

7. Section 20.1304 is amended by:

a. In paragraphs (a) and (b)(1)(ii), removing “paragraph (c)” from each, and adding, in each place, “paragraph (d)”.

b. In paragraph (b)(2), removing “paragraph (b) or (c)” each place it appears, and adding, in each place, “paragraph (a) or (b)”.

c. Redesignating paragraph (c) as paragraph (d).

d. Adding new paragraph (c).

e. In newly designated paragraph (d), adding a new sentence immediately after “additional evidence in rebuttal.”

The additions read as follows:

**§ 20.1304 Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.**

\* \* \* \* \*

(c) *Consideration of additional evidence by the Board or by the agency of original jurisdiction.* Any pertinent evidence submitted by the appellant or representative which is accepted by the Board under the provisions of this section, or is submitted by the appellant or representative in response to a § 20.903 of this part, notification, as well as any such evidence referred to the Board by the agency of original jurisdiction under § 19.37(b) of this chapter, must be referred to the agency of original jurisdiction for review, unless this procedural right is waived by the appellant or representative, or unless the Board determines that the benefit or benefits to which the evidence relates may be fully allowed on appeal without such referral. Such a waiver must be in writing or, if a hearing on appeal is conducted, the waiver must be formally and clearly entered on the record orally at the time of the hearing. Evidence is not pertinent if it does not relate to or have a bearing on the appellate issue or issues.

(d) \* \* \* For matters over which the Board does not have original jurisdiction, a waiver of initial agency of original jurisdiction consideration of pertinent additional evidence received by the Board must be obtained from each claimant in accordance with paragraph (c) of this section. \* \* \*

[FR Doc. 03-30668 Filed 12-10-03; 8:45 am]

BILLING CODE 8320-01-P

## POSTAL SERVICE

### 39 CFR Part 111

#### Required Number of Pieces Increased for 5-Digit and 5-Digit Scheme Packages of Low-Weight Standard Mail Flats

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service proposes amending *Domestic Mail Manual* (DMM) standards by raising the minimum number of pieces at which required 5-digit and optional 5-digit scheme presort destination packages may be prepared in a Standard Mail job consisting of flat-size pieces that weigh no more than 5 ounces (0.3125 pound) and measure no more than ¾ inch thick. The maximum thickness permitted for nonautomation flats under DMM C050.3.0 and flats prepared in 5-digit scheme presort destination packages under DMM L007 is ¾ inch.

Under current standards, mailers have the option to prepare 5-digit and 5-digit scheme presort destination packages (collectively referred to in this proposed rule as 5-digit packages) of flat-size pieces not more than ¾ inch thick, regardless of weight, whenever there are as few as 10 pieces to the same 5-digit ZIP Code or the same 5-digit scheme destination in DMM L007. Under those same standards, mailers must prepare such packages when there are 17 or more pieces to these destinations. If a mailer selects an optional minimum 5-digit package size from 10 to 16 pieces, that same size must be used consistently throughout the mailing job for all 5-digit packages.

Under the proposed changes, for Standard Mail mailings of flat-size pieces that weigh no more than 5 ounces, mailers would be required to prepare 5-digit packages whenever there are 15 or more pieces to a destination. Mailers would not be permitted to prepare such pieces in 5-digit packages when there are fewer than 15 pieces to a 5-digit ZIP Code or optional 5-digit scheme destination. For mailings of pieces that weigh more than 5 ounces, mailers would be required to prepare 5-digit packages whenever there are 10 or more pieces to a destination.

**DATES:** Comments must be received on or before January 12, 2004.

**ADDRESSES:** Send written comments to the Manager, Mailing Standards, ATTN: Neil Berger, U.S. Postal Service, 1735 North Lynn Street, Room 3025, Arlington, VA 22209-6038. Written comments may be submitted via fax to 703-292-4058. Copies of all written

comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at Postal Service Headquarters Library, 475 L'Enfant Plaza, SW., Room 11800, Washington, DC 20260-1540.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Beller, Product Redesign, at (703) 292-3747; or Neil Berger, Mailing Standards, at (703) 292-3645.

**SUPPLEMENTARY INFORMATION:** Effective September 5, 2002, DMM M610 for nonautomation rate Standard Mail flats, DMM M820 for automation rate Standard Mail flats, and DMM 950 for advanced preparation options of Standard Mail flat-size pieces were revised to allow mailers to select a number from 10 to 17 as the minimum number of pieces at which 5-digit packages are prepared in a Standard Mail job of flat-size pieces no more than ¾ inch thick, without regard to the weight of the individual pieces. Prior to that date, mailers were required to prepare 5-digit packages whenever there were 10 or more pieces to a destination. Effective January 9, 2003, mailing standards in the DMM were amended to permit the preparation of optional 5-digit scheme packages (DMM L007) using the same flexible minimum of 10 to 17 pieces. Under the current standards, mailers may prepare 5-digit (and 5-digit scheme) packages with as few as 10 pieces.

#### Increased Processing Efficiencies

The Postal Service adopted the current optional 5-digit package minimum (optional with 10 to 16 pieces, required with 17 pieces) based in large part on an examination of the productivities and piece processing efficiencies of the automated flat sorting machine (AFSM) 100, which can handle flat-size pieces up to ¾ inch thick.

Initial analysis of piece, package, and container handling costs indicates that the appropriate minimum for 5-digit packages of Standard Mail flat-size pieces is, on average, above 10 pieces, and that the minimum could be increased for flats likely to be processed on the AFSM 100. AFSM 100-compatible flats are limited to flat-size pieces measuring no more than 12 inches high, 15 inches long, and ¾ inch thick. Increasing the minimum for 5-digit packages could help reduce overall Postal Service processing costs with the additional AFSM 100 piece handlings for pieces moving from 5-digit to 3-digit packages more than offset by reduced package handling costs. Package handling costs include processing the packages, either on a small parcel and bundle sorter (SPBS) or manually, and

opening the packages and preparing the mail for piece processing.

### Reduced Mailer Production Costs

Increasing the package minimum would also lower mailer production costs, as mailers would prepare fewer packages, with no negative impact on rates or service for pieces that move from 5-digit to 3-digit packages. Analysis of mailings that used a 17-piece minimum for preparing 5-digit packages showed reductions in the total number of 5-digit and 3-digit packages.

Specifically, for low-weight pieces, more packages were eliminated because more pieces that would have been prepared in small 5-digit packages of less than 17 pieces were added to existing 3-digit packages or combined into a single new 3-digit package, and these larger packages were still within the 20-pound maximum package weight. For heavier pieces, fewer packages were eliminated, and the savings in package handlings did not sufficiently offset the costs of the additional piece handlings.

An informal survey of the mailing industry revealed that only a small number of mailers are taking advantage of the option to set their 5-digit package minimum higher than 10 pieces (up to 17 pieces), particularly for mailings of low-weight pieces. With such limited participation by the mailing industry, the Postal Service and mailers are unable to realize the potential cost saving opportunities associated with fewer package handlings.

### New Proposed Required Preparation

Because the proposed changes in minimum package size would help reduce mail processing costs—which in turn would help to mitigate future rate increases—and because these proposed changes would have no negative impact on mailers' postage or Postal Service revenue, the Postal Service now believes that it would be in the mutual interests of the mailing industry and the Postal Service to implement the proposed changes before the next omnibus rate case.

Pieces weighing 5 ounces or less represent approximately 80 percent of the volume of Standard Mail flats (both regular and nonprofit rates) not mailed at Enhanced Carrier Route rates. For heavier pieces weighing more than 5 ounces up to the maximum weight of less than 16 ounces, there is a significant drop in cost savings when a 5-digit package minimum higher than 10 pieces is used because fewer total packages, and associated reduced handlings, are eliminated to offset the increased piece handlings. The number

of packages that can be eliminated is limited by the maximum package weight of 20 pounds and by restrictions on package height, such as the maximum height of 3 inches for some packages prepared in sacks, related to maintaining package integrity (see DMM M020).

The fact that many mailers set their maximum package size below 20 pounds (e.g., 15 pounds) for other reasons, such as creating more uniform packages for building pallets or to limit counterstacking within packages, also reduces the potential savings from using a higher package minimum. For pieces weighing up to 5 ounces, mailers would no longer be able to use an optional minimum higher than 15 pieces. Current standards permit a minimum up to 17 pieces. At the same time, under this proposed rule, mailers would not be permitted to prepare 5-digit or optional 5-digit scheme packages when there are fewer than 15 pieces to a 5-digit or 5-digit scheme destination.

For Standard Mail mailing jobs consisting of flat-size pieces that weigh more than 5 ounces or that are more than  $\frac{3}{4}$  inch thick (automation rate UFSM 1000-compatible pieces only), mailers would be required to prepare 5-digit and optional 5-digit scheme packages whenever there are 10 or more pieces to a 5-digit or 5-digit scheme destination. For ease of administration, mailers would also be required to use the 10-piece 5-digit package minimum for mailing jobs of nonidentical-weight pieces when those jobs include a combination of pieces that weigh up to and including 5 ounces and pieces that weigh more than 5 ounces. Mailers would no longer be permitted to use optional 5-digit package minimums greater than 10 pieces, and up to 17 pieces, as currently permitted for such mailings.

The Postal Service and mailers recognize that the optimal 5-digit package size can vary somewhat from mailing to mailing, based on mailing characteristics such as piece weight, presort density, piece thickness, maximum package size parameters selected, containerization methods, and manufacturing processes. However, for ease of use, a single minimum for pieces weighing up to and including 5 ounces and a single minimum for pieces weighing more than 5 ounces is proposed, rather than a range of minimums (that is, the current range of 10 to 17 pieces).

There are no changes proposed to the preparation standards for other classes of mail or for other Standard Mail processing categories and presort destination package levels. Mailers

would continue to be required to prepare 3-digit and area distribution center (ADC) packages whenever there are 10 or more pieces to those destinations, and carrier route packages would continue to be required to contain a minimum of 10 pieces. No changes are proposed for packages of automation rate flat-size pieces measuring more than  $\frac{3}{4}$  inch thick (UFSM 100-compatible pieces) or for any type of container (e.g., letter trays, sacks, pallets).

### Current Recommended Preparation

For mailings of pieces that weigh no more than 5 ounces and are currently prepared using a 10-piece package minimum, pieces now prepared in 5-digit packages containing from 10 to 14 pieces, would move either to an existing 3-digit package or be consolidated into new 3-digit packages when the higher minimum of 15 pieces is used for 5-digit package preparation. In either case, the overall number of packages prepared by mailers and processed by the Postal Service would decrease. For example, when the proposed 15-piece package minimum is used, 3.2-ounce catalogs currently prepared in five 5-digit packages that each contain from 10 to 14 pieces for different ZIP Codes within the same 3-digit ZIP Code destination, could be combined with other pieces already in a 3-digit package; alternatively, those pieces could be placed in one new 3-digit package (that weighs less than 20 pounds).

The Postal Service recommends that mailers begin using a minimum of 15 pieces for 5-digit and optional 5-digit scheme package preparation permitted under current mailing standards as soon as possible for mailings of pieces that weigh no more than 5 ounces. The Postal Service also recommends that mailers limit the number of packages they produce and take necessary steps to ensure package integrity, by setting their maximum package size as close to the maximums permitted in DMM M020, particularly for packages prepared on pallets (e.g., 20 pounds).

Movement of pieces from 5-digit packages to 3-digit packages as a result of using a 15-piece minimum under the proposed changes would not impact postage paid by mailers because Standard Mail flats are eligible for the  $\frac{3}{5}$  rates whether prepared in 5-digit or 3-digit packages, and placed on any pallet level, or when placed in 5-digit sacks, followed by 3-digit sacks, containing at least 125 pieces or 15 pounds of pieces.

The Postal Service is proposing the required use of the 15-piece 5-digit package minimum beginning April 4,

2004. At that time, mailings consisting of flat-size pieces that weigh more than 5 ounces or automation rate pieces that are more than 3/4 inch thick regardless of weight would no longer be permitted to use a 5-digit package minimum greater than 10 pieces. Also on that date, mailings of flat-size pieces that weigh no more than 5 ounces (and measure no more than 3/4 inch thick) would not be permitted to use a 5-digit package minimum other than 15 pieces.

The April 4, 2004 required implementation date would allow mailers adequate time to install any software changes needed for compliance with the new standards and to test their systems. It will also ensure that all Postal Service personnel and systems are prepared for the change. April 4 is the first Sunday following the required use date (April 1, 2004) of the Postal Service Address Information System (AIS) database released February 1, 2004. This should enable software vendors to include the proposed changes in a regularly scheduled release of their software. Although mailers using the new 15-piece 5-digit package minimum would not be required to use Presort Accuracy Validation and Evaluation (PAVE)-certified software (except for palletized mailings prepared under the package reallocation option in DMM M045, or mailings prepared under DMM M920, M930 or M940), PAVE tests would be available for presort software vendors to test this new minimum.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. 553 (b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions of the *Domestic Mail Manual* (DMM) incorporated by reference in the *Code of Federal Regulations*. See 39 CFR part 111.

**List of Subjects in 39 CFR Part 111**

Administrative practice and procedure, Postal Service.

**PART 111—[AMENDED]**

1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the *Domestic Mail Manual* (DMM) as follows:

**Domestic Mail Manual (DMM)**

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**E Eligibility**

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**E600 Standard Mail**

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*E620 Presorted Rates*

1.0 BASIC STANDARDS

**1.1 All Pieces**

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*[Revise 1.1b to read as follows:]*

b. Except as provided in 1.2, be part of a single mailing of at least 200 pieces or 50 pounds of pieces qualifying for Presorted Standard Mail. Basic rate and 3/5 rate pieces prepared as part of the same mailing are subject to a single minimum volume standard. Regular and Nonprofit mailings must meet separate minimum volumes.

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2.0 RATES

*[Revise 2.0 by reorganizing text to read as follows:]*

**2.1 Application**

Presorted rates for Regular and Nonprofit Standard Mail apply to letters, flats, and machinable and irregular parcels that meet the eligibility standards in E610 and the preparation standards in M045, M610, or, for flat-size mail only, M900.

**2.2 Basic Rate**

The basic rate applies to pieces that do not meet the standards for 3/5 rates described in 2.3.

**2.3 3/5 Rates**

The 3/5 rate applies to qualifying pieces if they are presented:

a. For letter-size pieces (see C050.2.0), in quantities of 150 or more pieces for a single 3-digit area, prepared in 5-digit or 3-digit trays.

b. For flat-size pieces (see C050.3.0):  
(1) In a 5-digit or 5-digit scheme (under M950) package of 10 or more pieces, or 15 or more pieces, as applicable; or in a 3-digit package of 10 or more pieces; placed in a 5-digit, 5-digit scheme (under M920), or 3-digit sack containing at least 125 pieces or 15 pounds of pieces.

(2) In a 5-digit package of 10 or more pieces, or 15 or more pieces, as applicable, that is part of a group of packages sorted to a merged 5-digit sack or merged 5-digit scheme sack (under M920) that contains either at least one qualifying carrier route package of 10 or more pieces, or contains at least 125 pieces or 15 pounds of pieces prepared in 5-digit packages (both automation and Presorted rate 5-digit packages

count toward the 125-piece or 15-pound sack minimum).

(3) In a 5-digit or 5-digit scheme package of 10 or more pieces, or 15 or more pieces, as applicable; or in a 3-digit package of 10 or more pieces; palletized under M045, M920, M930, or M940.

c. For machinable parcels (see C050.4.0):

(1) In a 5-digit scheme, 5-digit, ASF, or BMC sack containing at least 10 pounds of parcels. (The 3/5 rates are available for parcels in 5-digit scheme or 5-digit sacks only when all possible 5-digit scheme and 5-digit sacks are prepared.)

(2) On a 5-digit scheme, 5-digit, ASF, or BMC pallet. (The 3/5 rates are available for parcels on 5-digit scheme or 5-digit pallets only when all possible 5-digit scheme and 5-digit pallets are prepared.)

d. For irregular parcels (see C050.5.0), in a 5-digit scheme, 5-digit, or 3-digit sack containing at least 125 parcels or 15 pounds of parcels.

e. For commingled machinable and irregular parcels, in a 5-digit scheme or 5-digit sack containing at least 10 pounds of parcels. (The 3/5 rates are available for parcels in 5-digit scheme or 5-digit sacks only when all possible 5-digit scheme and 5-digit sacks are prepared.)

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*E640 Automation Rates*

1.0 REGULAR AND NONPROFIT RATES

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**1.5 Rate Application—Flats**

Automation rates apply to each piece that is sorted under M045, M820, or M900 into the qualifying groups:

*[Revise 1.5a to read as follows:]*

a. Pieces in 5-digit or 5-digit scheme packages of 10 or more pieces, or 15 or more pieces, as applicable; or in 3-digit packages of 10 or more pieces qualify for the 3/5 automation rate.

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**M Mail Preparation and Sortation**

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**M600 Standard Mail (Nonautomation)**

*M610 Presorted Standard Mail*

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4.0 PREPARATION—FLAT-SIZE PIECES

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**4.2 Packaging and Labeling**

Preparation sequence, package size, and labeling:

[Revise 4.2a to read as follows:]

a. 5-digit (required):

(1) For pieces each weighing no more than 5 ounces (0.3125 pound): 15-piece minimum; red Label 5 or OEL.

(2) For pieces each weighing more than 5 ounces (0.3125 pound): 10-piece minimum; red Label 5 or OEL.

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**M800 All Automation Mail**

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**M820 Flat-Size Mail**

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**5.0 STANDARD MAIL****5.1 Packaging and Labeling**

Preparation sequence, package size, and labeling:

[Revise 5.1a and 5.1b to read as follows:]

a. 5-digit scheme (optional):

(1) For pieces weighing no more than 5 ounces (0.3125 pound) each: 15-piece minimum; optional endorsement line (OEL) required.

(2) For pieces weighing more than 5 ounces (0.3125 pound) each: 10-piece minimum; OEL required.

b. 5-digit (required):

(1) For pieces weighing no more than 5 ounces (0.3125 pound) each and measuring no more than 3/4 inch thick: 15-piece minimum; red Label 5 or OEL.

(2) For pieces weighing more than 5 ounces (0.3125 pound) each or measuring more than 3/4 inch thick: 10-piece minimum; red Label 5 or OEL.

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**M900 Advanced Preparation Options for Flats**

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**M950 Co-Packaging Automation Rate and Presorted Rate Pieces**

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**3.0 STANDARD MAIL**

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**3.2 Package Preparation**

Package size, preparation sequence, and labeling:

[Revise 3.2a and 3.2b to read as follows:]

a. 5-digit scheme (optional):

(1) For pieces weighing no more than 5 ounces (0.3125 pound) each: 15-piece minimum; optional endorsement line (OEL) required.

(2) For pieces weighing more than 5 ounces (0.3125 pound) each: 10-piece minimum; OEL required.

b. 5-digit (required):

(1) For pieces weighing no more than 5 ounces (0.3125 pound) each and measuring no more than 3/4 inch thick: 15-piece minimum; red Label 5 or OEL.

(2) For pieces weighing more than 5 ounces (0.3125 pound) each or measuring more than 3/4 inch thick: 10-piece minimum; red Label 5 or OEL.

\* \* \* \* \*

We will publish an appropriate amendment to 39 CFR 111.3 to reflect these changes if the proposal is adopted.

**Neva R. Watson,**

*Attorney, Legal Policy and Ratemaking Law.*

[FR Doc. 03-30664 Filed 12-10-03; 8:45 am]

**BILLING CODE 7710-12-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[IN159-1b; FRL-7598-5]

**Approval and Promulgation of Implementation Plans; Indiana; Oxides of Nitrogen Regulations**

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve, through direct final procedure, revisions to the oxides of nitrogen budget trading program plan 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 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."

In the Final Rules section of this **Federal Register**, EPA is approving these revisions to the State plan for oxides of nitrogen as a direct final rule without prior proposal because we view this action as noncontroversial and anticipate no adverse comments. If no written adverse comments are received

in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives meaningful written adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. Any party interested in commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before January 12, 2004.

Comments may also be submitted electronically or through hand delivery/courier, please follow the detailed instructions described in Part(I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section of the related direct final rule which is published in the Rules section of this **Federal Register**.

**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).

**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).

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule published in the rules section of this **Federal Register**.

**Authority:** 42 U.S.C. 4201 *et seq.*

Dated: December 2, 2003.

**Bharat Mathur,**

*Regional Administrator, Region 5.*

[FR Doc. 03-30697 Filed 12-10-03; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 61 and 63**

[NM-40-2-7445b; FRL-7598-7]

**Approval of the Clean Air Act Section 112(I) Program for Hazardous Air Pollutants and Delegation of Authority to the State of New Mexico**

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

**ACTION:** Proposed rule.

**SUMMARY:** The New Mexico Environment Department (NMED) has