

Eastern Daylight Time in the United States, as appropriate.

Andrew Hirshfeld,

Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2020-0699; FRL-9318-01-R5]

Air Plan Approval; Indiana; ArcelorMittal Burns Harbor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Indiana sulfur dioxide (SO₂) State Implementation Plan (SIP) for the steel mill in Burns Harbor, Porter County, Indiana, formerly owned by ArcelorMittal Burns Harbor LLC and currently owned by Cleveland-Cliffs Burns Harbor LLC (the Burns Harbor plant). Final approval of these revisions would satisfy a provision in a Federal Settlement Agreement. EPA approval would also strengthen the Indiana SO₂ SIP by lowering SO₂ emission limits and adding SO₂ compliance test procedures for the Burns Harbor plant. EPA is proposing to approve this SIP revision request.

DATES: Comments must be received on or before January 6, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2020-0699 at <https://www.regulations.gov>, or via email to Blakley.pamela@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.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: Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5954, Portanova.mary@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 10, 2009, the Indiana Department of Environmental Management (IDEM) submitted a site-specific SO₂ SIP revision request to EPA for the Burns Harbor plant. The revised State rule removed the SO₂ emission limit applicable to the blast furnace flare from SIP rule 326 Indiana Administrative Code (IAC) 7-4-14. EPA proposed to disapprove this requested revision on March 20, 2013 (78 FR 17157) and finalized its disapproval on December 27, 2013 (78 FR 78720). The basis for this action was that IDEM had not provided an adequate demonstration that removing the flare limit would enable continued protection of the SO₂ National Ambient Air Quality Standard (NAAQS or standard), as required by

section 110(l) of the Clean Air Act (CAA).

On February 25, 2014, ArcelorMittal Burns Harbor LLC filed a petition for review challenging EPA’s action in the United States Court of Appeals for the Seventh Circuit. *ArcelorMittal Burns Harbor LLC v. EPA*, No. 1412. The Court of Appeals subsequently granted the State of Indiana’s request to intervene as a Petitioner.

On May 28, 2019, the parties entered a Settlement Agreement under which the State is required to adopt revised emission limits and other associated requirements into 326 IAC 7-4-14, as further discussed below. The parties entered into an Amended Settlement Agreement on March 23, 2021. On March 31, 2021, IDEM submitted revisions to 326 IAC 7-4-14 to EPA as proposed SIP revisions.

II. What is contained in IDEM’s SIP revision request?

The revised rule 326 IAC 7-4-14(1) increases the blast furnace gas flare limit from 0.07 pounds SO₂ per million British thermal units (lb/mmBtu) to 0.50 lb/mmBtu. The revision adds a blast furnace gas testing protocol in 326 IAC 7-4-14(1)(G), which includes a requirement to perform quarterly gas testing of blast furnace gas from blast furnaces C and D, and a requirement to use the test results to calculate the emission rate in lb/mmBtu associated with combusting the blast furnace gas.

Additional revisions in 326 IAC 7-4-14(1) remove the limits and listing for the slab mill soaking pits and the 160-inch plate mill I & O furnace No. 8. The rule clarifies that those units have been permanently shut down (326 IAC 7-4-14 (1)(F)). The limits in pounds of SO₂ per hour (lb/hr) for the 110-inch plate mill furnaces No. 1 and 2 and the 160-inch plate mill I & O furnaces No. 4, 5, 6, and 7 have been reduced by 90 percent. The total lb/hr limit for the power station boilers No. 8, 9, 10, 11, and 12 has been reduced from 2,798 lb/hr to 2,378 lb/hr. The rule revision also removes a separate set of alternative emission limits for the Burns Harbor plant’s SO₂ emission units. The remaining emission limits in the rule are unchanged. Table 1 shows the emission limit changes.

TABLE 1—EMISSION LIMIT CHANGES AND CLOSURES AT THE BURNS HARBOR PLANT

Unit name	Former fuel	Former limit	Revised fuel	Revised limit
Blast Furnace Gas Flare	Blast furnace gas	0.07 lb/mmBtu	Blast furnace gas	0.50 lb/mmBtu.
Slab Mill Soaking Pits: 9 of 32 horizontally discharged.	Coke oven gas	482 lb/hr	Closed	0.0 lb/hr.

TABLE 1—EMISSION LIMIT CHANGES AND CLOSURES AT THE BURNS HARBOR PLANT—Continued

Unit name	Former fuel	Former limit	Revised fuel	Revised limit
Slab Mill Soaking Pits: 23 of 32 horizontally discharged.	Blast furnace gas or natural gas.	24 lb/hr	Closed	0.0 lb/hr.
Slab Mill Soaking Pits Set of 4 vertically discharged.	Blast furnace or natural gas.	4 lb/hr	Closed	0.0 lb/hr.
160 inch Plate Mill Continuous Reheat Furnace No. 1 and Boiler No. 1.	.....	299 lb/hr; 1.96 lb/mmBtu.	.....	29.9 lb/hr; 1.96 lb/mmBtu.
110 inch Plate Mill Furnaces No. 1 and 2 .....	.....	441 lb/hr; 1.96 lb/mmBtu.	.....	44.1 lb/hr; 1.96 lb/mmBtu.
160 inch Plate Mill I and O Furnaces No. 4 and 5.	.....	274 lb/hr; 1.96 lb/mmBtu.	.....	27.4 lb/hr; 1.96 lb/mmBtu.
160 inch Plate Mill I and O Furnaces No. 6 and 7.	.....	274 lb/hr; 1.96 lb/mmBtu.	.....	27.4 lb/hr; 1.96 lb/mmBtu.
160 inch Plate Mill I and O Furnace No. 8 .....	.....	176 lb/hr; 1.96 lb/mmBtu.	Closed	0.0 lb/hr.
Power Station Boilers No. 8, 9, 10, 11, and 12.	.....	2,798 lb/hr; 1.45 lb/mmBtu.	.....	2,378 lb/hr; 1.45 lb/mmBtu.

III. CAA Section 110(l)

Section 110(l) of the CAA provides that State submissions cannot be approved as SIP revisions if they interfere with applicable requirements concerning attainment and reasonable further progress. The Burns Harbor plant is located in Porter County, which is designated attainment/unclassifiable for the 2010 1-hour SO₂ standard (86 FR 16055, March 26, 2021). EPA is proposing to find that the overall reductions in allowable SO₂ emissions in IDEM's March 31, 2021 revised rule offset the effect of increasing the limit on the blast furnace gas flare. The rule revisions, which reflect the units that have new, lower emission limits and the closed units that no longer emit SO₂, result in a reduction in total allowable SO₂ emissions of 2,265.6 lb/hr. The increased allowable flare emissions are estimated at 8.89 lb/hr. The net result is an overall allowable SO₂ emissions decrease of 2,256.7 lb/hr. The flare limit has been increased to allow the Burns Harbor plant operational flexibility, as the flare is a necessary safety device. In addition, the improved compliance and testing protocol will greatly improve the accuracy of the actual SO₂ emissions calculations for blast furnace gas combustion. This is because having more accurate SO₂ emissions information should help the Burns Harbor plant personnel properly evaluate and demonstrate its blast furnace flare compliance status. EPA believes that the March 31, 2021 revised rule 326 IAC 7-4-14(1) will not adversely affect Porter County's maintenance of the 2010 1-hour SO₂ standard. EPA proposes to find that IDEM's March 31, 2021 submittal is consistent with CAA section 110(l).

IV. What action is EPA taking?

EPA is proposing to approve the March 31, 2021 SIP revision request for Indiana's SO₂ rule 326 IAC 7-4-14(1) for the Burns Harbor plant. If approved, this revision would satisfy a provision in a Federal Settlement Agreement. It would also strengthen the Indiana SO₂ SIP by lowering SO₂ emission limits and adding improved SO₂ compliance test procedures for the Burns Harbor plant.

V. 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 7-4-14(1), effective March 20, 2021. 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).

VI. 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);

- 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 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, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 30, 2021.

Debra Shore,

Regional Administrator, Region 5.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2021–0751; FRL–9211–01–R10]

Air Plan Approval; Washington; Yakima Regional Clean Air Agency, General Air Quality Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Washington State Implementation Plan (SIP) that were submitted by the Department of Ecology (Ecology) in coordination with the Yakima Regional Clean Air Agency (YRCAA). In 2014, 2015, 2016, and 2020, the EPA approved revisions to the *General Regulations for Air Pollution Sources* promulgated by Ecology in the Washington Administrative Code (WAC). In this action, the EPA proposes to update the SIP for YRCAA's jurisdiction to reflect these changes to the WAC. We also propose to update certain YRCAA regulations currently in the SIP, remove obsolete regulations, and approve a small set of YRCAA regulations to replace or supplement the corresponding WAC regulations for sources in YRCAA's jurisdiction.

DATES: Comments must be received on or before January 6, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2021–0751 at <https://www.regulations.gov>. Follow the online 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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue—Suite 155, Seattle, WA 98101, at (206) 553–0256, or hunt.jeff@epa.gov.

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I. Background for Proposed Action

On January 27, 2014, Ecology submitted revisions to update the *General Regulations for Air Pollution Sources* contained in Chapter 173–400 WAC. The EPA approved these updates in three phases on October 3, 2014 (79 FR 59653), November 7, 2014 (79 FR

66291), and April 29, 2015 (80 FR 23721).¹ Under the revised applicability provisions of WAC 173–400–020 approved into the SIP on October 3, 2014, the regulations contained in Chapter 173–400 WAC apply statewide, “. . . except for specific subsections where a local authority has adopted and implemented corresponding local rules that apply only to sources subject to local jurisdiction as provided under Revised Code of Washington (RCW) 70.94.141 and 70.94.331.”² Therefore, the EPA's approval of Ecology's January 2014 submittal applied only to geographic areas and source categories under Ecology's direct jurisdiction. We stated that we would address the revised Chapter 173–400 WAC regulations as they apply to local clean air agency jurisdictions on a case-by-case basis in separate, future actions. Subsequent local clean air agency actions related to Chapter 173–400 WAC include our approval of the Benton Clean Air Agency (80 FR 71695, November 17, 2015), Southwest Clean Air Agency (82 FR 17136, April 10, 2017), Puget Sound Clean Air Agency (85 FR 22355, April 22, 2020), Northwest Clean Air Agency (85 FR 36154, June 15, 2020), and Spokane Regional Clean Air Agency (86 FR 24718, May 10, 2021).

On October 14, 2021, the Director of Ecology, as the Governor's designee for SIP revisions, submitted a request to update the air quality regulations in the SIP as they apply to YRCAA's jurisdiction in 40 CFR 52.2470(c), Table 10—*Additional Regulations Approved for the Yakima Regional Clean Air Agency (YRCAA) Jurisdiction*. YRCAA's jurisdiction consists of Yakima County, excluding Indian reservation land or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. YRCAA also does not have jurisdiction over certain facilities discussed in section IV.D. *Scope of Proposed Action* of this document. We note that YRCAA regulatory revisions related to outdoor burning, agricultural burning, and wood heaters are outside the scope of this current action and addressed separately.

¹ In subsequent actions on October 6, 2016 (81 FR 69385) and February 24, 2020 (85 FR 10302) we approved revisions to the WAC that incorporated by reference the most recent changes to the Federal regulations and other minor changes.

² These statutory provisions were subsequently re-codified to RCW 70A.15.2040 and 70A.15.3000, with no substantive revisions to the statutory text. For a more detailed discussion of applicability see page 39352 of the EPA's proposed approval of WAC 173–400–020 (79 FR 39351, July 10, 2014).