

substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

**6. Unfunded Mandates**

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on any local, State, or Tribal governments or private entities.

**List of Subjects in 30 CFR Part 934**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 3, 2001.

**Brent Wahlquist,**

*Regional Director, Western Regional Coordinating Center.*

For the reasons set out in the preamble, 30 CFR part 934 is amended as set forth below:

**PART 934—NORTH DAKOTA**

1. The authority citation for part 934 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 934.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

**§ 934.15 Approval of North Dakota regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
March 16, 2000	May 17, 2001	Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments.

[FR Doc. 01-12456 Filed 5-16-01; 8:45 am]  
 BILLING CODE 4310-05-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[DE 054-1031a; FRL-6981-4]

**Approval and Promulgation of Air Quality Implementation Plans; Delaware; Nitrogen Oxides Budget Trading Program**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the Delaware State Implementation Plan (SIP) submitted on November 17, 2000. This revision responds to the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO<sub>x</sub> SIP Call." This revision establishes and requires a nitrogen oxides (NO<sub>x</sub>) allowance trading program for large electric generating and industrial units, beginning in 2003. The intended effect of this action is to approve the Delaware NO<sub>x</sub> Budget Trading Program because it addresses the requirements of the NO<sub>x</sub> SIP Call

Phase I that will significantly reduce ozone transport in the eastern United States. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on July 16, 2001 without further notice, unless EPA receives adverse written comment by June 18, 2001. 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:** Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

**FOR FURTHER INFORMATION CONTACT:** Cristina Fernandez, (215) 814-2178, or by e-mail at fernandez.cristina@epa.gov.

**SUPPLEMENTARY INFORMATION:** On November 17, 2000, the Delaware Department of Natural Resources and Environmental Control (DNREC)

submitted a revision to its SIP to address the requirements of the NO<sub>x</sub> SIP Call Phase I. The revision consists of the adoption of Regulation No. 39—Nitrogen Oxides Budget Trading Program.

The information in this section is organized as follows:

- I. EPA's Action
  - A. What action is EPA taking today?
  - B. Why is EPA taking direct final action?
  - C. What are the general NO<sub>x</sub> SIP Call requirements?
  - D. What is EPA's NO<sub>x</sub> budget trading program?
  - E. What guidance did EPA use to evaluate Delaware's submittal?
- II. Delaware's NO<sub>x</sub> Budget Trading Program
  - A. When did Delaware submit the SIP revision to EPA in response to the NO<sub>x</sub> SIP Call?
  - B. What is the Delaware NO<sub>x</sub> Budget Trading Program?
  - C. What is the result of EPA's evaluation of Delaware's program?
- III. Final Action
  - A. NO<sub>x</sub> SIP Call Requirements
  - B. One-Hour Attainment Demonstration Plans
- IV. Administrative Requirements
  - A. General Requirements
  - B. Submission to Congress and the Comptroller General
  - C. Petitions for Judicial Review

**I. EPA's Action**

**A. What Action Is EPA Taking Today?**

EPA is taking direct final action to approve the Delaware SIP revision concerning the adoption of its NO<sub>x</sub>

Budget Trading Program, submitted on November 17, 2000.

#### *B. Why Is EPA Taking Direct Final Action?*

EPA is taking direct final action for two purposes. Delaware's NO<sub>x</sub> Budget Trading Program regulations address the requirements of the NO<sub>x</sub> SIP Call Phase I. In addition, Delaware's NO<sub>x</sub> Budget Trading Program regulations are part of the Delaware one-hour ozone attainment demonstration plan for the Philadelphia-Wilmington-Trenton severe ozone nonattainment area. The Delaware one-hour attainment demonstration plan for the Philadelphia-Wilmington-Trenton ozone nonattainment area relies on the NO<sub>x</sub> reductions associated with the NO<sub>x</sub> Budget Trading Program in 2003 and beyond. Therefore, EPA is approving Delaware's NO<sub>x</sub> Budget Trading Program for two reasons. First, because it addresses the requirements of the NO<sub>x</sub> SIP Call Phase I, and secondly as a strengthening measure for the one-hour ozone standard attainment for Philadelphia-Wilmington-Trenton ozone nonattainment area.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve Delaware's NO<sub>x</sub> Budget Trading Program if adverse comments are filed. This rule will be effective on July 16, 2001 without further notice unless EPA receives adverse comment by June 18, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### *C. What Are the General NO<sub>x</sub> SIP Call Requirements?*

On October 27, 1998, EPA published a final rule entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group

Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO<sub>x</sub> SIP Call." See 63 FR 57356. The NO<sub>x</sub> SIP Call requires 22 States and the District of Columbia to meet statewide NO<sub>x</sub> emission budgets during the five month period between May 1 and October 1 in order to reduce the amount of ground level ozone that is transported across the eastern United States.

EPA determined state-wide NO<sub>x</sub> emission budgets for each affected jurisdiction to be met by the year 2007. EPA identified NO<sub>x</sub> emission reductions by source category that could be achieved by using cost-effective measures. The source categories included were electric generating units (EGUs), non-electric generating units (non-EGUs), area sources, nonroad mobile sources and highway sources. However, the NO<sub>x</sub> SIP Call allowed states the flexibility to decide which source categories to regulate in order to meet the statewide budgets. In the NO<sub>x</sub> SIP Call document, EPA suggested that imposing statewide NO<sub>x</sub> emissions caps on large fossil-fuel fired industrial boilers and electricity generating units would provide a highly cost effective means for States to meet their NO<sub>x</sub> budgets. In fact, the state-specific budgets were set assuming an emission rate of 0.15 pounds NO<sub>x</sub> per million British thermal units (lb. NO<sub>x</sub>/mmBtu) at EGUs, multiplied by the projected heat input (mmBtu) from burning the quantity of fuel needed to meet the 2007 forecast for electricity demand. See 63 FR 57407. The calculation of the 2007 EGU emissions assumed that an emissions trading program would be part of an EGU control program. The NO<sub>x</sub> SIP Call state budgets also assumed on average a 30% NO<sub>x</sub> reduction from cement kilns, a 60% reduction from industrial boilers and combustion turbines, and a 90% reduction from internal combustion engines. The non-EGU control assumptions were applied at units where the heat input capacities were greater than 250 mmBtu per hour, or in cases where heat input data were not available or appropriate, at units with actual emissions greater than one ton per day.

To assist the states in their efforts to meet the SIP Call, the NO<sub>x</sub> SIP Call final rulemaking notice included a model NO<sub>x</sub> allowance trading regulation, called "NO<sub>x</sub> Budget Trading Program for State Implementation Plans," (40 CFR part 96), that could be used by states to develop their regulations. The NO<sub>x</sub> SIP Call notice explained that if states developed an allowance trading regulation consistent with the EPA model rule, they could participate in a

regional allowance trading program that would be administered by the EPA. See 63 FR 57458-57459.

There were several periods during which EPA received comments on various aspects of the NO<sub>x</sub> SIP Call emissions inventories. On March 2, 2000, EPA published additional technical amendments to the NO<sub>x</sub> SIP Call in the **Federal Register** (65 FR 11222). The March 2, 2000 final rulemaking established the inventories upon which Delaware's final budget is based.

On March 3, 2000, the D.C. Circuit issued its decision on the NO<sub>x</sub> SIP Call ruling in favor of EPA on all the major issues. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000). The Court denied petitioners' requests for rehearing or rehearing *en banc* on July 22, 2000. However, the Court ruled against EPA on four narrow issues. The Court remanded certain matters for further rulemaking by EPA. EPA expects to publish a proposal that addresses the remanded portion of the NO<sub>x</sub> SIP Call Rule. Any additional emissions reductions required as a result of a final rulemaking on that proposal will be reflected in the second phase portion (Phase II) of the State's emissions budget. Delaware is required to submit SIP revisions to address the Phase II of the NO<sub>x</sub> SIP Call Rule.

#### *D. What Is EPA's NO<sub>x</sub> Budget Trading Program?*

EPA's model NO<sub>x</sub> budget and allowance trading rule, 40 CFR part 96, sets forth a NO<sub>x</sub> emissions trading program for large EGUs and non-EGUs. A state can voluntarily choose to adopt EPA's model rule in order to allow sources within its borders to participate in regional allowance trading. The October 27, 1998 **Federal Register** document contains a full description of the EPA's model NO<sub>x</sub> budget trading program. See 63 FR 57514-57538 and 40 CFR part 96. In general, air emissions trading uses market forces to reduce the overall cost of compliance for pollution sources, such as power plants, while maintaining emission reductions and environmental benefits. One type of market-based program is an emissions budget and allowance trading program, commonly referred to as a "cap and trade" program.

In an emissions budget and allowance trading program, the state or EPA sets a regulatory limit, or emissions budget, in mass emissions from a specific group of sources. The budget limits the total number of allocated allowances during a particular control period. When the budget is set at a level lower than the current emissions, the effect is to reduce

the total amount of emissions during the control period. After setting the budget, the state or EPA then assigns, or allocates, allowances to the participating entities up to the level of the budget. Each allowance authorizes the emission of a quantity of pollutant, e.g., one ton of airborne NO<sub>x</sub>.

At the end of the control period, each source must demonstrate that its actual emissions during the control period were less than or equal to the number of available allowances it holds. Sources that reduce their emissions below their allocated allowance level may sell their extra allowances. Sources that emit more than the amount of their allocated allowance level may buy allowances from the sources with extra reductions. In this way, the budget is met in the most cost-effective manner.

#### *E. What Guidance Did EPA Use To Evaluate Delaware's Submittal?*

The final NO<sub>x</sub> SIP Call rule included a model NO<sub>x</sub> budget trading program regulation. See 40 CFR part 96. EPA used the model rule and 40 CFR 51.121–51.122 to evaluate Delaware's NO<sub>x</sub> Budget Trading Program.

## **II. Delaware's NO<sub>x</sub> Budget Trading Program**

### *A. When Did Delaware Submit the SIP Revision to EPA in Response to the NO<sub>x</sub> SIP Call?*

On November 17, 2000, the Delaware Department of Natural Resources and Environmental Control submitted a revision to its SIP to address the requirements of the NO<sub>x</sub> SIP Call.

### *B. What Is the Delaware NO<sub>x</sub> Budget Trading Program?*

Delaware's SIP revision to address the requirements of the NO<sub>x</sub> SIP Call Phase I consists of the adoption of Regulation No. 39—Nitrogen Oxides Budget Trading Program. Delaware's NO<sub>x</sub> Budget Trading Program affects electric generating units and certain non-electric generating units.

Regulation No. 39—Nitrogen Oxides Budget Trading Program is divided into fifteen new sections and two appendices: (1) Purpose; (2) Emission Limitation; (3) Applicability; (4) Definitions; (5) General Provisions; (6) NO<sub>x</sub> Authorized Account Representative for NO<sub>x</sub> Budget Sources; (7) Permits; (8) Monitoring and Reporting; (9) NATS; (10) NO<sub>x</sub> Allowance Transfers; (11) Compliance Certification; (12) End-of-Season Reconciliation; (13) Failure to Meet Compliance Requirements; (14) Individual Unit Opt-Ins; (15) General Accounts; Appendix A—Allowance

Allocations to NO<sub>x</sub> Budget Units; Appendix B—Regulation No. 37—Regulation No. 39 Program Transition.

The Delaware NO<sub>x</sub> Budget Trading Program establishes and requires a NO<sub>x</sub> allowance trading program for large electric generating and industrial units. Regulation No. 39—NO<sub>x</sub> Budget Trading Program establishes a NO<sub>x</sub> cap and allowance trading program with a budget of 5,227 tons of NO<sub>x</sub> for the ozone seasons of 2003 and beyond. The State of Delaware voluntarily chose to follow EPA's model NO<sub>x</sub> budget and allowance trading rule, 40 CFR part 96, that sets forth a NO<sub>x</sub> emissions trading program for large EGUs and non-EGUs. Because the Delaware NO<sub>x</sub> Budget Trading Program is based upon EPA's model rule, Delaware sources are allowed to participate in the interstate NO<sub>x</sub> allowance trading program that EPA will administer for the participating states. The State of Delaware has adopted regulations that are substantively identical to 40 CFR part 96. Therefore, pursuant to 40 CFR 51.121(p)(1), Delaware's SIP revision is automatically approved as satisfying the same portion of the State's NO<sub>x</sub> emission reduction obligations Delaware projects such regulations will satisfy.

Under the NO<sub>x</sub> Budget Trading Program, Delaware allocates NO<sub>x</sub> allowances to the EGUs and non-EGUs units that are affected by these requirements. The NO<sub>x</sub> trading program applies to all fossil fuel fired EGUs with a nameplate capacity greater than 15 MW or more that sell any amount of electricity to the grid as well as any non-EGUs that have a heat input capacity equal to or greater than 250 mBtu per hour. Each NO<sub>x</sub> allowance permits a source to emit one ton of NO<sub>x</sub> during the seasonal control period. NO<sub>x</sub> allowances may be bought or sold. Unused NO<sub>x</sub> allowances may also be banked for future use, with certain limitations. Source owners will monitor their NO<sub>x</sub> emissions by using systems that meet the requirements of 40 CFR part 75, subpart H, and report resulting data to EPA electronically. Each budget source complies with the program by demonstrating at the end of each control period that actual emissions do not exceed the amount of allowances held for that period. However, regardless of the number of allowances a source holds, it cannot emit at levels that would violate other federal or state limits, for example, reasonably available control technology (RACT), new source performance standards, or Title IV (the federal Acid Rain program).

Delaware's SIP revision, submitted on November 17, 2000, does not establish

requirements for stationary internal combustion engines. Delaware will be required to submit SIP revisions to address any additional emission reductions required to meet the State's overall emissions budget. In addition, Delaware's submittal does not rely on any additional reductions beyond the anticipated federal measures in the mobile and area source categories.

Delaware's submittal demonstrates that the NO<sub>x</sub> emission budgets established by EPA (65 FR 11222) will be met as follows:

Source category	EPA 2007 NO <sub>x</sub> budget emissions (tons/season) Delaware 2007	Delaware 2007 NO <sub>x</sub> budget emissions (tons/season)
EGUs .....	5,250	5,250
Non-EGUs .....	2,473	2,473
Area Sources ....	1,129	1,129
Non-road Sources .....	5,651	5,651
Highway Sources .....	8,358	8,358
Total .....	22,861	22,861

### *C. What Is the Result of EPA's Evaluation of Delaware's Program?*

EPA has evaluated Delaware's November 17, 2000 SIP submittal and finds it approvable. The Delaware NO<sub>x</sub> Budget Trading Program is consistent with EPA's guidance and addresses the requirements of the NO<sub>x</sub> SIP Call Phase I. EPA finds the NO<sub>x</sub> control measures in the Delaware's NO<sub>x</sub> Budget Trading Program approvable. The November 17, 2000 submittal will strengthen Delaware's SIP for reducing ground level ozone by providing NO<sub>x</sub> reductions beginning in 2003. Furthermore, Delaware's NO<sub>x</sub> Budget Trading Program is necessary to fulfill a requirement of the one-hour ozone attainment plan for the severe ozone nonattainment area of Delaware. The Delaware attainment demonstration plan for the Philadelphia-Wilmington-Trenton ozone nonattainment area relies on the NO<sub>x</sub> reductions associated with the NO<sub>x</sub> Budget Trading Program in 2003 and beyond. EPA finds that Delaware's submittal is fully approvable because it addresses the requirements of the NO<sub>x</sub> SIP Call Phase I and it is a strengthening measure for the Delaware one-hour ozone attainment plan for the Philadelphia-Wilmington-Trenton ozone nonattainment area.

## **III. Final Action**

### *A. NO<sub>x</sub> SIP Call Requirements*

EPA is approving the Delaware SIP revision consisting of its NO<sub>x</sub> Budget

Trading Program, submitted on November 17, 2000. EPA finds that the Delaware NO<sub>x</sub> Budget Trading Program is fully approvable because it addresses the requirements of the NO<sub>x</sub> SIP Call Phase I.

#### B. One-Hour Attainment Demonstration Plans

EPA is approving the Delaware SIP revision concerning the adoption of the NO<sub>x</sub> Budget Trading Program, which was submitted on November 17, 2000. EPA finds that Delaware's submittal is fully approvable because it is a strengthening measure for the Delaware's one-hour ozone attainment plan for its severe ozone nonattainment area, namely the Philadelphia-Wilmington-Trenton ozone nonattainment area. Moreover, this SIP revision is necessary for full approval of the attainment demonstration SIP for the Philadelphia-Wilmington-Trenton ozone nonattainment area. The EPA is currently under an obligation to complete rulemaking by October 15, 2001 fully approving the attainment demonstration for the Philadelphia-Wilmington-Trenton ozone nonattainment area or, in the alternative, proposing a federal implementation plan.

### IV. Administrative Requirements

#### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have 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), nor will it 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), because it 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. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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.*).

#### B. Submission to Congress and the Comptroller General

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### C. Petitions for Judicial Review

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 July 16, 2001. 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 approving the Delaware NO<sub>x</sub> Budget Trading Program 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 8, 2001.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 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 I—Delaware

2. In § 52.420, add entry in numerical order for Delaware Regulation No. 39—Nitrogen Oxides Budget Trading Program in the "EPA-Approved Regulations in the Delaware SIP" table in paragraph (c) to read as follows:

#### § 52.420 Identification of plan.

\* \* \* \* \*

(c) EPA approved regulations.

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Comments
*	*	*	*	*
<b>Regulation 39—Nitrogen Oxides (NO<sub>x</sub>) Budget Trading Program</b>				
Section 1	Purpose	12/11/00	5/17/01 Federal Register cite.	[Use this section as necessary to explain exceptions or limitations]
Section 2	Emission Limitation	12/11/00		
Section 3	Applicability	12/11/00		
Section 4	Definitions	12/11/00		
Section 5	General Provisions	12/11/00		
Section 6	NO <sub>x</sub> Authorized Account Representative for NO <sub>x</sub> Budget Sources.	12/11/00		
Section 7	Permits	12/11/00		
Section 8	Monitoring and Reporting	12/11/00		
Section 9	NATS	12/11/00		
Section 10	NO <sub>x</sub> Allowance Transfers	12/11/00		
Section 11	Compliance Certification	12/11/00		
Section 12	End-of-Season Reconciliation	12/11/00		
Section 13	Failure to Meet Compliance Requirements.	12/11/00		
Section 14	Individual Unit Opt-Ins	12/11/00		
Section 15	General Accounts	12/11/00		
Appendix "A"	Allowance Allocations to NO <sub>x</sub> Budget Units.	12/11/00		
Appendix "B"	Regulation No. 37—Regulation No. 39 Program Transition.	12/11/00		
*	*	*	*	*

[FR Doc. 01-12351 Filed 5-16-01; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-301126; FRL-6781-8]

RIN 2070-AB78

**Cyfluthrin; Pesticide Tolerances for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for residues of cyfluthrin in or on grapes and raisins; grain of barley, oats, and wheat; and fat of cattle, goats, hogs, horses and sheep. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on grapes and stored grain. This regulation establishes maximum permissible levels for residues of cyfluthrin in these food commodities. These tolerances will expire and are revoked on June 30, 2003.

**DATES:** This regulation is effective May 17, 2001. Objections and requests for hearings, identified by docket control number OPP-301126, must be received by EPA on or before July 16, 2001.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301126 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-308-9362; and e-mail address: [schaible.stephen@epa.gov](mailto:schaible.stephen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Cat-egories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

*B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?*

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that