

IAC 1–1–3 to mean the 2022 edition of the Code of Federal Regulations (CFR).

IDEM's public review process began on January 24, 2023, when it published a "Notice of Public Information" providing a 30-day public comment period on the proposed revision to its SIP concerning an update to the definition of "References to the Code of Federal Regulations." A public hearing was held on June 24, 2023. IDEM did not receive any comments.

II. What revision did the State request be incorporated into the SIP?

IDEM has requested that EPA approve revisions to 326 IAC 1–1–3, definition of "References to Code of Federal Regulations." IDEM updated the reference to the CFR in 326 IAC 1–1–3 from the 2018 edition to the 2022 edition. This is an administrative change that allows Indiana to reference a more current version of the CFR.

By amending 326 IAC 1–1–3 to reference the 2022 version of the CFR, the provision in title 326 of the IAC will be consistent with the applicable CFR regulations. Because this action updates Indiana rules to be more consistent with EPA's current regulations, EPA is proposing to approve these revisions.

III. What action is EPA taking?

EPA is proposing to approve the December 14, 2023, submission as a revision to the Indiana SIP. Specifically, EPA is updating 326 IAC 1–1–3.

IV. Incorporation by Reference

In this rulemaking, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Indiana rules 326 IAC 1–1–3, effective October 20, 2023, discussed in section II of this preamble. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this

action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993), and 14094 (88 FR 21879, April 11, 2023);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- 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);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rulemaking does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation,

and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

IDEM did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. As this is an administrative SIP, consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 7, 2024.

Debra Shore,

Regional Administrator, Region 5.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA–R03–OAR–2023–0026; FRL–11859–01–R3]

Air Plan Approval; West Virginia; Revision to the State Operating Permits Program Under Title V of the Clean Air Act To Revise 45 Code of State Rules 33; Acid Rain Provisions and Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a Title V operating permits program revision submitted by the West Virginia Department of Environmental Protection (WVDEP) on behalf of the State of West Virginia. The revision incorporated by reference final rules promulgated by

EPA, effective June 1, 2020, into West Virginia's Title V operating permits program. In addition, the revision includes other minor amendments.

DATES: Written comments must be received on or before September 16, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2023-0026 at www.regulations.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Paul Entwistle, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2343. Mr. Entwistle can also be reached via electronic mail at Entwistle.Paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 10, 2021, WVDEP submitted to EPA amendments that West Virginia made to 45 Code of State Rules (CSR) 33, Acid Rain Provisions and Permits. WVDEP amended 45 CSR 33-1.3, 45 CSR 33-1.4, 45 CSR 33-1.5, 45 CSR 33-1.6, 45 CSR 33-2.2, and 45 CSR 33-4.1. The amendment to 45 CSR 33-4.1 incorporated by reference final regulations promulgated by EPA and codified in 40 Code of Federal

Regulations (CFR) parts 72, 74, 75, 76, and 77 under the Clean Air Act (CAA) Title IV Acid Rain program. West Virginia has requested that EPA approve the submitted amendments to revise the West Virginia Title V operating program approved at 40 CFR part 70, appendix A. West Virginia indicates that this revision to its approved 40 CFR part 70 program is necessary to ensure that 45 CSR 33 stays up-to-date with its Federal counterpart regulations, consistent with section 22-1-3(c) of the West Virginia Code. The CAA requires all State and local permitting authorities to develop operating permits programs that meet the requirements of Title V of the CAA, 42 U.S.C. 7661-7661(f), and its implementing regulations, 40 CFR part 70. The West Virginia State Operating Permits Program under Title V of the CAA is codified in 45 CSR 30 of the West Virginia Code of State Rules. The documents associated with the West Virginia submittal can be found at www.regulations.gov, Docket ID No. EPA-R03-OAR-2023-0026.

II. Summary of Title V Operating Permits Program Revision and EPA Analysis

EPA is proposing to approve as a revision to EPA's approved Title V program for West Virginia the following amendments that the State made to 45 CSR 33-1.3, 45 CSR 33-1.4, 45 CSR 33-1.5, 45 CSR 33-1.6, 45 CSR 33-2.2, and 45 CSR 33-4.1. The amendment to 45 CSR 33-4.1 adopted and incorporated by reference the following Federal regulations: 40 CFR part 72, "Permits Regulation;" 40 CFR part 74, "Sulfur Dioxide Opt-Ins;" 40 CFR part 75, "Continuous Emission Monitoring;" 40 CFR part 76, "Acid Rain Nitrogen Oxides Emission Reduction Program;" and 40 CFR part 77, "Excess Emissions." The amendment to 45 CSR 33-4.1 incorporated by reference these Federal regulations as they existed on June 1, 2020.¹ The State also removed the previous version of 45 CSR 33-1.6 and replaced it with new language. Previously 45 CSR 33-1.6 specified that the version of 45 CSR 33 filed in 2010 served to replace the version of 45 CSR 33 filed in 2006. The current 45 CSR 33-1.6 specifies that the date of the version of the Federal counterpart to the WVDEP regulations that the WVDEP

¹ June 1, 2020, is the date chosen by West Virginia as the point in time at which the State incorporated by reference the previously listed Federal regulations. This, notably, is after the date that time-limited changes to these Federal regulations, relating to the Covid-19 national emergency, became effective on April 22, 2020. See 85 FR 22362 (April 22, 2020). The time limited changes were therefore included in the June 1, 2020, incorporation by reference.

secretary recommended be incorporated by reference was June 1, 2020.

In the Federal regulations which West Virginia incorporated by reference through the amendment to 45 CSR 33-4.1, EPA promulgated time-limited changes to the emissions reporting regulations applicable to sources that monitor and report emissions under the Acid Rain Program, the Cross-State Air Pollution Rule (CSAPR), and/or the Nitrogen Oxides (NO_x) State Implementation Plan (SIP) Call. These Federal regulations provided that if an affected unit failed to complete a required quality-assurance, certification or recertification, fuel analysis, or emission rate test by the applicable deadline under the regulations because of travel, plant access, or other safety restrictions implemented to address the then current COVID-19 national emergency and if the unit's actual monitored data would have been considered valid if not for the delayed test, then the unit may have temporarily continued to report actual monitored data instead of substitute data. Sources were required to maintain documentation, notify EPA when a test was delayed and later completed, and certify to EPA that they met the criteria for using the amended reporting procedures. Substitute data was required to be reported if those criteria were not met or if monitored data were missing or were invalid for any non-emergency-related reason. Units were required to complete any delayed tests as soon as practicable after relevant emergency-related restrictions no longer applied, and the emergency period for which a unit could have reported valid data under the time-limited changes to the Federal regulations was limited to the duration of the COVID-19 national emergency plus a grace period of 60 days to complete delayed tests, but no later than the date of expiration of the time-limited changes to the Federal regulations, which was October 19, 2020. These Federal regulations were necessary during the COVID-19 national emergency to protect on-site power plant operators and other essential personnel from unnecessary risk of exposure to the coronavirus. The Federal regulations did not suspend emissions monitoring or reporting requirements or alter emissions standards under any program, and so should not have caused any change in emissions levels or resulted in any harm to public health or the environment. The time-limited changes to the Federal regulations became effective April 22, 2020, and as noted, expired on October

19, 2020. See 85 FR 22362 (April 22, 2020).

In addition to the amendments to 45 CSR 33–4.1 which incorporated by reference the previously mentioned Federal regulations, and 45 CSR 33–1.6 which updated the date to match that of the counterpart Federal regulations, West Virginia also amended 45 CSR 33–1.3, 45 CSR 33–1.4, 45 CSR 33–1.5, and 45 CSR 33–2.2. The amendments to 45 CSR 33–1.3 and 45 CSR 33–1.4 updated the filing date and effective date for 45 CSR 33 to April 28, 2021 and June 1, 2021, respectively.

The amendment to 45 CSR 33–1.5 created a reference to West Virginia’s Sunset Provision, as described in the West Virginia Code at section 29A–3–19. Importantly, the Sunset Provision does not apply to rules promulgated by WVDEP, such as 45 CSR 33. See W. Va. Code section 29A–3–19(b). The amendment to 45 CSR 33–1.5 also made clear that the Sunset Provision does not apply to 45 CSR 33. As such, these regulations will not sunset.

45 CSR 33–2.2 defines the meaning of the “Clean Air Act” and was amended to include language specifying that the provision refers to the Federal Clean Air Act, while also acknowledging that the Act has been amended.

Apart from these minor changes, the effect of the amendments to 45 CSR 33 is to update the incorporation by reference of the aforementioned Federal regulations, incorporating the time-limited changes created in response to the COVID–19 national emergency. These time-limited changes to the Federal regulations were only in effect through October 19, 2020, 180 days after their effective date of April 22, 2020. West Virginia is now requesting in its submittal that EPA approve the State’s amended regulations to its Acid Rain Provisions. West Virginia’s submittal requests that EPA approve only these changes to its Title V program.² EPA finds that the May 10, 2021 submittal has met the requirements of CAA section 502, and is consistent with applicable EPA requirements in the

² Because West Virginia’s typical legislative rulemaking process involves a 1-year cycle, the update to 45 CSR 33 was not finalized until after the original EPA time-limited changes had already expired. The purpose of the update to 45 CSR 33 then, and West Virginia’s submittal to EPA, was not to independently create or remove requirements under West Virginia’s Acid Rain or Title V program, but to incorporate already existing time-limited changes promulgated by EPA. The update ensured that West Virginia sources which utilized the provisions granted by EPA’s Covid emergency related time-limited changes would not later become subject to retroactive State enforcement. The update also served to maintain consistency between West Virginia State and Federal regulations, as required by the CAA.

Title V operating permits program of the CAA and 40 CFR part 70. This

rulemaking proposes to approve the amendments to 45 CSR 33–1.3, 45 CSR 33–1.4, 45 CSR 33–1.5, 45 CSR 33–1.6, 45 CSR 33–2.2, and 45 CSR 33–4.1 contained in the West Virginia submittal as a revision to EPA’s approved Title V program for West Virginia by adding a paragraph (h) into 40 CFR part 70, appendix A under West Virginia. This new paragraph will indicate EPA’s approval of the revision.

III. Proposed Action

Pursuant to CAA 502(d), EPA is proposing to approve the West Virginia Title V operating permits program revision submitted on May 10, 2021. The revision meets the requirements in 40 CFR part 70. EPA is soliciting public comments on the Title V operating permits program revision discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator approves Title V operating permits program revisions that comply with the CAA and applicable Federal regulations. See 42 U.S.C. 7661a(d). Thus, in reviewing Title V operating permits program submissions, EPA’s role is to approve State choices, provided that they meet the criteria of the CAA. This action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

Executive Order 12898 directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or Indigenous peoples) and low-income populations.

EPA believes that this specific Title V action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or Indigenous peoples.

This action merely approves into West Virginia’s 40 CFR part 70 operating permit program revisions to State regulations that incorporated by reference relevant Federal regulations and provided ministerial updates, such as updating relevant effective dates, clarifying language to ensure regulatory consistency, and making clear that the sunset provision is inapplicable (as it is with all WVDEP regulations). This Title V action therefore does not directly address emission limits or otherwise directly affect any human health or environmental conditions in the State of West Virginia. In addition, EPA is providing meaningful involvement on this rulemaking through the notice and comment process and is in addition to the State-level notice and comment process held by West Virginia.

In addition, this rulemaking does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 70

Environmental protection, Acid rain, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Lead, Nitrogen dioxide, Operating permits, Ozone, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

Adam Ortiz,

Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-OLEM-2022-0733; EPA-HQ-OLEM-2023-0602; EPA-HQ-OLEM-2024-0294; EPA-HQ-OLEM-2024-0326; FRL-12112-01-OLEM]

Proposed Deletion From the National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) is issuing a Notice of Intent to delete one site and partially delete three sites from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the States, through their designated State agency, have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments regarding this proposed action must be submitted on or before September 16, 2024.

ADDRESSES: EPA has established a docket for this action under the Docket Identification numbers included in Table 1 in the **SUPPLEMENTARY INFORMATION** section of this document. Submit your comments, identified by the appropriate Docket ID number, by one of the following methods:

- <https://www.regulations.gov>. Follow on-line instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written

comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

- **Email:** Table 2 in the **SUPPLEMENTARY INFORMATION** section of this document provides an email address to submit public comments for the proposed deletion action.

Instructions: Direct your comments to the Docket Identification number included in Table 1 in the **SUPPLEMENTARY INFORMATION** section of this document. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://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 information that you consider to be CBI or otherwise protected through <https://www.regulations.gov> or email. The <https://www.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 email comment directly to EPA without going through <https://www.regulations.gov>, your email 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.

Docket: EPA has established a docket for this action under the Docket Identification included in Table 1 in the **SUPPLEMENTARY INFORMATION** section of this document. All documents in the docket are listed on the <https://>

www.regulations.gov website. The Final Close-Out Report (FCOR, for a full site deletion) or the Partial Deletion Justification (PDJ, for a partial site deletion) is the primary document which summarizes site information to support the deletion. It is typically written for a broad, non-technical audience and this document is included in the deletion docket for each of the sites in this rulemaking. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information 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. Docket materials are available through <https://www.regulations.gov> or at the corresponding Regional Records Center. Location, address, and phone number of the Regional Records Centers follows.

Regional Records Center:

- Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007-1866; 212/637-4308.

- Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street SW, Mail code 9T25, Atlanta, GA 30303.

- Region 9 (AZ, CA, HI, NV, GU, AS, MP), U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105; 415/947-8000.

- EPA Headquarters Docket Center Reading Room (deletion dockets for all States), William Jefferson Clinton (WJC) West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004, 202/566-1744.

EPA staff listed below in the **FOR FURTHER INFORMATION CONTACT** section may assist the public in answering inquiries about deleted sites, accessing deletion support documentation, and determining whether there are additional physical deletion dockets available.

FOR FURTHER INFORMATION CONTACT:

- Mabel Garcia, U.S. EPA Region 2 (NJ, NY, PR, VI), garcia.mabel@epa.gov, 212/637-4356.

- Alayna Famble, U.S. EPA Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), famble.alayna@epa.gov, 404/562-8768.

- Yarissa Martinez Leon, U.S. EPA Region 9 (AZ, CA, HI, NV, GU, AS, MP), martinez.yarissa@epa.gov, 415/972-3932.

- Charles Sands, U.S. EPA Headquarters, sands.charles@epa.gov, 202/566-1142.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction