

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R05-OAR-2006-0539, EPA-R05-OAR-2006-0610; FRL-8224-3]

**Approval and Promulgation of Air Quality Implementation Plans; Indiana****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving requests submitted by the Indiana Department of Environmental Management (IDEM) on December 21, 2005 and June 27, 2006 to revise the Indiana State Implementation Plan (SIP) in two areas: to amend 326 IAC 1-3-4, ambient air quality standards, to provide consistency between State and Federal reference conditions for measurements of particulate matter air quality; and to update the references to the Code of Federal Regulations (CFR) from the 2002 edition to the 2004 edition.

**DATES:** This rule is effective on January 2, 2007, unless EPA receives adverse written comments by November 30, 2006. If EPA receives adverse comments, 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:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0539, EPA-R05-OAR-2006-0610 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- E-mail: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).
- Fax: (312)886-5824.
- Mail: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

- Hand Delivery: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2006-0539, EPA-R05-OAR-2006-0610. EPA's policy is that all comments

received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Jonathan Nichols, Life Scientist, at (312) 353-7942 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Nichols, Life Scientist, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection

Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-7942, [nichols.jonathan@epa.gov](mailto:nichols.jonathan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Should I Consider as I Prepare My Comments for EPA?
  - A. Submitting CBI
  - B. Tips for Preparing Your Comments
- II. Background
  - A. When Did the State Submit the Requested Rule Revisions to EPA?
  - B. Did Indiana Hold Public Hearings for Each of These Rule Revisions?
- III. What Are the Revisions That the State Requests Be Incorporated Into the SIP?
  - A. CFR Reference
  - B. Reference Conditions for PM Measurements
- IV. What Action Is EPA Taking Today?
- V. Statutory and Executive Order Reviews

**I. What Should I Consider as I Prepare My Comments for EPA?****A. Submitting CBI**

Do not submit this information to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, 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 claimed as CBI. In addition to one complete version of the comment that includes 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 public docket.

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

**B. Tips for Preparing Your Comments**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at

your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

## II. Background

### A. When Did the State Submit the Requested Rule Revisions to EPA?

IDEM submitted the requested rule revisions related to an update to the CFR reference on December 21, 2005, followed by the update providing consistency between State and Federal particulate matter reference conditions on June 27, 2006.

### B. Did Indiana Hold Public Hearings for Each of These Rule Revisions?

IDEM held public hearings for both of the rule revisions that were submitted: particulate matter reference condition standards rule revision public hearings were held on October 5, 2005, and December 7, 2005; and CFR reference update public hearings were held on February 2, 2005 and June 1, 2005. IDEM did not receive any comments concerning either rule revision.

## III. What Are the Revisions That the State Requests Be Incorporated Into the SIP?

The State has requested the following revisions: Changes to 1-1-3, References to the Code of Federal Regulations; and changes to 326 IAC 1-3-4, to provide consistency between State and Federal particulate matter measurement reference standards. The revisions are described in more detail below.

### A. CFR Reference

The reference to the CFR was updated in 326 IAC 1-1-3 from the 2002 edition to the 2004 edition. This is solely an administrative change that allows Indiana to reference a more current CFR.

### B. Reference Conditions for PM Measurement

IDEM is requesting the amendment of 326 IAC 1-3-4, ambient air quality standards, to provide consistency between State (326 IAC 1-3-4) and Federal (40 CFR 50.3) reference conditions for measurements of particulate matter air quality.

In 1997, EPA promulgated revised particulate matter national ambient air quality standard revisions at 40 CFR part 50 for both PM<sub>10</sub> (coarse particulate matter) and PM<sub>2.5</sub> (fine particulate

matter). Measurement of both standards was to be reported based on ambient air volume measured at the actual ambient temperature and pressure at the monitoring site during the measurement period. The Indiana Air Pollution Control Board adopted these standards on September 1, 2004.

As a result of litigation over the 1997 standards in which the PM<sub>10</sub> standard was vacated, EPA revised 40 CFR 50.3 on July 30, 2004 (69 FR 45592, 45595).<sup>1</sup> It now reflects the former standard reference conditions, i.e., 25 degrees Celsius (temperature) and 760 millimeters of mercury (1,013.2 millibars) (pressure) for PM<sub>10</sub>. The submitted revisions to 326 IAC 1-3-4 should ensure that specified reference measurement conditions in the Indiana SIP are consistent with 40 CFR 50.3, as revised.

## IV. What Action Is EPA Taking Today?

We are approving revisions to the Indiana SIP in two areas:

(1) To amend 326 IAC 1-3-4, ambient air quality standards, to provide consistency between State (326 IAC 1-3-4) and Federal (40 CFR 50.3) reference conditions for measurements of particulate matter air quality; and (2) to update the references to the Code of Federal Regulations (CFR) from the 2002 edition to the 2004 edition.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan if relevant adverse written comments are filed. This rule will be effective January 2, 2007 without further notice unless we receive relevant adverse written comments by November 30, 2006. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective January 2, 2007.

<sup>1</sup> See *American Trucking Associations, Inc. v. EPA*, 175 F.3d (D.C. Cir. 1999); affirmed in part, reversed in part, 531 U.S. 457 (2001).

## 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*

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant energy action," 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 Consultation and Coordination With Indian Tribal Governments*

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 (59 FR 22951, 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 and Safety Risks*

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.

*National Technology Transfer Advancement Act*

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.

*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. EPA 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. section 804(2).

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 January 2, 2007. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 14, 2006.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, 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 *et seq.*

**Subpart P—Indiana**

■ 2. Section 52.770 is amended by adding paragraph (c)(177) to read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(177) The Indiana Department of Environmental Management submitted revisions to Indiana's State Implementation plan on December 21, 2005, and June 27, 2006. Revisions to 326 IAC 1-3-4 provide consistency between State (326 IAC 1-3-4) and Federal (40 CFR 50.3) reference conditions for measurements of particulate matter air quality; and amendments to 326 IAC 1-1-3 update the references to the Code of Federal Regulations (CFR) from the 2002 edition to the 2004 edition.

(i) Incorporation by reference. The following sections of the Indiana Administrative Code are incorporated by reference.

(A) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 1: General Provisions, Rule 1: Provisions Applicable Throughout Title

326, Section 3: References to the Code of Federal Regulations. Filed with the Secretary of State on October 14, 2005 and effective on November 13, 2005. Published at Indiana Register, Volume 29, Number 3, December 1, 2005 (29 IR 795).

(B) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 1: General Provisions, Rule 3: Ambient Air Quality Standards, Section 4: Ambient Air Quality Standards. Filed with the Secretary of State on March 6, 2006 and effective on April 5, 2006. Published at Indiana Register, Volume 29, Number 7, April 1, 2006 (29 IR 2179).

[FR Doc. E6-18169 Filed 10-30-06; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**49 CFR Part 106**

**Rulemaking Procedures**

*CFR Correction*

In Title 49 of the Code of Federal Regulations, parts 100 to 185, revised as of October 1, 2005, on page 17, part 106 is corrected by reinstating § 106.100 to read as follows:

**§ 106.100 Required information for a petition for rulemaking.**

(a) You must include the following information in your petition for rulemaking:

(1) A summary of your proposed action and an explanation of its purpose.

(2) The language you propose for a new or amended rule, or the language you would delete from a current rule.

(3) An explanation of your interest in your proposed action and the interest of anyone you may represent.

(4) Information and arguments that support your proposed action, including relevant technical and scientific data available to you.

(5) Any specific cases that support or demonstrate the need for your proposed action.

(b) If the impact of your proposed action is substantial, and data or other information about that impact are available to you, we may ask that you provide information about the following:

(1) The costs and benefits of your proposed action to society in general, and identifiable groups within society in particular.