

## PART 5—SECURITY OF CERTAIN INVENTIONS AND LICENSES TO EXPORT AND FILE APPLICATIONS IN FOREIGN COUNTRIES

■ 20. The authority citation for 37 CFR part 5 is revised to read as follows:

**Authority:** 35 U.S.C. 2(b)(2), 41, 181–188, as amended by the Patent Law Foreign Filing Amendments Act of 1988, Pub. L. 100–418, 102 Stat. 1567; the Arms Export Control Act, as amended, 22 U.S.C. 2571 *et seq.*; the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.*; the Nuclear Non Proliferation Act of 1978; 22 U.S.C. 3201 *et seq.*; and the delegations in the regulations under these Acts to the Director (15 CFR 734.3(b)(1)(v), 22 CFR 125.04, and 10 CFR 810.7), as well as the Export Administration Act of 1979, 50 U.S.C. app. 2401 *et seq.*; the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

■ 21. Section 5.11 is amended by revising paragraphs (b) and (c) to read as follows:

### § 5.11 License for filing in a foreign country an application on an invention made in the United States or for transmitting international application.

\* \* \* \* \*

(b) The license from the Commissioner for Patents referred to in paragraph (a) would also authorize the export of technical data abroad for purposes relating to the preparation, filing or possible filing and prosecution of a foreign patent application without separately complying with the regulations contained in 22 CFR parts 121 through 130 (International Traffic in Arms Regulations of the Department of State), 15 CFR parts 730–774 (Regulations of the Bureau of Industry and Security, Department of Commerce) and 10 CFR part 810 (Foreign Atomic Energy Programs of the Department of Energy).

(c) Where technical data in the form of a patent application, or in any form, are being exported for purposes related to the preparation, filing or possible filing and prosecution of a foreign patent application, without the license from the Commissioner for Patents referred to in paragraphs (a) or (b) of this section, or on an invention not made in the United States, the export regulations contained in 22 CFR parts 120 through 130 (International Traffic in Arms Regulations of the Department of State), 15 CFR parts 730–774 (Bureau of Industry and Security Regulations, Department of Commerce) and 10 CFR part 810 (Assistance to Foreign Atomic Energy Activities Regulations of the

Department of Energy) must be complied with unless a license is not required because a United States application was on file at the time of export for at least six months without a secrecy order under § 5.2 being placed thereon. The term “exported” means export as it is defined in 22 CFR part 120, 15 CFR part 734 and activities covered by 10 CFR part 810.

\* \* \* \* \*

■ 22. Section 5.19 is revised to read as follows:

### § 5.19 Export of technical data.

(a) Under regulations (15 CFR 734.3(b)(1)(v)) established by the Department of Commerce, a license is not required in any case to file a patent application or part thereof in a foreign country if the foreign filing is in accordance with the regulations (§§ 5.11 through 5.25) of the U.S. Patent and Trademark Office.

(b) An export license is not required for data contained in a patent application prepared wholly from foreign-origin technical data where such application is being sent to the foreign inventor to be executed and returned to the United States for subsequent filing in the U.S. Patent and Trademark Office (15 CFR 734.10(a)).

## PART 10—REPRESENTATION OF OTHERS BEFORE THE PATENT AND TRADEMARK OFFICE

■ 23. The authority citation for 37 CFR part 10 continues to read as follows:

**Authority:** 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 2, 6, 32, 41.

■ 24. Section 10.112 is amended by revising paragraph (a) to read as follows:

### § 10.112 Preserving identity of funds and property of client.

(a) All funds of clients paid to a practitioner or a practitioner’s firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts maintained in the United States or, in the case of a practitioner having an office in a foreign country or registered under § 11.6(c), in the United States or the foreign country.

\* \* \* \* \*

Dated: September 19, 2005.

**Jon W. Dudas,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 05–19128 Filed 9–23–05; 8:45 am]

**BILLING CODE 3510–16–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[R05–OAR–2005–IN–0004; FRL–7972–6]

### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Lake County Sulfur Dioxide Regulations, Redesignation and Maintenance Plan

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision for the control of sulfur dioxide (SO<sub>2</sub>) emissions in Lake County, Indiana. The SIP revision submitted by the Indiana Department of Environmental Management (IDEM) amends 326 Indiana Administrative Code (IAC) Article 7. Indiana’s revised SO<sub>2</sub> rule consists of changes to 326 IAC 7–4 which sets forth facility-specific SO<sub>2</sub> emission limitations and recordkeeping requirements for Lake County. The rule revision also reflects updates to company names, updates to emission limits currently in permits, deletion of facilities that are already covered by natural gas limits, and other corrections and updates. Due to changes in section numbers, references to citations in other parts of the rule have also been updated. EPA is also approving a request to redesignate the Lake County nonattainment area to attainment of the SO<sub>2</sub> National Ambient Air Quality Standards (NAAQS). In conjunction with these actions, EPA is also approving the maintenance plan for the Lake County nonattainment area to ensure that attainment of the NAAQS will be maintained. The SIP revision, redesignation request and maintenance plan are approvable because they satisfy the requirements of the Clean Air Act (Act).

**DATES:** This final rule is effective on October 26, 2005.

**ADDRESSES:** EPA has established a docket for this action under Regional Material in EDocket (RME) Docket ID No. R05–OAR–2005–IN–0004. All documents in the docket are listed in the RME index at <http://docket.epa.gov/rmepub/>, once in the system, select “quick search,” then key in the appropriate RME Docket identification number. 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 in RME or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. We recommend that you telephone Christos Panos, Environmental Engineer, at (312) 353-8328 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:** Christos Panos, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328. [panos.christos@epa.gov](mailto:panos.christos@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplemental information section is arranged as follows:

- I. What Is the Background for This Action?
- II. What Comments Did We Receive on the Proposed Action?
- III. What Action Is EPA Taking Today?
- IV. Statutory and Executive Order Reviews

### **I. What Is the Background for This Action?**

On July 29, 2005 (70 FR 43820) EPA proposed to approve into the Indiana SIP SO<sub>2</sub> emission limitations applicable in Lake County, Indiana. Specifically, EPA proposed to approve amendments to rules 326 IAC 7-1.1-1, 326 IAC 7-1.1-2, 326 IAC 7-2-1, and newly created 326 IAC 7-4.1. The revised rules were adopted by the Indiana Air Pollution Control Board on March 2, 2005, and were submitted by IDEM to EPA on April 8, 2005. IDEM submitted a supplement to its submission on July 6, 2005, indicating that the revised rules became effective June 24, 2005, and were published in the Indiana Register on July 1, 2005. EPA proposed to approve the SO<sub>2</sub> redesignation request submitted by the State of Indiana on June 21, 2005 to redesignate the Lake County SO<sub>2</sub> nonattainment area to attainment of the SO<sub>2</sub> NAAQS. IDEM submitted a supplement to its submission on August 11, 2005, indicating that the State’s public comment period concluded on July 29, 2005, and that no comments were received. Finally, EPA proposed to approve the maintenance plan submitted for this area.

EPA proposed this action because the State’s submittal for the Lake County

SO<sub>2</sub> nonattainment area met the requirements of the Act. The revised rules amend SO<sub>2</sub> requirements for many sources in the nonattainment area, and reflect a reduction of over 30,000 tons of SO<sub>2</sub> per year of allowable emissions compared to the emission limits in the previously approved 1989 SIP. The SIP revision provides for attainment and maintenance of the SO<sub>2</sub> NAAQS and satisfies the requirements of part D of the Act applicable to SO<sub>2</sub> nonattainment areas. Further, EPA proposed to approve the maintenance plan and redesignation of the Lake County SO<sub>2</sub> nonattainment area to attainment because the State has met the redesignation and maintenance plan requirements of the Act. A more detailed explanation of how the State’s submittal meets these requirements is contained in our July 29, 2005 proposal.

### **II. What Comments Did We Receive on the Proposed Action?**

EPA provided a 30-day review and comment period on the proposal published in the **Federal Register** on July 29, 2005 (70 FR 43820). We received no comments on our proposed rulemaking.

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

EPA is approving the SIP revision for the control of SO<sub>2</sub> emissions in Lake County, Indiana, as requested by the State on April 8, 2005, and supplemented on July 6, 2005. The revision consists of the amended rule at 326 Indiana Administrative Code (IAC) Article 7. In this rule, the requirements in the Table in 326 IAC 7-4-1.1 have been divided into separate sections for each facility for clarity and ease of future rule actions. The new rule, 326 IAC 7-4.1, replaces 326 IAC 7-4-1.1, which will be repealed. Because the State has complied with the requirements of section 107(d)(3)(E) of the Act, EPA is also approving the redesignation of the Lake County nonattainment area to attainment of the SO<sub>2</sub> NAAQS, as requested by the State on June 21, 2005. In conjunction with these actions, EPA is also approving Indiana’s maintenance plan for the Lake County SO<sub>2</sub> nonattainment area as a SIP revision because it meets the requirements of section 175A of the Act.

### **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 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 (65 FR 67249, November 9, 2000).

#### *Executive Order 13132: Federalism*

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

*Executive Order 13045: Protection of Children From Environmental Health 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 November 25, 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**

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

*40 CFR Part 81*

Air pollution control, National parks, Wilderness areas.

Dated: September 13, 2005.

**Bharat Mathur,**

*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)(172) to read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(172) On April 8, 2005, and as supplemented on July 6, 2005, Indiana submitted a State Implementation Plan (SIP) revision for the control of sulfur dioxide (SO<sub>2</sub>) emissions in Lake County, Indiana. The SIP revision submitted by the Indiana Department of Environmental Management (IDEM) amends 326 Indiana Administrative Code (IAC) Article 7. Indiana's revised SO<sub>2</sub> rule consists of changes to 326 IAC 7-4 which sets forth facility-specific SO<sub>2</sub> emission limitations and recordkeeping requirements for Lake

County. The rule revision also reflects updates to company names, updates to emission limits currently in permits, deletion of facilities that are already covered by natural gas limits, and other corrections and updates. Due to changes in section numbers, references to citations in other parts of the rule have also been updated.

(i) *Incorporation by reference.*

(A) Amendments to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 7 SULFUR DIOXIDE RULES, Rule 1.1 Sulfur Dioxide Emission Limitations, sections 326 IAC 7-1.1-1, "Applicability", 326 IAC 7-1.1-2 "Sulfur Dioxide Emission Limitations", and 326 IAC 7-2-1 "Reporting Requirements: Methods to Determine Compliance"; newly created 326 IAC 7-4.1, "Lake County Sulfur Dioxide Emission Limitations", adopted by the Indiana Air Pollution Control Board on March 2, 2005. Filed with the Secretary of State May 25, 2005, effective June 24, 2005.

■ 3. Section 52.795 is amended by adding a new paragraph (h) to read as follows:

**§ 52.795 Control strategy: sulfur dioxide.**

\* \* \* \* \*

(h) Approval—On June 21, 2005, and as supplemented on August 11, 2005, the State of Indiana submitted a request to redesignate the Lake County sulfur dioxide (SO<sub>2</sub>) nonattainment area to attainment of the NAAQS. In its submittal, the State also requested that EPA approve the maintenance plan for the area into the Indiana SO<sub>2</sub> SIP. The redesignation request and maintenance plan satisfy all applicable requirements of the Clean Air Act.

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

■ 1. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

■ 2. Section 81.315 is amended by revising the entry for Lake County in the table entitled "Indiana—SO<sub>2</sub>" to read as follows:

**§ 81.315 Indiana.**

\* \* \* \* \*

INDIANA—SO<sub>2</sub>

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Lake County .....	*	*	*	X

\* \* \* \* \*  
 [FR Doc. 05-19065 Filed 9-23-05; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL-7974-3]

**North Dakota: Final Authorization of State Hazardous Waste Management Program Revision**

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

**ACTION:** Immediate final rule.

**SUMMARY:** North Dakota has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements for Final authorization and is authorizing the State's changes through this immediate Final action. EPA is publishing this rule to authorize the changes without a prior proposed rule because we believe this action is not controversial. Unless we get written comments opposing this authorization during the comment period, the decision to authorize North Dakota's changes to their hazardous waste program will take effect as provided below. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect. A separate document in the proposed rules section of this **Federal Register** will serve as the proposal to authorize the State's changes.

**DATES:** We must receive your comments by October 26, 2005. Unless EPA receives comments that oppose this action, this Final authorization approval will become effective without further notice on November 25, 2005.

**ADDRESSES:** Submit your comments by one of the following methods: 1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments. 2.

E-mail: [shurr.kris@epa.gov](mailto:shurr.kris@epa.gov). 3. Mail: Kris Shurr, 8P-HW, U.S. EPA, Region 8, 999 18th St, Ste. 300, Denver, Colorado 80202-2466, phone number: (303) 312-6139. 4. Hand Delivery or Courier: to Kris Shurr, 8P-HW, U.S. EPA, Region 8, 999 18th St, Ste 300, Denver, Colorado 80202-2466, phone number: (303) 312-6139.

*Instructions:* Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://regulations.gov), or e-mail. The Federal [regulations.gov](http://regulations.gov) website is an "anonymous access" system which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://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.

You can view and copy North Dakota's application at the following addresses: NDDH from 9 a.m. to 4 p.m., 1200 Missouri Ave, Bismarck, ND 58504-5264, contact: Curt Erickson, phone number (701) 328-5166 and EPA Region 8, from 8 a.m. to 3 p.m., 999 18th Street, Suite 300, Denver, CO 80202-2466, contact: Kris Shurr, phone number: (303) 312-6139, e-mail: [shurr.kris@epa.gov](mailto:shurr.kris@epa.gov).

**FOR FURTHER INFORMATION CONTACT:** Kris Shurr, EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, phone number: (303) 312-6139, e-mail: [shurr.kris@epa.gov](mailto:shurr.kris@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Why are revisions to state programs necessary?**

States that have received final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize their changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

**B. What decisions have we made in this rule?**

We conclude that North Dakota's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant North Dakota Final authorization to operate its hazardous waste program with the changes described in the authorization application. North Dakota has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders, except in Indian country, and for carrying out those portions of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in North Dakota, including issuing permits, until North Dakota is authorized to do so.

**C. What is the effect of today's authorization decision?**

The effect of this decision is that facilities in North Dakota subject to