

(a) \* \* \* The Judicial Officer electronic filing system website is accessible 24 hours a day at <https://usps-judicialoffice.journaltech.com>.

\* \* \* \* \*

**PART 963—PANDERING**

■ 33. The authority citation for 39 CFR part 963 continues to read as follows:

**Authority:** 39 U.S.C. 204, 401, 3008.

■ 34. The heading for part 963 is revised to read as set forth above.

■ 35. In § 963.3, the last sentence in paragraph (a) and the first sentence in paragraph (d) are revised to read as follows:

**§ 963.3 Petition; notice of hearing; answer; filing and copies of documents; summary judgment.**

(a) \* \* \* The Manager will forward each timely petition to the Recorder through the Judicial Officer Department electronic filing system at <https://usps-judicialoffice.journaltech.com>.

\* \* \* \* \*

(d) \* \* \* All documents required under this part must be filed using the electronic filing system (<https://usps-judicialoffice.journaltech.com>) unless the presiding officer permits otherwise.

\* \* \* \* \*

\* \* \* \* \*

**PART 964—WITHHELD MAIL**

■ 36. The authority citation for 39 CFR part 964 continues to read as follows:

**Authority:** 39 U.S.C. 204, 401, 3003, 3004; 5 U.S.C. 554.

■ 37. The heading for part 964 is revised to read as set forth above.

■ 38. In § 964.3, the second sentence of paragraph (a) is revised to read as follows:

**§ 964.3 Customer petitions; notice of hearing; answer; summary judgment.**

(a) \* \* \* The Petition, signed by the Petitioner or his or her attorney, shall be filed via the Judicial Officer Electronic filing system at <https://usps-judicialoffice.journaltech.com> or via certified mail to the Recorder, Judicial Officer Department, United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078.

\* \* \* \* \*

**PART 965—MAIL DISPUTES**

■ 39. The authority citation for 39 CFR part 965 continues to read as follows:

**Authority:** 39 U.S.C. 204, 401.

■ 40. The heading for part 965 is revised to read as set forth above.

■ 41. In § 965.5, the first sentence is revised to read as follows:

**§ 965.5 Initial submissions by parties.**

Within 15 days after receipt of the Recorder’s notice, each party shall file via the Judicial Officer electronic filing system (<https://usps-judicialoffice.journaltech.com>) a sworn statement of the facts supporting its claim to receipt of the mail together with a copy of each document on which it relies in making such claim, and any arguments supporting its claim.

**PART 966—ADMINISTRATIVE OFFSETS INITIATED AGAINST FORMER POSTAL SERVICE EMPLOYEES**

■ 42. The authority citation for 39 CFR part 966 continues to read as follows:

**Authority:** 31 U.S.C. 3716; 39 U.S.C. 204, 401, 2601.

■ 43. The heading for part 966 is revised to read as set forth above.

■ 44. In § 966.3, the last sentence of paragraph (j) is revised to read as follows:

**§ 966.3 Definitions.**

\* \* \* \* \*

(j) \* \* \* The recorder’s telephone number is (703) 812–1900, and the Judicial Officer’s website is <https://about.usps.com/who/judicial/>.

■ 45. In § 966.4, paragraph (c) and the first sentence of paragraph (d) introductory text are revised to read as follows:

**§ 966.4 Petition for a hearing and supplement to petition.**

\* \* \* \* \*

(c) Within thirty (30) calendar days after the date of receipt of the Accounting Service Center’s decision upon reconsideration, after the expiration of sixty (60) calendar days after a request for reconsideration where a reconsideration determination is not made, or following an administrative offset taken without prior notice and opportunity for reconsideration pursuant to paragraph (b)(1) of this section, the former employee must file a written petition electronically at <https://usps-judicialoffice.journaltech.com>, or by mail at Recorder, Judicial Officer Department, United States Postal Service, 2101 Wilson Blvd., Suite 600, Arlington, VA 22201–3078.

(d) A sample petition is available through the Judicial Officer Electronic

Filing website (<https://usps-judicialoffice.journaltech.com>).

\* \* \* \* \*

**Colleen Hibbert-Kapler,**

*Attorney, Ethics and Legal Compliance.*

[FR Doc. 2024–16428 Filed 7–29–24; 8:45 am]

**BILLING CODE 7710–12–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 70**

[EPA–R03–OAR–2024–0070; FRL–11788–02–R3]

**Clean Air Act Title V Operating Permit Program Revision; West Virginia**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to West Virginia’s Title V Operating Permits Program, submitted on behalf of the state by the West Virginia Department of Environmental Protection (WVDEP). There are three components to the revision: it restructures the title V operating permit fees collected by WVDEP in order to ensure that the title V operating program is adequately funded; it amends West Virginia’s title V regulations to comport with Federal permit review, public petition, and affirmative defense requirements; and it removes obsolete transitional language. The EPA is approving these revisions to the West Virginia title V program in accordance with the requirements under section 502 of the Clean Air Act (CAA).

**DATES:** This final rule is effective on August 29, 2024.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2024–0070. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, e.g., 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 through [www.regulations.gov](http://www.regulations.gov), or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Yongtian He, 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) 814–2339. Mr. He can also be reached via electronic mail at [he.yongtian@epa.gov](mailto:he.yongtian@epa.gov).

#### SUPPLEMENTARY INFORMATION:

### I. Background

On March 21, 2024 (89 FR 20157), the EPA published a notice of proposed rulemaking (NPRM) for the State of West Virginia. In the NPRM, the EPA proposed approval of West Virginia's revision to the implementing regulation of the state's Title V Operating Permits Program, "Requirements for Operating Permits" rule, codified at Title 45, Series 30 of the West Virginia Code of State Regulations (45CSR30). The EPA granted full approval of the West Virginia Title V Operating Permit Program effective November 19, 2001. See 66 FR 50325, October 3, 2001.

WVDEP's submission was received by the EPA on May 3, 2023 and, pursuant to the EPA's request, WVDEP submitted a clarifying statement on December 19, 2023. WVDEP revised 45CSR30 to: (1) restructure the title V program fee as recommended by the EPA in a September 2021 Title V Program Evaluation Report, an August 2019 Title V Permit Fee Evaluation Report, and a May 2015 Title V Program Evaluation Report;<sup>1</sup> (2) comport with the EPA's "Revisions to the Petition Provisions of the Title V Permitting Program" final Federal rule (85 FR 6431, February 5, 2020) and the EPA's "Removal of Title V Emergency Affirmative Defense Provisions from State Operating Permit Programs and Federal Operating Permit Program" final Federal rule (88 FR 47029, July 21, 2023); and (3) remove obsolete transitional language and provide additional clarifications.

#### A. Fee Structure Revision

Under 40 CFR 70.9(a) and (b), an approved state title V operating permits program must require that the owners or operators of 40 CFR part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and ensure that any fee required under 40 CFR 70.9 is used solely for permit program costs. The fee schedule must result in the collection and retention of revenues sufficient to cover the permit program implementation and oversight costs. 40 CFR 70.9(b). The state submission indicates that under the previous fee

structure, approximately 60 percent of title V fees generated in West Virginia were paid by the top ten emitting sources of West Virginia's approximately 500 title V facilities. Nine of the top ten sources were coal-fired electric generating units (EGUs), some of which, according to the state, have indicated the possibility of retiring in the near future. Accordingly, the previous fee structure was not flexible in the event of changes to the mix of regulated sources, which would result in projected revenue loss and potential vulnerability with respect to WVDEP's ability to fully fund its title V program. This vulnerability was noted by the EPA in its aforementioned 2021, 2019, and 2015 reports.

West Virginia's new fee structure, as delineated in 45CSR30.8, expands the number of sources contributing 60 percent of the revenue from the top 10 (2 percent of state-wide sources) to the top 96 sources (20 percent of state-wide sources), thus providing a more diversified and sustainable revenue stream. West Virginia's amendments to its fee provisions at 45CSR30.8 achieve a more sustainable and equitable title V fee structure that can adjust to the projected changes to title V sources and emissions.

#### B. Federal Permit Review, Public Petition, and Affirmative Defense Requirement Revisions

In February 2020, the EPA issued a Final Rule revising its regulations with respect to the submission and review of title V petitions. See 85 FR 6431, February 5, 2020. The action sought to "streamline and clarify" the processes by "implement[ing] changes in three key areas: method of petition submittal to the agency, required content and format of petitions, and administrative record requirements for permits." *Id.* Any air agencies that needed to revise its rules to implement these changes were to initiate the process with the EPA in accordance with 40 CFR 70.4(i).

The EPA issued a final rule in July 2023 that removed the "emergency" affirmative defense provisions from the agency's 40 CFR parts 70 and 71 title V operating permit program regulations. See 88 FR 47029 (July 21, 2023). The preamble explained that the EPA "expects that program revisions to remove the title V emergency defense provisions from state operating permit programs will include, at minimum: (1) a redline document identifying the state's proposed revision to its 40 CFR part 70 program rules; (2) a brief statement of the legal authority authorizing the revision; and (3) a

schedule and description of the state's plans to remove affirmative defense provisions from individual operating permits.

### II. Summary of Title V Permit Program Revision and the EPA Analysis

In the May 3, 2023 submittal, West Virginia sought the EPA's approval of its revisions to 45CSR30 into its title V program. As noted above, West Virginia's revisions to 45CSR30 restructured fees for its Title V Operating Permit Program, amended its regulations to comport with revisions to Federal permit review and public petition regulations, removed affirmative defense provisions pursuant to revisions to Federal regulations, and removed obsolete language. The December 19, 2023 supplemental letter provided clarifying information.

#### A. Fee Structure Revision

To cover all reasonable costs required to implement and administer the West Virginia Title V Operating Permit Program as required by 40 CFR 70.9(a) and (b), the state's revised fee structure is designed to diversify revenue stream with consideration of the future and to be more equitable and sustainable.

West Virginia's revisions to its title V fee structure in 45CSR30.8 included five main changes: (1) replacing the annual emissions only fee to an annual fee that includes an emissions fee, base fee, and complexity fee components; (2) setting the emissions fee factor based on a calculation of the 3-year average of Division of Air Quality (DAQ) Title V Fund expenses, which is then multiplied by the actual emissions released by the specific source to determine the emission fee component; (3) removing the emissions fee cap; (4) eliminating the Certified Emissions Statement (emission reporting requirements remain); and (5) the title V fee program does not reference the Rule 22 minor source fee program. The details of West Virginia's revised title V fee structure are described in the NPRM.

With this fee structure change, West Virginia indicates that it can ensure that fees will remain sufficient to cover the costs of administering the plan approval application and operating permit process as required by section 502(b) and the implementing regulations of 40 CFR part 70. After reviewing West Virginia's May 2023 submission and the December 2023 supplemental letter, the EPA has determined that the revision to the fee structure meets the requirements in section 502 of the CAA and 40 CFR 70.9 for the collection of sufficient title V fees to cover permit program implementation and oversight costs. As

<sup>1</sup> The reports are available at [www.epa.gov/caa-permitting/title-v-evaluation-report-west-virginia](http://www.epa.gov/caa-permitting/title-v-evaluation-report-west-virginia).

a result, the EPA is approving West Virginia's restructuring of its title V fee program.

#### *B. Affirmative Defense, Permit Review and Public Petition Requirement Revisions*

In the revision to 45CSR30, WVDEP removed section 5.7: Emergency provisions pursuant to the EPA's removal of the Federal affirmative defense provisions 40 CFR 70.6 (g) and 71.6 (g) in its July 21, 2023 final rule (88 FR 47029). The provisions, which have never been required elements of state operating permit programs, were removed because they were inconsistent with the EPA's interpretation of the enforcement structure of the CAA in light of prior court decisions from the U.S. Court of Appeals for the D.C. Circuit. The removal is also consistent with other recent EPA actions involving affirmative defenses and would harmonize the EPA's treatment of affirmative defenses across different CAA programs. WVDEP's removal of section 5.7 is consistent with the Federal final rule and 40 CFR part 70 regulations.

WVDEP also revised sections 7.1, 7.3 and 7.4 of 45CSR30 on public petitions and permit review requirements to comport with revisions to the aforementioned Federal counterpart regulations. (85 FR 6431, February 5, 2020). WVDEP's revision of sections 7.1, 7.3 and 7.4 of 45CSR30 reflects the Federal Rule's changes to the method of petition submittal to the agency, the required content and format of petitions, and the administrative record requirements for permits. The revisions are consistent with the Federal final rule.

Additionally, WVDEP revised section 1 regarding the scope of the rule, filing date, and effective date, some definitions in section 2 to provide additional clarifications, and removed other obsolete transitional language in sections 4, 6 and 9 of 45CSR30. These revisions are approvable as well.

Other specific requirements of this title V program revision and the rationale for the EPA's proposed action are explained in the NPRM, and will not be restated here.

### **III. The EPA's Response to Comments Received**

The EPA received one comment during the public comment period. However, the comment is vague and not specific to this action, therefore, the EPA will not offer a response.

### **IV. Final Action**

Pursuant to 40 CFR 70.4(i)(2), the EPA is approving a revision to the West Virginia Title V Operating Permit Program submitted on May 3, 2023, to restructure the state's title V fee schedule in order to achieve a diversified, equitable and sustainable fee revenue system. The EPA is also approving revisions to the EPA approved West Virginia Title V program that remove emergency affirmative defense provisions, ensure that petition review and public participation provisions are consistent with Federal counterpart regulations, and add clarifying language. The revisions meet the relevant requirements of section 502 of the CAA and the implementing regulations.

### **V. Statutory and Executive Order Reviews**

#### *A. General Requirements*

Under the CAA, the Administrator approves title V operating permit program revisions that comply with the Act and applicable Federal Regulations. See 42 U.S.C. 7661a(d). Thus, in reviewing title V operating permit program submissions, the 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); 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;

This rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the title V action is not approved to apply in Indian country located in the State, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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.

The EPA believes that this 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 title V action merely approves into West Virginia's 40 CFR part 70 operating permit program the relevant West Virginia regulations for fees that are required to administer the title V program in West Virginia, revises state regulations to comport with amended EPA regulations addressing Federal permit review, public petition, and affirmative defense requirements, and removes obsolete language. The title V fees are already being collected by the State, the EPA regulations which the state is mirroring via these revisions are in effect, and the removal of obsolete language ensures clarity in the regulatory process. 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, the EPA provided meaningful involvement on this rulemaking through the notice and comment process, and that is in addition to the State-level notice and comment process held by West Virginia.

#### *B. Submission to Congress and the Comptroller General*

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).

### C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 2024. 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 approving West Virginia title V permit Program revisions may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 70

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

Adam Ortiz,

Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 70 as follows:

### PART 70—STATE OPERATING PERMIT PROGRAMS

■ 1. The authority citation for part 70 continues to read as follows:

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

■ 2. Appendix A to Part 70 is amended by adding paragraph (h) under “West Virginia” to read as follows:

### Appendix A to Part 70—Approval Status of State and Local Operating Permit Programs

\* \* \* \* \*

### West Virginia

\* \* \* \* \*

(h) The West Virginia Department of Environmental Protection submitted a program revision on May 3, 2023 to restructure the title V operating permit fees collected by WVDEP, amend West Virginia’s title V regulations to comport with Federal permit review, public petition, and affirmative defense requirements, and remove obsolete transitional language; approval effective on July 30, 2024.

\* \* \* \* \*

[FR Doc. 2024–16568 Filed 7–29–24; 8:45 am]

**BILLING CODE 6560–50–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 81

[EPA–R03–OAR–2024–0351; FRL–12132–01–R3]

### Designations of Areas for Air Quality Planning Purposes; Pennsylvania, New Jersey, Maryland, Delaware; Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE 2015 8-Hour Ozone Nonattainment Area; Reclassification to Serious

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

**ACTION:** Final rule.

**SUMMARY:** Under the Clean Air Act (CAA or the “Act”), the Environmental Protection Agency (EPA) is granting a request from the Commonwealth of Pennsylvania and the States of New Jersey, Maryland, and Delaware to reclassify the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE ozone nonattainment area from “Moderate” to “Serious” for the 2015 8-hour ozone national ambient air quality standards (2015 ozone NAAQS).

**DATES:** This final rule is effective on July 30, 2024.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2024–0351. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, *e.g.*, 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 through [www.regulations.gov](http://www.regulations.gov), or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** For questions relating to New Jersey, contact Fausto Taveras, Environmental Protection Agency, Region II, 290 Broadway, New York, New York 10007–1866, at (212) 637–3378, or by email at [Taveras.Fausto@epa.gov](mailto:Taveras.Fausto@epa.gov), and for questions relating to Pennsylvania, Maryland, and/or Delaware, contact Ian Neiswinter, Planning and Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103, at (215) 814–2011, or by email at [Neiswinter.Ian@epa.gov](mailto:Neiswinter.Ian@epa.gov).

### SUPPLEMENTARY INFORMATION:

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

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- I. Reclassification of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE area to Serious Ozone Nonattainment
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### I. Reclassification of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE Area to Serious Ozone Nonattainment

Effective August 3, 2018 (83 FR 25776), the EPA classified the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE area (the Philadelphia Area<sup>1</sup>) under the CAA as “Marginal” for the 2015 8-hour ozone NAAQS. Classification of this area as a Marginal ozone nonattainment area established a requirement that the area attain the 2015 ozone NAAQS as expeditiously as practicable, but no later than three years from designation, *i.e.*, August 3, 2021. Effective November 7, 2022 (87 FR 60897), the EPA determined that the Philadelphia Area failed to attain by the applicable Marginal attainment date. In that action, the EPA reclassified the Philadelphia Area as Moderate nonattainment for the 2015 ozone NAAQS and established the Moderate attainment date as August 3, 2024. On July 17, 2024, the Commonwealth of Pennsylvania requested that the EPA reclassify the Philadelphia Area from Moderate to Serious. On July 18, 2024, the States of Delaware, Maryland, and New Jersey requested that the EPA reclassify the Philadelphia Area from

<sup>1</sup> The Philadelphia Area consists of the following counties/cities: Bucks County, Chester County, Delaware County, Montgomery County, and Philadelphia County in Pennsylvania; Atlantic County, Burlington County, Camden County, Cape May County, Cumberland County, Gloucester County, Mercer County, Ocean County, and Salem County in New Jersey; Cecil County in Maryland; and New Castle County in Delaware. See 40 Code of Federal Regulation (CFR) 81.339, 40 CFR 81.331, 40 CFR 81.321, and 40 CFR 81.308.