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 to approve the Virginia Transportation Conformity Regulation 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 5, 2009.

William C. Early,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by adding an entry for Chapter 151 after the existing Chapter 140 to read as follows:

52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
Chapter 151 Transportation Conformity				
Part I General Definitions				
5–151–10	Definitions	12/31/08	11/20/09 [Insert page number where the document begins].	
Part II General Provisions				
5–151–20	Applicability	12/31/08	11/20/09 [Insert page number where the document begins].	
5–151–30	Authority of Board and DEQ.	12/31/08	11/20/09 [Insert page number where the document begins].	
Part III Criteria and Procedures for Making Conformity Determinations				
5–151–40	General	12/31/08	11/20/09 [Insert page number where the document begins].	
5–151–50	Designated provisions	12/31/08	11/20/09 [Insert page number where the document begins].	
5–151–60	Word or phrase substitutions.	12/31/08	11/20/09 [Insert page number where the document begins].	
5–151–70	Consultation	12/31/08	11/20/09 [Insert page number where the document begins].	
*	*	*	*	*

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[FR Doc. E9–27814 Filed 11–19–09; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0771; FRL–8980–4]

Approval and Promulgation of Air Quality Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a request submitted by the Indiana Department of Environmental Management (IDEM) on September 25, 2009, to revise the Indiana State Implementation Plan (SIP). The submission revises the Indiana Administrative Code (IAC) by amending and updating the definition of ''References to the Code of Federal Regulations,'' to refer to the 2008 edition.

DATES: This rule is effective on January 19, 2010, unless EPA receives adverse written comments by December 21, 2009. If EPA receives adverse comments, 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: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0771 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: mooney.john@epa.gov.*
- *Fax:* (312) 692–2551.
- *Mail:* John Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements

should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2009–0771. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://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 *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site 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 e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail 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: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886–6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background for this action?
A. When did the State submit the requested SIP revision to EPA?
B. Did Indiana hold public hearings on this SIP revision?
II. What revision did the State request be incorporated into the SIP?
III. What action is EPA taking today?
IV. Statutory and Executive Order Reviews

I. What is the background for this action?

A. When did the State submit the requested SIP revision to EPA?

IDEM submitted the requested SIP revision on September 25, 2009.

B. Did Indiana hold public hearings on this SIP revision?

IDEM held public hearings on March 4, 2009. IDEM did not receive any public comments concerning the SIP revision.

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

The State has requested that EPA approve revisions to 326 IAC 1–1–3 to update references to the Code of Federal Regulations (CFR) at 326 IAC 1–1–3.

Rule 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 2007 edition to the 2008 edition. This is solely an administrative change that allows Indiana to reference a more current version of the CFR.

III. What action is EPA taking today?

We are approving a revision to the Indiana SIP to update the definition at 326 IAC 1–1–3, ''References to the CFR'', to refer to the 2008 edition.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective January 19, 2010 without further notice unless we receive relevant adverse written comments by *December 21, 2009.* If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective January 19, 2010.

IV. 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 Clean Air Act; 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 rule 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.

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 action 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.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 January 19, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 3, 2009.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations 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 P—Indiana

■ 2. Section 52.770 is amended by adding paragraph (c)(192) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(192) The Indiana Department of Environmental Management submitted a revision to Indiana's State Implementation plan on September 25, 2009, to amend 326 IAC 1–1–3, ''References to the Code of Federal Regulations''. The revision to 326 IAC 1–1–3 updates the references to CFR from the 2007 edition to the 2008 edition.

(i) *Incorporation by reference.* Title 326 of the Indiana Administrative Code (IAC), section 1–1–3, ''References to the Code of Federal Regulations'' is incorporated by reference. The rule was filed with the Publisher of the Indiana Register on July 1, 2009, and became effective on July 31, 2009. Published in the Indiana Register, on July 29, 2009 (DIN: 20090729–IR–326080901FRA).

[FR Doc. E9–27817 Filed 11–19–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2009–0199; EPA–R03–OAR–2009–0547; FRL–8982–6]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Maryland; Ohio; Determinations of Attainment for the 1997 Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is making determinations that three areas designated nonattainment for the 1997 fine particulate ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) have attained the 1997 $PM_{2.5}$ NAAQS. These are the Martinsburg-Hagerstown, WV–MD nonattainment area; the Parkersburg-Marietta, WV–OH nonattainment area; and the Wheeling, WV–OH nonattainment area. These determinations are based upon complete, quality assured, quality controlled, and certified ambient air monitoring data that show that these areas have monitored attainment of the 1997 $PM_{2.5}$ NAAQS during the 2006–2008 monitoring period. Currently available monitoring data for 2009 are consistent with continued attainment of the standard. The intended effect of these actions is to finalize these attainment determinations for these areas. With these final determinations, the requirements for States to submit for these areas an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans (SIPs) related to attainment of the standard are suspended for so long as the areas continue to meet the 1997 $PM_{2.5}$ NAAQS. EPA's determinations that these areas have attained the 1997 $PM_{2.5}$ NAAQS are not equivalent to the redesignation of the areas to attainment. These actions do not constitute redesignations to attainment under section 107(d)(3) of the Clean Air Act (CAA), because we do not yet have an approved maintenance plan for these areas as required under that section and section 175A of the CAA, nor a determination that these areas have met the other requirements for redesignation. The designation status of these areas remains nonattainment for the 1997 $PM_{2.5}$ NAAQS until such time as EPA determines that these areas meet the CAA requirements for redesignation to attainment.

DATES: *Effective Date:* These final rules are effective on November 20, 2009.

ADDRESSES: EPA has established dockets for this action under Docket ID Numbers EPA–R03–OAR–2009–0199 and EPA–R03–OAR–2009–0547. All documents in the dockets are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) 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. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard