

## DEPARTMENT OF THE TREASURY

## Fiscal Service

## 31 CFR Part 285

RIN 1510-AB16

## Offset of Tax Refund Payments To Collect Past-Due Support

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Financial Management Service, Department of the Treasury, is amending its regulations governing the offset of federal tax refund payments to collect past-due child support obligations. We are removing the definition of *Qualified child* due to a change in the statutory definition on which it is based enacted as part of the Deficit Reduction Act of 2005. This statutory change will allow the tax refund offset program to collect past-due child support on behalf of children who are no longer minors. We are also amending the description of past-due support obligations that qualify for the tax refund offset by removing the requirement that the support be owed to or on behalf of a qualified child.

**DATES:** Effective October 22, 2007.

**ADDRESSES:** You may inspect and copy this rule at: Treasury Department Library, Freedom of Information Act (FOIA) Collection, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Before visiting, you must call (202) 622-0990 for an appointment.

**FOR FURTHER INFORMATION CONTACT:**

Thomas Dungan, Policy Analyst, at (202) 847-6660 or at [tom.dungan@fms.treas.gov](mailto:tom.dungan@fms.treas.gov) or Ellen Neubauer, Senior Attorney, at (202) 874-6680 or at [ellen.neubauer@fms.treas.gov](mailto:ellen.neubauer@fms.treas.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

The Deficit Reduction Act of 2005, Public Law 109-171, amended the Social Security Act to remove a restriction on the collection of past-due support obligations by tax refund offset. Prior to this change, tax refund offset to collect past-due support obligations being collected by States on behalf of an individual was only available if the support was due to or on behalf of a qualified child (a child who is a minor or who, while a minor, was determined to be disabled). The amendment to the law allows for the collection of past-due support by tax refund offset on behalf of individuals who were owed child

support as minors but reached the age of majority without having collected the full support amount owed to them.

The changes to this rule conform to the statutory change by removing the definition of *Qualified child* and by deleting the requirement that past-due support be owed to or on behalf of a qualified child to be eligible for collection by tax refund offset.

**II. Regulatory Analyses***Administrative Procedures Act*

This rule is being issued as a final rule without prior public notice and comment because the changes to the rule are being made to conform to statutory requirements. Under 5 U.S.C. 553(b), good cause exists to determine that notice and comment rulemaking is unnecessary and contrary to the public interest. The amendments made by this rule merely mirror amendments already enacted into law. Further delay in making these amendments would create an inconsistency between the law and the regulations and would cause confusion.

*Regulatory Planning and Review*

The final rule does not meet the criteria for a "significant regulatory action" as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

*Regulatory Flexibility Act Analysis*

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. *et seq.*) do not apply.

*Paperwork Reduction Act*

This rule contains no new collections of information. Therefore, the Paperwork Reduction Act does not apply.

**List of Subjects in 31 CFR Part 285**

Administrative practice and procedure, Child support, Child welfare, Claims, Debts, Privacy, Taxes.

**Authority and Issuance**

■ For the reasons set forth in the preamble, we are amending part 285 of title 31, as follows:

**PART 285—DEBT COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION IMPROVEMENT ACT OF 1996**

■ 1. The authority citation for part 285 continues to read as follows:

**Authority:** 5 U.S.C. 5514; 26 U.S.C. 6402; 31 U.S.C. 321, 31 U.S.C. 3701; 31 U.S.C. 3716; 42 U.S.C. 664; E.O. 13019, 61 FR

51763, 3 CFR, 1996 Comp., p. 216; Public Law 109-171.

■ 2. Amend § 285.3 by removing from paragraph (a) the definition of "Qualified child" and by revising paragraph (c)(1)(i)(B) to read as follows:

**§ 285.3 Offset of tax refund payments to collect past-due support.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) \* \* \*

(B) A State agency is providing support collection services under 42 U.S.C. 654(4) and the amount of the past-due support is not less than \$500.00; and

\* \* \* \* \*

Dated: October 9, 2007.

**Kenneth R. Papaj,**

*Commissioner.*

[FR Doc. 07-5175 Filed 10-19-07; 8:45 am]

**BILLING CODE 4810-39-M**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 97**

[EPA-R05-OAR-2007-0140; FRL-8481-4]

**Limited Approval of Implementation Plans of Indiana: Clean Air Interstate Rule**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is promulgating a limited approval of a revision to the Indiana State Implementation Plan (SIP) submitted on February 28, 2007. This revision incorporates provisions related to the implementation of EPA's Clean Air Interstate Rule (CAIR), promulgated on May 12, 2005, and subsequently revised on April 28, 2006, and December 13, 2006, and the CAIR Federal Implementation Plans (CAIR FIP) concerning SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season emissions for the State of Indiana, promulgated on April 28, 2006, and subsequently revised December 13, 2006. EPA is not making any changes to the CAIR FIP. It is, however, to the extent EPA approves Indiana's SIP revision, amending the appropriate appendices in the CAIR FIP trading rules simply to note that approval.

On September 20, 2007, Indiana requested that EPA act on a portion of the February 28, 2007, submittal as an "abbreviated SIP." Consequently, EPA is approving this abbreviated SIP revision, which addresses: The

applicability provisions for the NO<sub>x</sub> ozone season trading program and supporting definitions of terms; the methodology to be used to allocate NO<sub>x</sub> annual and ozone season NO<sub>x</sub> allowances and supporting definitions of terms; the compliance supplement pool (CSP) provisions for the NO<sub>x</sub> annual trading program; and provisions for SO<sub>2</sub> and NO<sub>x</sub> opt-in units, all under the CAIR FIP.

**DATES:** This direct final rule is effective *December 21, 2007* without further notice, unless EPA receives adverse comment by *November 21, 2007*. If EPA receives such comments, it will publish a timely withdrawal of the direct final 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-2007-0140, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).
3. *Fax*: (312) 886-5824.
4. *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.
5. *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-2007-0140. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 through *www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site 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 *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 and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., 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 *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 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-18J), 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:

##### Table of Contents

- I. What Action Is EPA Taking?
- II. What Is the Regulatory History of CAIR and the CAIR FIPs?
- III. What Are the General Requirements of CAIR and the CAIR FIPs?
- IV. What Are the Types of CAIR SIP Submittals?
- V. Analysis of Indiana's CAIR SIP Submittal
  - A. State Budgets for Allowance Allocations
  - B. CAIR Cap-and-Trade Programs
  - C. Applicability Provisions for Non-EGU NO<sub>x</sub> SIP Call Sources

- D. NO<sub>x</sub> Allowance Allocations
- E. Allocation of Allowances From Compliance Supplement Pool
- F. Individual Opt-In Units

#### VI. Final Action

#### VII. Statutory and Executive Order Reviews

### I. What Action Is EPA Taking?

#### CAIR SIP Approval

EPA is approving a revision to Indiana's SIP, submitted on February 28, 2007, that would modify the application of certain provisions of the CAIR FIPs concerning SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season emissions. (As discussed more fully below, this less comprehensive CAIR SIP is termed an "abbreviated SIP.") Indiana is subject to the CAIR FIP that implements the CAIR requirements by requiring certain Electric Generating Units (EGUs) to participate in the EPA-administered Federal CAIR SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season cap-and-trade programs. The SIP revision provides a methodology for allocating NO<sub>x</sub> allowances for the NO<sub>x</sub> annual and NO<sub>x</sub> ozone season trading programs. The CAIR FIPs provide that this methodology will be used to allocate NO<sub>x</sub> allowances to sources in Indiana, instead of the federal allocation methodology otherwise provided in the FIPs. The SIP revision also provides a methodology for allocating the compliance supplement pool allowances in the CAIR NO<sub>x</sub> annual trading program, expands the applicability provisions of the CAIR NO<sub>x</sub> ozone season trading program, and allows for individual units not otherwise subject to the CAIR trading programs to opt into such trading programs under the opt-in provisions of the CAIR FIP. Consistent with the flexibility provided in the FIP, these provisions will also be used to replace or supplement, as appropriate, the corresponding provisions in the CAIR FIP for Indiana. EPA is not making any changes to the CAIR FIP, but is amending to the extent EPA approves Indiana's SIP revision, the appropriate appendices in the CAIR FIP trading rules simply to note that approval.

### II. What Is the Regulatory History of CAIR and the CAIR FIPs?

EPA published CAIR on May 12, 2005 (70 FR 25162). In this rule, EPA determined that 28 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the national ambient air quality standards (NAAQS) for fine particles (PM<sub>2.5</sub>) and/or 8-hour ozone in downwind States in the eastern part of the country. As a result, EPA required those upwind

States to revise their SIPs to include control measures that reduce emissions of SO<sub>2</sub>, which is a precursor to PM<sub>2.5</sub> formation, and/or NO<sub>x</sub>, which is a precursor to both ozone and PM<sub>2.5</sub> formation. For jurisdictions that contribute significantly to downwind PM<sub>2.5</sub> nonattainment, CAIR sets annual State-wide emission reduction requirements (i.e., budgets) for SO<sub>2</sub> and annual State-wide emission reduction requirements for NO<sub>x</sub>. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets State-wide emission reduction requirements for NO<sub>x</sub> for the ozone season (May 1st to September 30th). Under CAIR, States may implement these emission budgets by participating in the EPA-administered cap-and-trade programs or by adopting any other control measures that the State shows will result in compliance with the applicable SO<sub>2</sub> and NO<sub>x</sub> budgets.

CAIR explains to subject States what must be included in SIPs to address the requirements of section 110(a)(2)(D) of the Clean Air Act (CAA) with regard to interstate transport with respect to the 8-hour ozone and PM<sub>2.5</sub> NAAQS. EPA made national findings on April 25, 2005 (70 FR 21147), effective May 25, 2005, that the States had failed to submit SIPs meeting the requirements of section 110(a)(2)(D). The SIPs were due in July 2000, three years after the promulgation of the 8-hour ozone and PM<sub>2.5</sub> NAAQS. These findings started a two-year clock for EPA to promulgate a FIP to address the requirements of section 110(a)(2)(D). Under CAA section 110(c)(1), EPA may issue a FIP anytime after such findings are made and must do so within two years unless a SIP revision correcting the deficiency is approved by EPA before the FIP is promulgated.

On April 28, 2006, EPA promulgated FIPs for all States covered by CAIR in order to ensure the emissions reductions required by CAIR are achieved on schedule. Each CAIR State is subject to the FIPs until the State fully adopts, and EPA approves, a SIP revision meeting the requirements of CAIR. The CAIR FIPs require certain EGUs to participate in the EPA-administered CAIR SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone-season model trading programs, as appropriate. The CAIR FIP SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season trading programs impose essentially the same requirements as, and are integrated with, the respective CAIR SIP trading programs. The integration of the CAIR FIP and SIP trading programs means that these trading programs will work together to create effectively a single

trading program for each regulated pollutant (SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season) in all States covered by the CAIR FIP or SIP trading program for that pollutant. The CAIR FIPs also allow States to submit abbreviated SIP revisions that, if approved by EPA, will automatically replace or supplement the corresponding CAIR FIP provisions (e.g., the methodology for allocating NO<sub>x</sub> allowances to sources in the State), while the CAIR FIP remains in place for all other provisions.

On April 28, 2006, EPA published two more CAIR-related final rules that added the States of Delaware and New Jersey to the list of States subject to CAIR for PM<sub>2.5</sub> and announced EPA's final decisions on reconsideration of five issues without making any substantive changes to the CAIR requirements.

### III. What Are the General Requirements of CAIR and the CAIR FIPs?

CAIR establishes State-wide emission budgets for SO<sub>2</sub> and NO<sub>x</sub> and is to be implemented in two phases. The first phase of NO<sub>x</sub> reductions starts in 2009 and continues through 2014, while the first phase of SO<sub>2</sub> reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO<sub>x</sub> and SO<sub>2</sub> starts in 2015 and continues thereafter. CAIR requires States to implement the budgets by either: (1) Requiring EGUs to participate in the EPA-administered cap-and-trade programs; or, (2) adopting other control measures of the State's choosing and demonstrating that such control measures will result in compliance with the applicable State SO<sub>2</sub> and NO<sub>x</sub> budgets. The May 12, 2005, and April 28, 2006, CAIR promulgations provide model rules that States must adopt (with certain limited changes, if desired) if they want to participate in the EPA-administered trading programs.

With two exceptions, only States that choose to meet the requirements of CAIR through methods that exclusively regulate EGUs are allowed to participate in the EPA-administered trading programs. One exception is for States that adopt the opt-in provisions of the model rules to allow non-EGUs individually to opt into the EPA-administered trading programs. The other exception is for States that include all non-EGUs from their NO<sub>x</sub> SIP Call trading programs in their CAIR NO<sub>x</sub> ozone season trading programs.

### IV. What Are the Types of CAIR SIP Submittals?

States have the flexibility to choose the type of control measures they will use to meet the requirements of CAIR.

EPA anticipates that most States will choose to meet the CAIR requirements by selecting an option that requires EGUs to participate in the EPA-administered CAIR cap-and-trade programs. For such States, EPA has provided two approaches for submitting and obtaining approval for CAIR SIP revisions. States may submit full SIP revisions that adopt the model CAIR cap-and-trade rules. If approved, these SIP revisions will fully replace the CAIR FIPs. Alternatively, States may submit abbreviated SIP revisions. These SIP revisions will not replace the CAIR FIPs; however, the CAIR FIPs provide that, when approved, the provisions in these abbreviated SIP revisions will be used instead of or in conjunction with, as appropriate, the corresponding provisions of the CAIR FIP (e.g., the NO<sub>x</sub> allowance allocation methodology).

An abbreviated SIP revision may establish certain applicability and allowance allocation provisions that, as provided by CAIR FIPs, will be used instead of or in conjunction with the corresponding provisions in the CAIR FIP rules in that State. Specifically, the abbreviated SIP revisions may:

1. Include NO<sub>x</sub> SIP Call trading sources that are not EGUs under CAIR in the CAIR FIP NO<sub>x</sub> ozone season trading program;
2. Provide for allocation of NO<sub>x</sub> annual or ozone season allowances by the State, rather than the Administrator, and using a methodology chosen by the State;
3. Provide for allocation of NO<sub>x</sub> annual allowances from the CSP by the State, rather than by the Administrator, and using the State's choice of allowed, alternative methodologies; and/or
4. Allow units that are not otherwise CAIR units to opt individually into the CAIR FIP cap-and-trade programs under the opt-in provisions in the CAIR FIP rules.

With approval of an abbreviated SIP revision, the CAIR FIP remains in place, as tailored to sources in the State by that approved SIP revision.

In some situations, EPA determines that a SIP submission does not fully meet all applicable CAA requirements but that the submission nonetheless strengthens the implementation plan. In such cases, EPA uses its "limited approval" authority under Sections 110(k)(3) and 301(a) of the Act to adopt regulations that are considered necessary to further air quality. Abbreviated SIP revisions can be submitted in lieu of, or as part of, full CAIR SIP revisions. States may want to designate part of their full SIP as an abbreviated SIP for EPA to act on first

when the timing of the State's submission might not provide EPA with sufficient time to approve the full SIP prior to the deadline for recording NO<sub>x</sub> allocations. This will help ensure that the elements of the trading programs where flexibility is allowed are implemented according to the State's decisions. Submission of an abbreviated SIP revision does not preclude future submission of a full CAIR SIP revision. In this case, although the February 28, 2007, submittal from Indiana was submitted as a full SIP revision, by a letter dated September 20, 2007, the State requested that certain portions be approved as an abbreviated SIP revision.

## V. Analysis of Indiana's CAIR SIP Submittal

### A. State Budgets for Allowance Allocations

The CAIR NO<sub>x</sub> annual and ozone season budgets were developed from historical heat input data for EGUs. Using these data, EPA calculated annual and ozone season regional heat input values, which were multiplied by 0.15 lb/mmBtu, for phase 1, and 0.125 lb/mmBtu, for phase 2, to obtain regional NO<sub>x</sub> budgets for 2009–2014 and for 2015 and thereafter, respectively. EPA derived the State NO<sub>x</sub> annual and ozone season budgets from the regional budgets using State heat input data adjusted by fuel factors.

The CAIR State SO<sub>2</sub> budgets were derived by discounting the tonnage of emissions authorized by annual allowance allocations under the Acid Rain Program under title IV of the CAA. Under CAIR, each allowance allocated in the Acid Rain Program for the years in phase 1 of CAIR (2010 through 2014) authorizes 0.50 ton of SO<sub>2</sub> emissions in the CAIR trading program, and each Acid Rain Program allowance allocated for the years in phase 2 of CAIR (2015 and thereafter) authorizes 0.35 ton of SO<sub>2</sub> emissions in the CAIR trading program.

The CAIR FIPs established the budgets for Indiana as 108,935 tons (for 2009–2014) and 90,779 tons (for 2015 and thereafter) for NO<sub>x</sub> annual emissions, 55,729 tons (for 2009–2014) and 49,050 tons (for 2015 and thereafter) for NO<sub>x</sub> ozone season emissions, and 254,599 tons (for 2009–2014) and 178,219 tons (for 2015 and thereafter) for SO<sub>2</sub> emissions. The NO<sub>x</sub> ozone season budget properly reflects the inclusion of NO<sub>x</sub> SIP Call trading program units that are brought into the CAIR NO<sub>x</sub> ozone season trading program, as discussed below. Indiana's SIP revision, approved in this action, sets these budgets as the total amounts

of allowances available for allocation for each year under the EPA-administered cap-and-trade programs under the CAIR FIP.

### B. CAIR Cap-and-Trade Programs

CAIR NO<sub>x</sub> annual and ozone-season FIPs both largely mirror the structure of the NO<sub>x</sub> SIP Call model trading rule in 40 CFR part 96, subparts A through I. While the provisions of the NO<sub>x</sub> annual and ozone-season FIPs are similar, there are some differences. For example, the NO<sub>x</sub> annual FIP (but not the NO<sub>x</sub> ozone season FIP) provides for a CSP, which is discussed below and under which allowances may be awarded for early reductions of NO<sub>x</sub> annual emissions. As a further example, the NO<sub>x</sub> ozone season FIP reflects the fact that the CAIR NO<sub>x</sub> ozone season trading program replaces the NO<sub>x</sub> SIP Call trading program after the 2008 ozone season and is coordinated with the NO<sub>x</sub> SIP Call program. The NO<sub>x</sub> ozone season FIP provides incentives for early emissions reductions by allowing banked, pre-2009 NO<sub>x</sub> SIP Call allowances to be used for compliance in the CAIR NO<sub>x</sub> ozone-season trading program. In addition, States have the option of continuing to meet their NO<sub>x</sub> SIP Call requirement by participating in the CAIR NO<sub>x</sub> ozone season trading program and including all their NO<sub>x</sub> SIP Call trading sources in that program.

The provisions of the CAIR SO<sub>2</sub> FIP are also similar to the provisions of the NO<sub>x</sub> annual and ozone season FIPs. However, the SO<sub>2</sub> FIP is coordinated with the ongoing Acid Rain SO<sub>2</sub> cap-and-trade program under CAA title IV. The SO<sub>2</sub> FIP uses the title IV allowances for compliance, with each allowance allocated for 2010–2014 authorizing only 0.50 ton of emissions and each allowance allocated for 2015 and thereafter authorizing only 0.35 ton of emissions. Banked title IV allowances allocated for years before 2010 can be used at any time in the CAIR SO<sub>2</sub> cap-and-trade program, with each such allowance authorizing one ton of emissions. Title IV allowances are to be freely transferable among sources covered by the Acid Rain Program and sources covered by the CAIR SO<sub>2</sub> cap-and-trade program.

EPA used the CAIR model trading rules as the basis for the trading programs in the CAIR FIPs. The CAIR FIP trading rules are virtually identical to the CAIR model trading rules, with changes made to account for Federal rather than State implementation. The CAIR model SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season trading rules and the respective CAIR FIP trading rules are designed to work together as integrated

SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season trading programs.

Indiana is subject to the CAIR FIPs for ozone and PM<sub>2.5</sub>, and the CAIR FIP trading programs for SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season apply to sources in Indiana. Consistent with the flexibility it gives to States, the CAIR FIPs provide that States may submit abbreviated SIP revisions that will replace or supplement, as appropriate, certain provisions of the CAIR FIP trading programs. The February 28, 2007, submission from Indiana is such an abbreviated SIP revision.

### C. Applicability Provisions for Non-EGU NO<sub>x</sub> SIP Call Sources

In general, the CAIR FIP trading programs apply to any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving, at any time since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 megawatt electrical (MWe) producing electricity for sale.

States have the option of bringing in, for the CAIR NO<sub>x</sub> ozone season program only, those units in the State's NO<sub>x</sub> SIP Call trading program that are not EGUs as defined under CAIR. EPA advises States exercising this option to add the applicability provisions in the State's NO<sub>x</sub> SIP Call trading rule for non-EGUs to the applicability provisions in 40 CFR 97.304 in order to include in the CAIR NO<sub>x</sub> ozone season trading program all units required to be in the State's NO<sub>x</sub> SIP Call trading program that are not already included under 40 CFR 97.304. Under this option, the CAIR NO<sub>x</sub> ozone season program must cover all large industrial boilers and combustion turbines, as well as any small EGUs (i.e., units serving a generator with a nameplate capacity of 25 MWe or less) that the State currently requires to be in the NO<sub>x</sub> SIP Call trading program.

Consistent with the flexibility given to States in the CAIR FIP, Indiana has chosen to expand the applicability provisions of the CAIR NO<sub>x</sub> ozone season trading program to include non-EGUs in the State's NO<sub>x</sub> SIP Call trading program. However, Indiana's abbreviated SIP submission fails to cover all such units and to include certain related definitions. As such, the SIP submission fails to meet the requirements of 40 CFR 51.123(ee)(1), which requires a State that chooses this option to expand the applicability provisions in a way that brings into the CAIR NO<sub>x</sub> ozone season trading program all units that are subject to the State's NO<sub>x</sub> SIP Call trading program but are not covered by the applicability

provisions of the CAIR NO<sub>x</sub> ozone season FIP.

Specifically, 326 IAC 24–3–1(a)(2) of Indiana's CAIR NO<sub>x</sub> ozone season rule expands the CAIR applicability provisions to include, as CAIR NO<sub>x</sub> ozone season units, NO<sub>x</sub> SIP Call units not otherwise subject to the CAIR program that do not generate electricity for sale (i.e., units defined as “large affected units” under 326 IAC 10–4–2(27)) but fails to bring into the CAIR program NO<sub>x</sub> SIP Call units not otherwise subject to CAIR that do generate electricity for sale (i.e., units defined as “electric generating units” under 326 IAC 10–4–2(16)). In addition, 326 IAC 24–3–1(b) of Indiana's rule applies to these “large affected units” the exemptions established under the CAIR model rule for cogeneration units and solid waste incineration units even though the State's NO<sub>x</sub> SIP Call trading program lacks any such exemptions. Moreover, Indiana's rule does not include certain definitions that are necessary to apply the State's NO<sub>x</sub> SIP Call applicability provisions and to apply other provisions of the State's rule to NO<sub>x</sub> SIP Call units. The terms for which definitions are missing, or for which different definitions than those currently in Indiana's rule are needed, include: “commence commercial operation,” “electricity for firm sale to the electric grid,” “fossil-fuel-fired,” and “unit”.

In light of these deficiencies, EPA concludes that Indiana's abbreviated SIP submission does not fully meet the requirements for such submissions under CAIR. However, EPA finds that, despite these deficiencies concerning applicability, Indiana's submission strengthens the implementation plan for Indiana by bringing into the CAIR FIP trading program units from the NO<sub>x</sub> SIP Call that would not otherwise be covered by the requirements of the CAIR FIP and thereby making progress toward meeting Indiana's obligation under the NO<sub>x</sub> SIP Call to make NO<sub>x</sub> emission reductions.

Under the NO<sub>x</sub> SIP Call, Indiana was required to make certain emissions reductions. Indiana met this requirement by making “large affected units” under 326 IAC 10–4–2(27) and “electric generating units” under 326 IAC 10–4–2(16) subject to the NO<sub>x</sub> SIP Call trading program. Starting with the 2009 control period, EPA will no longer administer the NO<sub>x</sub> SIP Call trading program (i.e., the NO<sub>x</sub> Budget Trading Program), which will therefore cease to exist. See 40 CFR 51.121(r)(1). With EPA's termination of the NO<sub>x</sub> SIP Call trading program starting with the 2009 ozone season, Indiana will need to take

further action to achieve the post-2009 reductions that would otherwise have been achieved under the NO<sub>x</sub> SIP Call trading program by those NO<sub>x</sub> SIP Call units that are not covered by the CAIR FIP NO<sub>x</sub> ozone season rule. See 40 CFR 51.121(r)(2) and 51.123(bb)(1)(i). Consequently, Indiana will need to either bring all those units into the CAIR NO<sub>x</sub> ozone season trading program or adopt other controls that will achieve the necessary post-2009 reductions. Indiana's abbreviated SIP makes progress toward achieving these needed reductions by bringing most, but not all, of such NO<sub>x</sub> SIP Call units into the CAIR FIP NO<sub>x</sub> ozone season trading program.

EPA also notes that, as discussed below, despite having deficiencies concerning NO<sub>x</sub> ozone season applicability, Indiana's submission meets most of the requirements for abbreviated SIPs. Moreover, while these deficiencies create the potential for erroneous exclusion from the CAIR program of units that may meet the NO<sub>x</sub> SIP Call applicability criteria in the future, EPA is not aware of any existing NO<sub>x</sub> SIP Call units that would be erroneously excluded from the CAIR program at the present time because of these deficiencies. For these reasons and the additional reasons discussed below, EPA is proposing a limited approval of Indiana's abbreviated SIP submission.

#### *D. NO<sub>x</sub> Allowance Allocations*

Under the NO<sub>x</sub> allowance allocation methodology in the CAIR model trading rules and in the CAIR FIP, NO<sub>x</sub> annual and ozone season allowances are allocated to units that have operated for five years, based on heat input data from a three-year period that are adjusted for fuel type by using fuel factors of 1.0 for coal, 0.6 for oil, and 0.4 for other fuels. The CAIR model trading rules and the CAIR FIP also provide a new unit set-aside from which units without five years of operation are allocated allowances based on the units' prior year emissions.

The CAIR FIP provides States the flexibility to establish a different NO<sub>x</sub> allowance allocation methodology that will be used to allocate allowances to sources in the States if certain requirements are met concerning the timing of submission of units' allocations to the Administrator for recordation and the total amount of allowances allocated for each control period. In adopting alternative NO<sub>x</sub> allowance allocation methodologies, States have flexibility with regard to:

1. The cost to recipients of the allowances, which may be distributed for free or auctioned;

2. The frequency of allocations;
3. The basis for allocating allowances, which may be distributed, for example, based on historical heat input or electric and thermal output; and
4. The use of allowance set-asides and, if used, their size.

Consistent with the flexibility given to States in the CAIR FIP, Indiana has chosen to replace the provisions of the CAIR NO<sub>x</sub> annual FIP concerning the allocation of NO<sub>x</sub> annual allowances with its own methodology. Indiana has chosen to distribute NO<sub>x</sub> annual allowances based on the methodology in the CAIR FIP with some minor modifications. For example, the allocation methodology in both the CAIR FIP and in Indiana's rule makes a proportional allocation of allowances to individual EGUs based on baseline heat input to the boiler or combustion turbine. However, unlike the CAIR FIP methodology that uses a fixed baseline heat input value based on five years of data, the Indiana rule updates the baseline heat input information using the most current eight years of data every six years. Indiana believes that the longer look back period for the initial allocation (1998–2005) is more appropriate than the timeframe in the CAIR FIP because many Indiana sources were installing equipment to comply with the NO<sub>x</sub> SIP Call, thus making the shorter time period in the CAIR FIP non-representative of normal operations. Further, with the Indiana heat input baseline being updated over time, retired units, no longer in operation and no longer part of the State's inventory, would eventually stop receiving allowances.

The Indiana rule also includes a new unit set-aside for the NO<sub>x</sub> annual trading program. The annual trading program in Indiana includes a new unit set-aside equal to 4.5 percent and 2.5 percent respectively for Phase I and Phase II unlike the CAIR FIP rule, which provides for a new unit set-aside of 5 percent and three percent for these periods. The one-half percent difference from the CAIR NO<sub>x</sub> annual FIP is used to provide annual NO<sub>x</sub> allowances for an energy efficiency and renewable (EE/RE) set-aside consistent with the NO<sub>x</sub> SIP Call EE/RE program.

Indiana's CAIR EE/RE program is intended to provide incentives for EE/RE projects that reduce NO<sub>x</sub> emissions starting in 2009. Applicants apply for allowances in one year, and the actual transfer of allowances occurs after the year is over, based on the emission reductions actually achieved. Half of any unallocated allowances for a year in the set-aside will be allocated to the CAIR units, and the other half of such

unallocated allowances will be retained by Indiana, and transferred to the Indiana Office of Energy and Defense Development, to fund a grant program for smaller scale EE/RE projects.

Consistent with the flexibility given to States in the CAIR FIPs, Indiana has chosen to replace the provisions of the CAIR NO<sub>x</sub> ozone season FIP concerning allowance allocations with its own methodology. Indiana will distribute NO<sub>x</sub> ozone season allowances based upon the methodology in the CAIR FIP with some changes. For example, Indiana's rule takes into account the fact that allowances for the 2009 ozone season trading period have already been allocated, and recorded by the Administrator, under Indiana's NO<sub>x</sub> SIP Call trading program. This is the first year for which allowances are allocated under the CAIR FIP NO<sub>x</sub> ozone season trading rule. The Indiana rule provides that these 2009 NO<sub>x</sub> SIP Call allowances are the CAIR NO<sub>x</sub> ozone season allowances for 2009, and thus no additional allocations for the 2009 ozone season for Indiana sources (except for CAIR NO<sub>x</sub> ozone season opt-in units, as discussed below) will be made under the CAIR NO<sub>x</sub> ozone season trading program. Consistent with this provision of Indiana's rule, the Administrator, in operating the CAIR NO<sub>x</sub> Ozone Season Tracking System, will treat each 2009 NO<sub>x</sub> SIP Call allowance issued by Indiana as usable for compliance with the allowance-holding requirements of the CAIR NO<sub>x</sub> Ozone Season Trading Program by any CAIR NO<sub>x</sub> ozone season source that holds the allowance in the source's compliance account as of the allowance transfer deadline, regardless of the State in which the source is located.

For control periods after 2009, Indiana's rule provides for the allocation of new allowances for the CAIR NO<sub>x</sub> ozone season program. For units covered by the CAIR NO<sub>x</sub> ozone season program under the applicability provisions of the CAIR FIP, Indiana's rule adopts an allocation methodology similar to that described above concerning CAIR NO<sub>x</sub> annual allowance allocations. For NO<sub>x</sub> SIP Call units brought into the CAIR trading program, Indiana's rule adopts a methodology that allocates allowances based on maximum design heat input as well as on baseline heat input. The Indiana rule also provides separate new unit set-asides for units covered by the applicability provisions in the CAIR FIP and for NO<sub>x</sub> SIP Call units brought into the CAIR program.

Further, Indiana included in its NO<sub>x</sub> ozone season trading program an EE/RE set-aside program and a hardship set-

aside for NO<sub>x</sub> SIP Call units brought into the CAIR program. The NO<sub>x</sub> ozone season EE/RE set-aside is similar to the NO<sub>x</sub> annual EE/RE set-aside except that half of any unallocated allowances for a year in the set-aside will be returned to the NO<sub>x</sub> SIP Call units in the program, and the rest will go to the grant program.

EPA's limited approval of Indiana's abbreviated SIP will allow implementation of the allocation methodologies selected by Indiana and, in particular, Indiana's methodology to address the allowances already issued, and recorded by the Administrator, in the NO<sub>x</sub> SIP Call trading program for the 2009 ozone season.

#### *E. Allocation of NO<sub>x</sub> Allowances From Compliance Supplement Pool*

The CAIR establishes a CSP to provide an incentive for early reductions in NO<sub>x</sub> annual emissions. The CSP consists of 200,000 CAIR NO<sub>x</sub> annual allowances of vintage 2009 for the entire CAIR region, and a State's share of the CSP is based upon the projected magnitude of the emission reductions required by CAIR in that State. States may distribute CSP allowances, one allowance for each ton of early reduction, to sources that make NO<sub>x</sub> reductions during 2007 or 2008 beyond what is required by any applicable State or Federal emission limitation. States also may distribute CSP allowances based upon a demonstration of need for an extension of the 2009 deadline for implementing emission controls.

The CAIR annual NO<sub>x</sub> FIP establishes specific methodologies for allocations of CSP allowances. States may choose an allowed, alternative CSP allocation methodology to be used to allocate CSP allowances to sources in the States.

Consistent with the flexibility given to States in the CAIR FIP, Indiana has chosen to modify the provisions of the CAIR NO<sub>x</sub> annual FIP concerning the allocation of allowances from the CSP. The CSP provision of the Indiana rule differs from the one included in the CAIR NO<sub>x</sub> annual FIP by providing a mechanism for Indiana to reserve allowances for all eligible units in advance of allocations to provide some certainty to sources regarding the minimum amount of allowances that will be available to them for early reduction credits. Under Indiana's rule, an eligible unit is one that has or will have post-combustion control equipment installed before December 31, 2008, or, for all other units, one that is able to achieve a NO<sub>x</sub> emission rate that is at least 10 percent lower than the heat input weighted average NO<sub>x</sub>

emission rate for 2003 through 2005, excluding the ozone season of each year. Eligible units must be coal-fired CAIR NO<sub>x</sub> units. The amount of reserved allowances reflects the difference between the eligible unit's non-ozone season emission rate in 2003–2005 and the unit's non-ozone season emission rate in 2007 and 2008.

Indiana also included an incentive for control configurations that maximize mercury reduction co-benefits within the CSP program. The intent of this option is to encourage new selective catalytic reduction (SCR) installation and year-round SCR operation at units that have or will have electrostatic precipitators (ESP) and flue gas desulfurization (FGD) in 2007 and 2008. This option is offered to sources because the above control configuration of SCR, ESP and FGD can achieve up to 90 percent mercury reduction. The Indiana rule awards a bonus to units that achieve reductions in excess of their reserved allowances and, for units with SCR, ESP, and FGD, the bonus is 1.5 times the NO<sub>x</sub> reductions achieved. However, the State's rule contains a limitation that precludes any eligible unit from receiving CSP allowances in excess of the actual NO<sub>x</sub> reductions achieved beyond the reserved amount.

#### *F. Individual Opt-In Units*

The opt-in provisions of the CAIR FIP allow certain non-EGUs that do not meet the applicability criteria for a CAIR trading program to participate voluntarily in (i.e., opt into) the CAIR trading program. A non-EGU may opt into one or more of the CAIR trading programs. In order to qualify to opt into a CAIR trading program, a unit must vent all emissions through a stack and be able to meet monitoring, recordkeeping, and recording requirements of 40 CFR part 75. The owners and operators seeking to make a choice to include a unit in a CAIR trading program must apply for a CAIR opt-in permit. If the unit is issued a CAIR opt-in permit, the unit becomes a CAIR unit, is allocated allowances, and must meet the same allowance-holding and emissions monitoring and reporting requirements as other units subject to the CAIR trading program. The opt-in provisions provide methodologies for allocating allowances for opt-in units, one that applies to opt-in units in general and a second that allocates allowances only to opt-in units that the owners and operators intend to re-power before January 1, 2015.

States have several options concerning the opt-in provisions. The rules for each of the CAIR FIP trading programs include opt-in provisions that

are essentially the same as those in the respective CAIR SIP model rules, except that the CAIR FIP opt-in provisions become effective in a State only if the State's abbreviated SIP revision adopts opt-in provisions as provided for in § 51.123(p)(3). The State may adopt the opt-in provisions entirely, or may adopt them but exclude one of the allowance allocation methodologies. The State also has the option of not adopting any opt-in provisions in the abbreviated SIP revision and thereby providing for the CAIR FIP trading program to be implemented in the State without the ability for units to opt into the program.

Consistent with the flexibility given to States in the FIP, Indiana has chosen to allow non-EGUs meeting certain requirements to opt into the CAIR NO<sub>x</sub> annual trading program, the CAIR NO<sub>x</sub> ozone season trading program and the CAIR SO<sub>2</sub> trading program. The State has allowed both opt-in allocation methodologies for each program as specified in 40 CFR part 97, subparts II, III, and IIII. EPA notes that Indiana's abbreviated SIP includes opt-in provisions for the CAIR NO<sub>x</sub> annual and ozone season and SO<sub>2</sub> programs that are essentially the same as the opt-in provisions in the model rules for these programs and in the CAIR FIP. The Indiana opt-in provisions include most, but not all, of the most recent revisions that EPA made to the model rule and CAIR FIP opt-in provisions. Indiana has indicated that it intends to submit a revised full SIP that adopts all of the most recent revisions to the opt-in provisions. Consequently, EPA considers Indiana's rule to include provisions that are substantively identical to the opt-in provisions in part 96 of this chapter. Thus, units in Indiana may opt into the CAIR trading programs as provided for in subparts II, III, and IIII of the CAIR FIP.

## VI. Final Action

EPA is approving Indiana's abbreviated CAIR SIP revision submitted on February 28, 2007, as amended by letter of September 20, 2007. Indiana is covered by the CAIR FIP, which requires participation in the EPA-administered CAIR FIP cap-and-trade programs for SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season emissions. Under this abbreviated SIP revision, Indiana adopts provisions for allocating allowances under the CAIR FIP NO<sub>x</sub> annual and ozone season trading programs. Indiana also adopts in the abbreviated SIP revision provisions that establish a methodology for allocating allowances in the CSP, and expands the applicability provisions for the CAIR FIP NO<sub>x</sub> ozone season trading program.

Indiana also allows units to opt-in to the CAIR NO<sub>x</sub> annual, NO<sub>x</sub> ozone season, and SO<sub>2</sub> trading programs, and utilizes the two methodologies set forth in the FIP for allocating allowances to such units. Therefore, the opt-in provisions provided as an option in the CAIR FIP trading programs (in parts 40 CFR part 97, subparts II, III and IIII), will apply to units in Indiana. As provided for in the CAIR FIPs, these provisions in the abbreviated SIP revision will replace or supplement the corresponding provisions of the CAIR FIP in Indiana. EPA is not proposing to make any changes to the CAIR FIP, but is proposing, to the extent EPA approves Indiana's SIP revision, to amend the appropriate appendices in the CAIR FIP trading rules simply to note that approval.

EPA is making limited approval of Indiana's abbreviated SIP revision because, despite the deficiencies in the NO<sub>x</sub> ozone season applicability provisions and related definitions that result in the submission not meeting the requirements of CAIR in 40 CFR 51.123(ee)(1), the submission strengthens the implementation plan for Indiana. (A detailed description of how these deficiencies can be corrected is set forth in a technical support document that is included in the docket of this rulemaking.) As discussed above, Indiana's SIP is strengthened because it makes progress toward meeting Indiana's emission reduction requirements under the NO<sub>x</sub> SIP Call. EPA further believes that the limited approval is appropriate because incorporation of Indiana's rules into the SIP will allow EPA to implement the methodology selected by Indiana to address the allowances for the 2009 ozone season that already have been allocated, and recorded by the Administrator, under Indiana's NO<sub>x</sub> SIP Call trading program.

This limited approval incorporates the rules in the abbreviated SIP revision into the SIP, including those provisions identified as deficient. EPA notes that Indiana has indicated in its September 20, 2007, letter that it intends to submit revised elements of the full SIP that address the above-described deficiencies related to applicability, as well as some other issues concerning its current full SIP submission. EPA intends to propose subsequently a limited disapproval of the abbreviated SIP unless the deficiencies are corrected.

## VII. Statutory and Executive Order Reviews

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 making progress toward meeting Federal requirements and would impose no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule would 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 action approves pre-existing requirements under State law and would not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it would 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 would 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 making progress toward implementing a Federal standard and to amend the appropriate appendices in the CAIR FIP trading rules to note that approval. It does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it would approve a State rule making progress toward implementing a Federal Standard.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus



standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule would not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 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 21, 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

##### 40 CFR Part 52

Environmental protection, Air pollution control, Electric utilities, Incorporation by Reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

##### 40 CFR Part 97

Environmental protection, Air pollution control, Electric utilities, Intergovernmental relations, Nitrogen

oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: September 27, 2007.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ For the reasons set forth in the preamble, parts 52 and 97 of chapter 1 of title 40 of the Code of Federal Regulations are 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)(185) to read as follows:

##### § 52.770 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(185) The Indiana Department of Environmental Management submitted amendments on September 20, 2007 to the State Implementation Plan to Control Emissions from electric generating units (EGU) and non-EGUs. Rules affecting these units include: 326 Indiana Administrative Code (IAC) 24–1–2, 326 IAC 24–1–8, 326 IAC 24–1–12, 326 IAC 24–2–11, 326 IAC 24–3–1, 326 IAC 24–3–2, 326 IAC 24–3–8 and 326 IAC 24–3–12 respectively.

(i) Incorporation by reference. The following sections of the Indiana Administrative Code (IAC) are incorporated by reference: 326 IAC 24–1–2(36) "Control period"; 326 IAC 24–1–2(38) "Energy efficiency or renewable energy projects"; 326 IAC 24–1–2(60) "Rated energy efficiency"; 326 IAC 24–1–8 "CAIR NO<sub>x</sub> allowance allocations"; 326 IAC 24–1–12 "CAIR NO<sub>x</sub> opt-in units"; 326 IAC 24–2–11 "CAIR SO<sub>2</sub> opt-in units"; 326 IAC 24–3–1 "Applicability"; 326 IAC 24–3–2(38) "Energy efficiency or renewable energy projects"; 326 IAC 24–3–2(49) "Large affected unit"; 326 IAC 24–3–2(61) "Rated energy efficiency"; 326 IAC 24–3–8 "CAIR NO<sub>x</sub> ozone season allowance"; and 326 IAC 24–3–12 "CAIR NO<sub>x</sub> ozone season opt-in units". Approved by the Attorney General January 12, 2007. Approved by the Governor January 23, 2007. Filed with the Publisher January 26, 2007. Published on the Indiana Register Web site February 28, 2007, Document Identification Number (DIN): 20070221–IR–326050117FRA. Effective February 25, 2007.

\* \* \* \* \*

#### PART 97—[AMENDED]

■ 3. The authority citation for part 97 continues to read as follows:

**Authority:** 42 U.S.C. 7401, 7403, 7410, 7426, 7601, and 7651, et seq.

■ 4. Appendix A to subpart EE is amended by adding in alphabetical order the entry "Indiana" under paragraph 1. and 2. to read as follows:

##### Appendix A to Subpart EE of Part 97—States With Approved State Implementation Plan Revisions Concerning Allocations

1. \* \* \*

Indiana

2. \* \* \*

Indiana

\* \* \* \* \*

■ 5. Appendix A to Subpart II of Part 97 is amended by adding in alphabetical order the entry "Indiana" under paragraphs 1. and 2. to read as follows:

##### Appendix A to Subpart II of Part 97—States With Approved State Implementation Plan Revisions Concerning CAIR NO<sub>x</sub> Opt-In Units

1. \* \* \*

Indiana

2. \* \* \*

Indiana

\* \* \* \* \*

■ 6. Appendix A to Subpart III of Part 97 is amended by adding in alphabetical order the entry "Indiana" under paragraphs 1. and 2. to read as follows:

##### Appendix A to Subpart III of Part 97—States With Approved State Implementation Plan Revisions Concerning CAIR SO<sub>2</sub> Opt-In Units

1. \* \* \*

Indiana

2. \* \* \*

Indiana

\* \* \* \* \*

■ 7. Appendix A to Subpart EEEE of Part 97 is amended by adding in alphabetical order the entry "Indiana" to read as follows:

##### Appendix A to Subpart EEEE of Part 97—States With Approved State Implementation Plan Revisions Concerning Allocations

\* \* \* \* \*

Indiana

\* \* \* \* \*

■ 8. Appendix A to Subpart IIII of Part 97 is amended by adding in alphabetical order the entry "Indiana" under paragraphs 1. and 2. to read as follows:



**Appendix A to Subpart III of Part 97—  
States With Approved State  
Implementation Plan Revisions  
Concerning CAIR NO<sub>x</sub> Ozone Season  
Opt-In Units**

1. \* \* \*

Indiana

2. \* \* \*

Indiana

\* \* \* \* \*

[FR Doc. E7-20249 Filed 10-19-07; 8:45 am]

BILLING CODE 6560-50-P

**FEDERAL COMMUNICATIONS  
COMMISSION**

**47 CFR Part 73**

[DA 07-4128; MB Docket No. 07-39; RM-11360]

**Radio Broadcasting Service; Prineville, OR**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division grants a petition for rulemaking filed by Terry A. Cowan for a new allotment at Prineville, Oregon. Channel 299C3 can be allotted at Prineville, Oregon in compliance with the Commission's minimum distance separation requirements at 44-26-17 North Latitude and 120-57-12 West Longitude with a site restriction of 11.4 kilometers (7.1 miles) north of city reference.

**DATES:** Effective November 19, 2007.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418-2738.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 07-39, adopted October 3, 2007, and released October 5, 2007. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445

Twelfth Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

**PART 73—RADIO BROADCAST SERVICES**

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

■ 2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Channel 299C3 at Prineville.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E7-20744 Filed 10-19-07; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS  
COMMISSION**

**47 CFR Part 73**

[DA 07-4130; MB Docket No. 06-200]

**Radio Broadcasting Services; Boswell, OK, and Detroit, TX**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division, on its own motion, deletes Channel 282C3 at Boswell, Oklahoma to resolve existing distance spacing conflicts. It is Commission policy to refrain from maintaining an allotment in instances

where there are no *bona fide* expressions of interest.

**DATES:** Effective November 19, 2007.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order*, MB Docket No. 06-200, adopted October 3, 2007, and released October 5, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

**PART 73—RADIO BROADCAST SERVICES**

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

■ 2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Boswell, Channel 282C3.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E7-20745 Filed 10-19-07; 8:45 am]

BILLING CODE 6712-01-P