

nitrogen dioxide; (3) amended an existing reference method for measuring particulate matter (PM<sub>10</sub>) in ambient air; (4) designated on new reference method for measuring concentrations of sulfur dioxide in ambient air; (5) designated one new equivalent method for measuring concentrations of nitrogen dioxide in ambient air. See 84 FR 44299 (August 23, 2019), 84 FR 50833 (September 26, 2019), 85 FR 5958 (February 2, 2020), 85 FR 27221 (May 7, 2020).

The amendments to the legislative rule include changes to section 45–8–1 (General), 45–8–2 (Definitions), and 45–8–3 (Adoption of Standards). The amendments update West Virginia's incorporation by reference of the primary and secondary NAAQS and the ambient air monitoring reference and equivalent methods from June 1, 2019 to June 1, 2020. West Virginia is incorporating the Federal rules in 40 CFR parts 50 and 53 as they existed on June 1, 2020 into 45–8–1 and 45–8–3. The amendment to section 45–8–2 changes the wording of the definition of both the CAA and "Secretary."

## II. Proposed Action

EPA is proposing to approve the West Virginia SIP revision of May 11, 2021, updating the incorporation by reference of EPA's NAAQS and associated ambient air monitoring reference methods and equivalent methods. EPA is soliciting public comments on the update to West Virginia's incorporation by reference. Please note that EPA is not seeking public comment on the level of the NAAQS which West Virginia incorporated by reference into its regulations. An opportunity for public comment on the level of each individual NAAQS was given when EPA proposed each such NAAQS. Relevant comments will be considered before taking final action.

## III. Incorporation by Reference

In this document, 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 45CSR8, as effective on June 1, 2021, discussed in section I. Summary of SIP Revision and EPA Analysis, of this preamble. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. 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 proposed 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

Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, proposing to approve the West Virginia SIP revision updating its incorporation by reference of EPA's NAAQS and associated ambient air monitoring reference methods and equivalent methods, 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 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.

Adam Ortiz,

*Regional Administrator, Region III.*

[FR Doc. 2022–17407 Filed 8–16–22; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2021–0936; FRL–9859–01–R5]

### Air Plan Approval; Indiana; Opacity Rule

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Indiana State Implementation Plan (SIP), authorizing temporary alternative opacity limitations at the BP Products North America, Inc. (BP) facility in Whiting, Indiana during startup and shutdown. This proposed action is consistent with the Clean Air Act (CAA) and EPA regulations regarding emissions during these periods in the refinery sector.

**DATES:** Comments must be received on or before September 16, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2021–0936 at <https://www.regulations.gov>, or via email to [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov). For comments submitted at [Regulations.gov](http://Regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://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 <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, [rau.matthew@epa.gov](mailto:rau.matthew@epa.gov). The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

### **I. Background**

On December 14, 2021, the Indiana Department of Environmental Management (IDEM) submitted a request to EPA to approve an addition to its SIP to allow BP a temporary alternative opacity limitation (TAOL) measurement for its Whiting, Indiana facility under 326 Indiana Administrative Code (IAC) 5-1-3, a revision that is codified at 326 IAC 5-1-8 and part of the State’s SIP for opacity. At 326 IAC 5-1-3(d), the rule provides the IDEM Commissioner authority to approve a TAOL where they determine it is necessary that alternate TAOL is submitted to EPA as a SIP revision.

BP’s Whiting facility currently employs electrostatic precipitators (ESPs) as part of its opacity control technology for two fluidized catalytic cracking units (FCUs), FCU 500 and FCU 600, used in production. BP has demonstrated to the IDEM Commissioner that use of these ESPs during periods of startup, shutdown, or hot standby present a safety hazard from coke residues on a solid catalyst within the FCUs. To address the safety hazard, BP proposed and demonstrated the efficacy of control technology borrowed from the National Emission Standards for Hazardous Air Pollutants (NESHAP)

for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units, which is found at 40 CFR part 63, subpart UUU. BP will maintain the inlet velocity to the primary internal cyclones of the FCU catalyst regenerator at or above 20 feet per second. Indiana revised 326 IAC 5-1-8 to include the NESHAP control option as a TAOL for BP’s FCU 500 and FCU 600 to ease the safety concerns when operating the ESP during these nonroutine operations.

Indiana provided a demonstration of compliance with CAA 110(l), which prohibit SIP revisions from interfering with attaining air quality standards and reasonable further progress requirements. The demonstration notes it is difficult for BP’s FCU 500 and FCU 600 to meet the opacity limits in 326 IAC 5-1-8 during startup, shutdown, and hot standby<sup>1</sup> events with safety concerns when FCU emissions are routed through an active ESP. The demonstration notes that EPA refinery rules approved on December 1, 2015 (80 FR 75177), provide work practices for FCU startup, shutdown, and hot standby events. BP expects these events could occur a few times per year. BP provided data that shows it can meet the refinery rules work practice requirements. EPA regulations on the refinery sector will limit emissions from BP’s FCU 500 and FCU 600 during periods of startup, shutdown, or hot standby.

### **II. Analysis of Indiana’s Revision**

EPA agrees that the TAOL for BP’s Whiting facility follows the requirements in the 40 CFR part 63, subpart UUU, NESHAP, that this alternative technology conforms to 326 IAC 5-1-3, and that the revision to the Indiana SIP is appropriate. This opacity rule revision applies to BP’s FCU 500 and FCU 600, and BP will be required to follow the same requirements contained in the NESHAP for the TAOL. Specifically, BP must maintain the inlet velocity to the primary internal cyclones of the FCUs at or above 20 feet per second during periods of startup, shutdown, or hot standby. This TAOL reflects an established option of a relevant NESHAP, which is at least as stringent as the general opacity rule. The records and calculations specified in the source specific TAOL will be sufficient to show BP Whiting’s FCUs are complying with the TAOL.

### **III. What action is EPA taking?**

EPA is proposing to approve Indiana’s opacity rule section 326 IAC 5-1-8 as a

revision to the Indiana SIP. The rule revision provides BP’s FCU 500 and FCU 600 with a TAOL consistent with the requirements of 40 CFR part 63, subpart UUU.

### **IV. Incorporation by Reference**

In this rule, 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 Rule 326 IAC 5-1-8, effective December 8, 2021, as discussed in Section I of this preamble. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://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 CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. 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 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);

<sup>1</sup> Hot standby as defined in the NESHAP at 40 CFR 63.1579.

- 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

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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 proposed rule 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).

#### List of Subjects in 40 CFR Part 52

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

Dated: August 9, 2022.

Debra Shore,

Regional Administrator, Region 5.

[FR Doc. 2022-17515 Filed 8-16-22; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-HQ-OLEM-2022-0319, EPA-HQ-OLEM-2022-0527, EPA-HQ-OLEM-2022-0579; FRL-10019-01-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 two 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 state, through its designated state agency, have determined that all appropriate response actions under CERCLA, other than operations and maintenance of the remedy, monitoring and five-year reviews, where applicable, 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, 2022.

**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 3 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 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW, Mail code 9T25, Atlanta, GA 30303; 404/562-8637.
- Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Records Manager, Mail code SRC-7J, Metcalfe Federal Building, 7th Floor South, 77