

description of an area) of any establishment listed.

(3) Other matters or problems of mutual concern.

i. Time, date, and place for next board meeting.

j. Adjournment of the board.

(Board Recorder's Name)

(Rank, Branch of Service), Recorder, Armed Forces Disciplinary Control Board

Approved:

(Board President's Name)

(Rank, Branch of Service) President, Armed Forces Disciplinary Control Board

(Note: The minutes of the board proceedings will be forwarded by official correspondence from the board president to the sponsoring commander for approval of the board's recommendations. By return endorsement, the sponsoring commander will either approve or disapprove the board's recommendations.)

[FR Doc. 05-20903 Filed 10-18-05; 8:45 am]

BILLING CODE 3710-08-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R05-OAR-2005-IN-0003; FRL-7981-8]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a request from the Indiana Department of Environmental Management (IDEM) to revise the Indiana State Implementation Plan (SIP) in three areas: To amend the definition of "particulate matter," and "ambient air quality standards," add new rules consistent with these amended definitions, and amend rules pertaining to sulfur dioxide (SO<sub>2</sub>) and nitrogen dioxide (NO<sub>2</sub>) ambient standards; to update the references to the Code of Federal Regulations (CFR) from the 2000 edition to the 2002 edition; and to add "credible evidence provisions" into state rules consistent with federal requirements.

**DATES:** This rule is effective on December 19, 2005, unless EPA receives adverse written comments by November 18, 2005. 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 comments, identified by Regional Material in EDocket (RME) ID No. R05-OAR-2005-IN-0003, by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Agency Web site: <http://docket.epa.gov/rmepub/>. Regional RME, EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the online instructions for submitting comments.

E-mail: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

Fax: (312) 886-5824.

Mail: You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**Hand delivery:** Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (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 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to RME ID No. R05-OAR-2005-IN-0003. EPA's policy is that all comments received will be included in the public docket without change, 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 RME, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://www.regulations.gov) Web site are "anonymous access" systems, 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 RME or [regulations.gov](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 the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

**Docket:** All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. We recommend that you telephone Julie Henning, Environmental Protection Specialist, at (312) 886-4882 before visiting the Region 5 office. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Julie Henning, Environmental Protection Specialist, State and Tribal Planning Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-4882, [henning.julie@epa.gov](mailto:henning.julie@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. General Information
  - A. How Can I Get Copies of This Document and Other Related Information?
  - B. How and to Whom Do I Submit Comments?
- II. Background
- III. What Are the Revisions That the State Requests Be Incorporated Into the SIP?
- IV. What Action Is EPA Taking Today?
- V. Statutory and Executive Order Reviews

#### I. General Information

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

1. The Regional Office has established an electronic public rulemaking file available for inspection at RME under ID No. R05-OAR-2005-IN-0003, and a hard copy file which is available for inspection at the Regional Office. 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 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, if at all possible, you contact the person 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 a.m. to 4:30 p.m. excluding Federal holidays.

2. Electronic Access. You may access this **Federal Register** document electronically through the 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**, the Government's legal newspaper, and that 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 viewing 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 proposed rulemaking Region 5 Air Docket R05-OAR-2005-IN-0003" 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.

For detailed instructions on submitting public comments and on what to consider as you prepare your comments see the **ADDRESSES** section

and the section I General Information of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

## **II. Background**

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

IDEM submitted the requested rule revisions related to particulate matter on February 18, 2005, followed by the update to the CFR reference on February 21, 2005, and the addition of the credible evidence provision on April 8, 2005.

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

IDEM held public hearings for each of the three rule revisions that were submitted: particulate matter, SO<sub>2</sub> and NO<sub>2</sub> ambient standards rule revision public hearings were held on May 5, 2004, and September 1, 2004; CFR rule revision public hearings were held on February 5, 2003, April 16, 2003, and June 2, 2004; credible evidence rule revision public hearings were held on September 1, 2004, and November 3, 2004.

### *C. Did IDEM Receive Any Adverse Comments to These Changes?*

IDEM did not receive any comments concerning 326 IAC 1-1-3 (regarding the CFR reference change) or 326 IAC 1-2 (regarding particulate matter, SO<sub>2</sub> and NO<sub>2</sub> ambient standards). IDEM did receive one comment concerning 326 IAC 1-1-6, relating to credible evidence. In that case, the interested party did not object to the promulgation of the rule, but stated that it would retain the right to challenge the interpretation of the rule at some time in the future.

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

The State has requested the following revisions: Changes to 326 IAC 1-2-52, "Particulate Matter" defined; the addition of 326 IAC 1-2-52.2, "PM<sub>2.5</sub>" defined; the addition of 326 IAC 1-2-52.4, "PM<sub>10</sub>" defined; the addition of 326 IAC 1-2-82.5, "Total Suspended Particulate" or "TSP" defined; changes to 326 IAC 1-3-4, Ambient air quality standards; changes to 1-1-3, References to the Code of Federal Regulations; and the addition of 326 IAC 1-1-6, "Credible evidence." The revisions are described in more detail below:

### *A. Particulate Matter Definitions and Ambient Air Quality Standards Language*

IDEM has made a number of revisions related to the federal fine particulate matter standards. These are: Amending the definition for "particulate matter" at 326 IAC 1-2-52; adding a definition for PM<sub>2.5</sub> at 326 IAC 1-2-52.2; adding a definition of PM<sub>10</sub> at 326 IAC 1-2-52.4; and adding a definition of "Total Suspended Particulate" or "TSP" at 326 IAC 1-2-82.5. Indiana also made minor administrative revisions to the Ambient Air Quality Standards section for PM<sub>10</sub>, SO<sub>2</sub> and NO<sub>2</sub> at 326 IAC 1-3-4. In the same rule, Indiana added a section stating the values of the primary and secondary standards for PM<sub>2.5</sub>. These revisions and additions are patterned after language in the revised federal standards at 40 CFR 50.6 and 50.7.

### *B. CFR Reference*

The reference to the CFR was updated in 326 IAC 1-1-3 from the 2000 edition to the 2002 edition. This is solely an administrative change that allows Indiana to reference the most current CFR.

### *C. Credible Evidence*

IDEM is requesting the approval of 326 IAC 1-1-6 which adds credible evidence provisions to state rules, consistent with the SIP call published by EPA in 1997 (62 FR 8314). The language of this new rule is patterned after the federal Credible Evidence rule at 40 CFR 51.212(c). The primary purpose of the Credible Evidence rule is to clarify that non-reference test data can be used in enforcement determinations and compliance certifications.

## **IV. What Action Is EPA Taking Today?**

We are approving revisions to the Indiana SIP in three areas: (1) To amend the definition of "particulate matter," and "ambient air quality standards," add new rules consistent with these amended definitions, and amend rules pertaining to SO<sub>2</sub> and NO<sub>2</sub> ambient standards; (2) to update the references to the Code of Federal Regulations (CFR) from the 2000 edition to the 2002 edition; and (3) to add credible evidence provisions into state rules consistent with federal requirements.

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 December 19, 2005, without further notice unless we receive relevant adverse written comments by November 18, 2005. 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 December 19, 2005.

## 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. 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 December 19, 2005. 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 23, 2005.

**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)(170) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(170) The Indiana Department of Environmental Management submitted revisions to Indiana's State Implementation plan on February 18, 2005, February 21, 2005, and April 8, 2005. Revisions to 326 IAC 1-2-52, 326 IAC 1-2-82.5, and 326 IAC 1-3-4 amend the definition of "particulate matter" to include the definition of PM<sub>2.5</sub> and amends the section that specifies the national ambient air quality standards. Revisions to 326 IAC 1-1-3 and 326 IAC 1-1-6 update the references to the Code of Federal Regulations (CFR) from the 2000 edition to the 2002 edition and add "credible evidence provisions" into state rules consistent with federal requirements, respectively.

(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 2: Definitions, Section 52: "'Particulate matter'" defined," Section 52.2: "'PM<sub>2.5</sub>' defined," Section 52.4: "'PM<sub>10</sub>' defined," Section 82.5: "'Total suspended particulate' or 'TSP' defined." 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 December 20, 2004 and effective on January 19, 2005. Published at Indiana Register, Volume 28, Number 5, February 1, 2005 (28 IR 1471-1473).

(B) 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 August 26, 2004 and effective on September 25, 2004. Published at Indiana Register, Volume 28, Number 1, October 1, 2004 (28 IR 17).

(C) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 1: General Provisions, Rule 1: Provisions Applicable Throughout Title 326, Section 6: "Credible evidence." Filed with the Secretary of State on February 14, 2005 and effective on March 16, 2005. Published at Indiana Register, Volume 28, Number 7, April 1, 2005 (28 IR 2045).

[FR Doc. 05-20819 Filed 10-18-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R03-OAR-2004-MD-0002; FRL-7984-7]

### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Visible and Particulate Emissions From Glass Melting Facilities

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision consists of regulations for the control of particulate and visible emissions from glass melting facilities.

**DATES:** *Effective Date:* This final rule is effective on November 18, 2005.

**ADDRESSES:** EPA has established a docket for this action under Regional Material in EDocket (RME) ID Number R03-OAR-2004-MD-002. All documents in the docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Once in the system, select "quick search," then key in the appropriate RME identification number. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Linda Miller, (215) 814-2068, or by e-mail at [miller.linda@epa.gov](mailto:miller.linda@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On July 6, 2005 (70 FR 38837), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of regulations to control particulate and visible emissions from glass melting facilities. The formal SIP revision was

submitted by the State of Maryland on November 18, 2004.

## II. Summary of SIP Revision

The SIP revision request included COMAR 26.11.25 to be approved into the SIP. The regulation is applicable to certain types of glass melting furnaces in the Baltimore and Washington planning areas.

A detailed discussion of the rationale for EPA's approval is provided in the NPR and will not be restated here. No public comments were received on the NPR.

## III. Final Action

EPA is approving the regulations for control of particulates and visible emissions from glass melting facilities as a revision to the Maryland SIP.

## IV. Statutory and Executive Order Reviews

### A. General 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 (Public Law 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