

EPA-APPROVED ALABAMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
335-3-5-.12 .....	CAIR SO <sub>2</sub> Allowance Transfers ..	04/03/07	10/01/07 [Insert citation of publication].	
335-3-5-.13 .....	Monitoring and Reporting .....	04/03/07	10/01/07 [Insert citation of publication].	
335-3-5-.14 .....	CAIR SO <sub>2</sub> Opt-In Units .....	04/03/07	10/01/07 [Insert citation of publication].	
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<b>Chapter 335-3-8—Control of Nitrogen Oxide Emissions</b>				
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335-3-8-.05 .....	NO <sub>x</sub> Budget Trading Program ....	04/03/07	10/01/07 [Insert citation of publication].	
* * * * *				
335-3-8-.10 .....	NO <sub>x</sub> Allowance Tracking System	04/03/07	10/01/07 [Insert citation of publication].	
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335-3-8-.16 .....	CAIR NO <sub>x</sub> Annual Budget Trading Program.	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.17 .....	CAIR Designated Representative for CAIR NO <sub>x</sub> Sources.	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.18 .....	CAIR Permits .....	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.20 .....	CAIR NO <sub>x</sub> Allowance Allocations	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.21 .....	CAIR NO <sub>x</sub> Allowance Tracking System.	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.23 .....	CAIR Monitoring and Reporting ..	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.24 .....	CAIR NO <sub>x</sub> Opt-In Units .....	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.25 .....	CAIR NO <sub>x</sub> Ozone Season Trading Program.	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.26 .....	CAIR Designated Representative for CAIR NO <sub>x</sub> Ozone Season Sources.	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.27 .....	CAIR NO <sub>x</sub> Ozone Season Permits.	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.29 .....	CAIR NO <sub>x</sub> Ozone Season Allowance Allocations.	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.30 .....	CAIR NO <sub>x</sub> Ozone Season Allowance Tracking System.	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.32 .....	CAIR NO <sub>x</sub> Ozone Season Monitoring and Reporting.	04/03/07	10/01/07 [Insert citation of publication].	
335-3-8-.33 .....	CAIR NO <sub>x</sub> Ozone Season Opt-In Units.	04/03/07	10/01/07 [Insert citation of publication].	
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[FR Doc. E7-19352 Filed 9-28-07; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R05-OAR-2006-0540; FRL-8472-4]

**Approval and Promulgation of Air Quality Implementation Plans; Indiana; Oxides of Nitrogen Regulations, Phase II**

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving Indiana's oxides of nitrogen (NO<sub>x</sub>) rules which satisfy the requirements of EPA's NO<sub>x</sub> SIP Call Phase II Rule (the Phase II Rule). EPA is approving these regulations based on Indiana's demonstration that they will result in the achievement of the Phase II budget through source compliance with rules affecting stationary internal combustion (IC) engines which are identified in the NO<sub>x</sub> plan submittal. Limiting NO<sub>x</sub> emissions from IC engines will enable the State to meet the Phase II incremental difference of 4,244 tons

during the ozone season, thereby improving air quality and protecting the health of Indiana citizens. EPA is also approving other changes to Indiana's NO<sub>x</sub> rules. These are minor clerical corrections and changes in definitions made by Indiana to conform to the revisions made by EPA in the Phase II Rule.

**DATES:** This final rule is effective on October 31, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2006-0540. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, 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 through [www.regulations.gov](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 Federal holidays. We recommend that you telephone John Paskevicz, Engineer, at (312) 886-6084 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** John Paskevicz, Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6084, [paskevicz.john@epa.gov](mailto:paskevicz.john@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 action is being taken by EPA?
- II. Is my IC engine subject to these regulations?
- III. Why is the Indiana IC engine program approvable?
- IV. Statutory and Executive Order Reviews

**I. What action is being taken by EPA?**

We are approving the Phase II Rule, submitted by Indiana on March 8, 2006 and supplemented on June 22, 2006, to control NO<sub>x</sub> emissions from IC engines in Indiana. EPA proposed to approve the Phase II Rule on May 30, 2007 (72 FR 29897), and received no comments.

Indiana's Phase II Rule is consistent with the NO<sub>x</sub> SIP Call Technical Amendments published in the **Federal Register** dated April 21, 2004, (69 FR

21604). The State has shown, through its budget demonstration, that it can achieve the Phase II budget increment through source compliance with the State's rules affecting IC engines and the State's permitting program. Meeting the Phase II budget increment and the Phase I increment means the State will meet its total overall ozone season NO<sub>x</sub> budget and bring about reductions in ozone concentrations in the State and downwind from Indiana.

EPA is also approving other changes to Indiana's NO<sub>x</sub> SIP. These other changes are minor clerical corrections and changes in definitions to conform to the changes made by EPA in the NO<sub>x</sub> Phase II Rule.

**II. Is my IC engine subject to these regulations?**

New rule 326 IAC 10-5 applies to any person who owns or operates a large stationary reciprocating IC engine or other smaller stationary IC engines that are included in a compliance plan. A large IC engine is defined as an engine that emits more than one ton of NO<sub>x</sub> per ozone season day, based on operation during the 1995 ozone season. Pipeline energy companies are the major users of large IC engines and the State developed its budget demonstration based on control of engines used in this energy transport industry.

**III. Why is the Indiana IC engine program approvable?**

The Indiana IC engine program is approvable because implementation of the program will result in reduction of NO<sub>x</sub> and meet the cap in emissions for units in this source category. The Indiana program meets the Phase II incremental difference of 4,244 tons per ozone season, as specified in the April 21, 2004 **Federal Register** (69 FR 21604).

The minor amendments to 326 IAC 10-3 and 326 IAC 10-4 are also approvable as they clarify regulatory language and correct various clerical errors. They also incorporate changes applicable to EGUs and non-EGUs, made in accordance with EPA's Phase II Rule, including the definitions of "EGU" and "non-EGU" as applied to co-generation units.

**IV. 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 Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant regulatory 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 (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 (CAA).

*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 CAA. 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 CAA. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 30, 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 17, 2007.

**Walter W. Kovalick, Jr.,**

*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)(184) to read as follows:

**§ 52.770 Identification of plan.**

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(c) \* \* \*

(184) Indiana Department of Environmental Management submitted amendments to the State Implementation Plan to control nitrogen oxide emissions from internal combustion engines in 326 Indiana Administrative Code (IAC) 10-5 and corrections to 326 IAC 10-3-3 and 326 IAC 10-4 on March 8, 2006.

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

(A) Title 326: Air Pollution Control Board, Article 10: Nitrogen Oxides Rules, Rule 3: Nitrogen Oxide Reduction Program for Specific Source Categories, Section 3: Emissions limits. Filed with the Secretary of State on January 27, 2006, effective February 26, 2006. Published in the Indiana Register on March 1, 2006 (29 IR 1876).

(B) Title 326: Air Pollution Control Board, Article 10: Nitrogen Oxides Rules, Rule 4: Nitrogen Oxides Budget Trading Program, Section 1: Applicability, Section 2: Definitions, Section 3: Retired unit exemption, Section 9: NO<sub>x</sub> allowance allocations, Section 13: Individual opt-ins, Section 14: NO<sub>x</sub> allowance banking, and Section 15: Compliance supplement pool. Filed with the Secretary of State on January

27, 2006, effective February 26, 2006. Published in the Indiana Register on March 1, 2006 (29 IR 1877).

(C) Title 326: Air Pollution Control Board, Article 10: Nitrogen Oxides Rules, Rule 5: Nitrogen Oxide Reduction Program for Internal Combustion Engines (ICE). Filed with the Secretary of State on January 27, 2006, effective February 26, 2006. Published in the Indiana Register on March 1, 2006 (29 IR 1899).

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 97**

[EPA-R02-OAR-2007-0233; FRL-8472-5]

**Approval and Promulgation of Implementation Plans; New Jersey: Clean Air Interstate Rule**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a revision to New Jersey's State Implementation Plan (SIP) submitted on February 6, 2007, and subsequently revised on July 9, 2007. This revision incorporates provisions related to the implementation of EPA's Clean Air Interstate Rule (CAIR), and the CAIR Federal Implementation Plan (CAIR FIP) concerning SO<sub>2</sub>, NO<sub>x</sub> annual, NO<sub>x</sub> ozone season emissions for the State of New Jersey. The SIP revision that EPA is fully approving is an "abbreviated" SIP revision that addresses the methodology to be used to allocate annual and ozone season NO<sub>x</sub> allowances under the CAIR FIPs. The SIP revision that EPA is approving will also satisfy New Jersey's 110(a)(2)(D)(i) obligations to submit a SIP revision that contains adequate provisions to prohibit air emissions from adversely affecting another state's air quality through interstate transport. EPA is not making any changes to the CAIR FIP, but is amending the appropriate appendices in the CAIR FIP trading rules simply to note approval of New Jersey's SIP revision.

**DATES:** This rule is effective on October 31, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2007-0233. All documents in the docket are available online at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available,