finally, IDEM has made minor wording changes and corrected typographical errors.

#### *C. What Public Review Opportunities Did Indiana Provide?*

Public notices were published in November 2002 and April 2003 for the two Indiana Air Pollution Control Board hearings in December 2002 and May 2003, respectively. At both of these hearings, Indiana provided the public and the affected sources with an opportunity to comment on the changes to the Indiana NO<sub>x</sub> rules. Indiana also provided copies of the record as part of the submittal of the Indiana NO<sub>x</sub> plan.

#### *D. Do the Changes Continue To Meet the NO<sub>x</sub> Budget for Indiana?*

Indiana provided a revised budget demonstration which takes into account the changes to the rule including the addition of the Ispat Inland, U.S. Steel and Purdue boilers to the trading program. The budget revisions affect only the non-EGU source category, and show a net decrease in the overall Indiana NO<sub>x</sub> budget.

The changes for the three sources affect the set-asides for new large units at 326 IAC 10-4-9(e)(1)(A)(ii) and at 326 IAC 10-4-9(e)(1)(B) for energy efficiency and renewable energy projects. The Indiana analysis also

demonstrates a net change to the overall Phase I budget to be a negative 85 tons during the ozone season. This decrease is the result of including the Purdue boilers in the trading program and allocating NO<sub>x</sub> allowances based on a controlled emissions level. In EPA's November 8, 2001 approval of the 2007 Indiana NO<sub>x</sub> SIP, the budget was set at 233,633 tons. In this action, following the implementation of these rule changes, the Indiana revised NO<sub>x</sub> budget for the 2007 ozone season is 233,548 tons.

#### **IV. EPA Action**

EPA is taking final action to approve revisions to the NO<sub>x</sub> SIP submitted by Indiana on June 25, 2003, and August 4, 2003. These revisions: shift certain existing sources from the general NO<sub>x</sub> reduction rule to the NO<sub>x</sub> trading rule; add additional sources to the NO<sub>x</sub> trading rule; change the definition of energy efficiency projects to include anaerobic digestion systems; add three new formulas to the energy efficiency and renewable set aside provisions; change compliance dates in accordance with the 2001 court decision; and make some minor wording and typographical changes and corrections. Indiana's NO<sub>x</sub> SIP continues to meet the Phase I budget for EPA's NO<sub>x</sub> SIP Call.

In meeting this emissions budget, EPA believes the State will achieve reductions in emissions of NO<sub>x</sub> which will have a significant impact on ozone air quality in-state and downwind from sources in Indiana.

In the event we receive meaningful written adverse comment, this direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on a proposal published elsewhere in today's **Federal Register**.

#### **V. Statutory and Executive Order Reviews**

##### *Executive Order 12866: Regulatory Planning and Review*

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

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

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

##### *Regulatory Flexibility Act*

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

##### *Unfunded Mandates Reform Act*

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

##### *Executive Order 13175: Coordination With Indian Tribal Governments*

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

##### *Executive Order 13132: Federalism*

This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

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

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

##### *National Technology Transfer and Advancement Act*

In reviewing SIP submissions, USEPA'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 USEPA, 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.

#### *Paperwork Reduction Act*

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

#### *Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the 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. USEPA will submit a report containing this rule 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). This rule will be effective January 26, 2004.

#### *Petitions for Judicial Review*

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 February 9, 2004. 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, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: December 2, 2003.

**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)(163) to read as follows:

##### **§ 52.770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(163) On June 26, 2003, the Indiana Department of Environmental Management (IDEM) submitted revisions to 326 IAC 10–3 (NO<sub>x</sub> Reduction Program for Specific Source Categories) and 326 IAC 10–4 (NO<sub>x</sub> Budget Trading Program) of the Indiana Administrative Code (IAC). Also, on August 4, 2003, IDEM submitted a letter containing the Legislative Service Agency Document #00–54(F) as published in the Indiana Register on August 1, 2003, 26 IR 3550, containing the legal and approving signatures. The revised rules change the Indiana Phase I NO<sub>x</sub> budget to 233,548 tons per ozone season for 2007.

(i) Incorporation by reference.

(A) Indiana Pollution Control Board rules: 326 IAC 10–3–1 and 326 IAC 10–4–1, 10–4–2, 10–4–9, 10–4–10, 10–4–13, 10–4–14 and 10–4–15. Adopted by the Indiana Pollution Control Board on May 7, 2003. Filed with the Secretary on July 7, 2003. Published at Indiana Register Volume 26, Number 11, August 1, 2003 (26 IR 3550). Effective August 6, 2003.

[FR Doc. 03–30696 Filed 12–10–03; 8:45 am]

**BILLING CODE 6560–50–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Parts 60, 61, and 63**

[FRL–7598–4]

**Delegation of Authority to the States of Iowa; Kansas; Missouri; Nebraska; Lincoln-Lancaster County, NE; and City of Omaha, NE, for New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP); and Maximum Achievable Control Technology (MACT) Sources**

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

**ACTION:** Notice of delegation of authority.

**SUMMARY:** The states of Iowa, Kansas, Missouri, Nebraska, and the local agencies of Lincoln-Lancaster County, Nebraska, and city of Omaha, Nebraska, have submitted updated regulations for delegation of EPA authority for implementation and enforcement of NSPS, NESHAP, and MACT. The submissions cover new EPA standards and, in some instances, revisions to standards previously delegated. EPA's review of the pertinent regulations shows that they contain adequate and effective procedures for the implementation and enforcement of these Federal standards. This action informs the public of delegations to the above-mentioned agencies.

**DATES:** This document is effective on December 11, 2003. The dates of delegation can be found in the **SUPPLEMENTARY INFORMATION** section of this document.

**ADDRESSES:** Copies of documents relative to this action are available for public inspection during normal business hours at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

Effective immediately, all notifications, applications, reports, and other correspondence required pursuant to the newly delegated standards and revisions identified in this document should be submitted to the Region 7 office, and, with respect to sources located in the jurisdictions identified in this document, to the following addresses:

Iowa Department of Natural Resources,  
Air Quality Bureau, 7900 Hickman  
Road, Urbandale, Iowa 50322.