



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2016-0760; FRL-9963-70-Region 5]

**Approval and Promulgation of Air Quality Implementation Plans;
Indiana; CFR Update**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request submitted by the Indiana Department of Environmental Management (IDEM) on December 13, 2016, to revise the Indiana state implementation plan (SIP). The submission revises and updates the Indiana Administrative Code (IAC) definition of "References to the Code of Federal Regulations," from the 2013 edition to the 2015 edition.

DATES: This rule is effective on **[insert date 60 days after date of publication in the Federal Register]**, unless EPA receives adverse written comments by **[insert date 30 days after date of publication in the Federal Register]**. 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-2016-0760 at <https://www.regulations.gov> or via email to blakley.pamela@epa.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 <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental

Engineer, Control Strategies 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?
- II. What revision did the state request be incorporated into
the SIP?
- III. What action is EPA taking?
- IV. Incorporation by reference.
- V. Statutory and Executive Order Reviews.

I. What is the background for this action?

On May 25, 2016, IDEM published a "Notice of Public
Information" in several newspapers, and on its website at
<http://www.in.gov/idem/6777.htm>, providing a 30-day public
comment period on the proposed revision to its SIP concerning
update to the definition of "References to the Code of Federal
Regulations." A public hearing was held on August 10, 2016.
IDEM did not receive any comments.

On December 13, 2016, IDEM submitted a request to revise

the definition of "References to the Code of Federal Regulations" in SIP rule 326 IAC 1-1-3 to mean the 2015 edition of the Code of Federal Regulations (CFR).

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

IDEM has requested that EPA approve the Indiana Administrative Code rule revision:

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 2013 edition to the 2015 edition. This is solely 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 2015 version of the CFR, the provision in Title 326 of the IAC will be consistent with the applicable CFR regulations as of July 30, 2015.

III. What action is EPA taking?

EPA is approving as a revision to the Indiana SIP an update of 326 IAC 1-1-3, "References to the Code of Federal Regulations."

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 **[insert date 60 days after date of publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert date 30 days after date of publication in the Federal Register]**. 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 **[insert date 60 days after date of publication in the Federal Register]**.

IV. Incorporation by reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana regulations described in the

amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through <https://www.regulations.gov> and/or in hard copy at the appropriate EPA office (see the ADDRESSES 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 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 (Public Law 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).

This rule 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 as specified by Executive Order 13175, nor will it 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 **[insert date 60 days after date of publication in the Federal Register]**. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of this Federal Register, rather than file an immediate petition for judicial review of this direct final rule and address the comment in the proposed rulemaking. 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: June 1, 2017.

Robert A. Kaplan,
Acting Regional Administrator, Region 5.

40 CFR part 52, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

2. In § 52.770 the table in paragraph (c) is amended by revising the entry for 1-1-3 “References to the Code of Federal Regulations” under Article 1, Rule 1 “Provisions Applicable Throughout Title 326” to read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
Article 1. General Provisions				
Rule 1. Provisions Applicable Throughout Title 326				
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1-1-3	References to the Code of Federal Regulations	12/7/2016	[insert the date of publication in the Federal Register], [insert federal register citation]	
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