

553(b)(B) and with a delayed effective date pursuant to 5 U.S.C. 553(d)(3). For applicability of the Regulatory Flexibility Act, please refer to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

#### Drafting Information

The principal author of these regulations is Marie C. Milnes-Vasquez of the Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

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

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 1.1502–28T also issued under 26 U.S.C. 1502. \* \* \*

■ 2. Section 1.1502–28T is amended by revising paragraphs (a)(4) and (d) to read as follows:

#### § 1.1502–28T Consolidated section 108 (temporary).

(a) \* \* \*

(4) *Reduction of certain tax attributes attributable to other members.* To the extent that, pursuant to paragraph (a)(2) of this section, the excluded COD income is not applied to reduce the tax attributes attributable to the member that realizes the excluded COD income, after the application of paragraph (a)(3) of this section, such amount shall be applied to reduce the remaining consolidated tax attributes of the group as provided in section 108 and this section. Such amount also shall be applied to reduce the tax attributes attributable to members that arose (or are treated as arising) in a separate return limitation year to the extent that the member that realizes excluded COD income is a member of the separate return limitation year subgroup with respect to such attribute if a SRLY limitation applies to the use of such attribute. In addition, such amount shall be applied to reduce the tax attributes attributable to members that arose in a

separate return year or that arose (or are treated as arising) in a separate return limitation year if no SRLY limitation applies to the use of such attribute. The reduction of each tax attribute pursuant to the three preceding sentences shall be made in the order prescribed in section 108 and pursuant to the principles of § 1.1502–21T(b)(1). Except as otherwise provided in this paragraph (a)(4), a tax attribute that arose in a separate return year or that arose (or is treated as arising) in a separate return limitation year is not subject to reduction pursuant to this paragraph (a)(4). Basis in assets is not subject to reduction pursuant to this paragraph (a)(4). Finally, to the extent that the realization of excluded COD income by a member pursuant to paragraph (a)(3) does not reduce a tax attribute attributable to such lower-tier member, such excess shall not be applied to reduce tax attributes attributable to any member pursuant to this paragraph (a)(4).

\* \* \* \* \*

(d) *Effective dates.* This section other than paragraph (a)(4) of this section applies to discharges of indebtedness that occur after August 29, 2003. Paragraph (a)(4) of this section applies to discharges of indebtedness that occur after August 29, 2003, but only if the discharge occurs during a taxable year the original return for which is due (without regard to extensions) after December 10, 2003. However, groups may apply paragraph (a)(4) of this section to discharges of indebtedness that occur after August 29, 2003, and during a taxable year the original return for which is due (without regard to extensions) on or before December 10, 2003. For discharges of indebtedness that occur after August 29, 2003, and during a taxable year the original return for which is due (without regard to extensions) on or before December 10, 2003, paragraph (a)(4) of this section shall apply as in effect on August 29, 2003.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: December 2, 2003.

**Gregory Jenner,**

*Deputy Assistant Secretary of the Treasury.*  
[FR Doc. 03–30636 Filed 12–10–03; 8:45 am]

**BILLING CODE 4830–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IN159–1a; FRL–7598–6]

### Approval and Promulgation of Air Quality Implementation Plans; Indiana; Oxides of Nitrogen Regulations

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the oxides of nitrogen (NO<sub>x</sub>) budget trading program submitted by Indiana on June 26, 2003, and August 4, 2003. These changes revise Indiana's NO<sub>x</sub> State Implementation Plan (SIP) and NO<sub>x</sub> budget approved by EPA on November 8, 2001. The most significant change adds 17 units from three sources to the NO<sub>x</sub> trading portion of the Indiana plan. The plan revision also includes: A compliance date change to accommodate revised deadlines under the NO<sub>x</sub> SIP call; a revised definition of "energy efficiency project" to include anaerobic digestion systems; the addition of formulas to describe an energy efficiency and renewable energy "set aside"; and minor wording changes and correction of typographical errors. These changes are consistent with Indiana's previously approved "Phase I budget."

**DATES:** This rule is effective on January 26, 2004, unless EPA receives relevant adverse written comments by January 12, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be sent to: J. Elmer Bortzer, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov). Comments may also be submitted electronically or through hand delivery/courier, please follow the detailed instructions described in subsection (B)(1)(i) through (iii) of the Supplementary Information section.

You may obtain a copy of the submittal and plan revisions at the above address. Please telephone John Paskevicz at (312) 886–6084 if you intend to visit the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** John Paskevicz, Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Chicago, Illinois 60604. E-Mail Address: [paskevicz.john@epa.gov](mailto:paskevicz.john@epa.gov).