The advisory committee will hold its fifth meeting on March 26 and 27, 2013. The agenda includes the following:

- Review of previous committee work;
- Review and discussion of subcommittee work and recommendations;
- Continued discussion on recommendations for transfer surface height and Transfer support location and configuration
- Consideration of issues proposed by committee members; and
- Discussion of administrative issues.

The preliminary meeting agenda, along with information about the committee, is available at the Access Board's Web site (*http://www.access-board.gov/medical-equipment.htm*).

Committee meetings are open to the public and interested persons can attend the meetings and communicate their views. Members of the public will have opportunities to address the committee on issues of interest to them during public comment periods scheduled on each day of the meeting.

The meetings will be accessible to persons with disabilities. An assistive listening system, computer assisted real-time transcription (CART), and sign language interpreters will be provided. Persons attending the meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants (see *www.access-board.gov/about/policies/fragrance.htm* for more information). Also, persons wishing to provide handouts or other written information to the committee are requested to provide electronic formats to Rex Pace via email prior to the meetings so that alternate formats can be distributed to committee members.

David M. Capozzi,

Executive Director.

[FR Doc. 2013–05936 Filed 3–14–13; 8:45 am]

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2012–0650; FRL–9789–8]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Consent Decree Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a portion of Indiana's construction permit rule for sources subject to the state operating permit program regulations at 40 CFR part 70. These provisions authorize the state to incorporate terms from Federal consent decrees or Federal district court orders into these construction permits. EPA is also approving public notice requirements for these permit actions. These rules will help streamline the process for making Federal consent decree and Federal district court order requirements permanent and Federally enforceable.

DATES: Comments must be received on or before April 15, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2012–0650, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: damico.genevieve@epa.gov.*
3. *Fax:* (312) 385–5501.
4. *Mail:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Genevieve Damico, Chief, Air Permits 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.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3189, *portanova.sam@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: March 4, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–05953 Filed 3–14–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0113; FRL–9790–9]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to disapprove a narrow portion of a State Implementation Plan (SIP) revision submitted by the State of West Virginia on August 31, 2011. EPA is proposing this action because a narrow portion of the submittal does not satisfy the Federal requirement for the inclusion of condensable emissions of particulate matter (condensables) within the definition of ''regulated new source review (NSR) pollutant.'' Additionally, because West Virginia's August 31, 2011 SIP revision does not adequately account for condensable emissions within the definition of ''regulated NSR pollutant,'' EPA is also proposing to disapprove specific Prevention of Significant Deterioration (PSD) portions of related infrastructure submissions required by the Clean Air Act (CAA) to implement, maintain, and enforce the 1997 fine particulate matter ($PM_{2.5}$) and ozone National Ambient Air Quality Standards (NAAQS), the 2006 $PM_{2.5}$ NAAQS, and the 2008 lead and ozone

NAAQS. This action is being taken under the CAA.

DATES: Written comments must be received on or before April 15, 2013.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0113 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: cox.kathleen@epa.gov.*

C. *Mail:* EPA–R03–OAR–2013–0113, Kathleen Cox, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2013–0113. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *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 *www.regulations.gov* or email. The *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 email comment directly to EPA without going through *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: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., 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 in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Mike Gordon, (215) 814–2039, or by email at *gordon.mike@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Federal Definition of ''Regulated NSR Pollutant''

On May 16, 2008, EPA promulgated a rule to implement the 1997 $PM_{2.5}$ NAAQS, including changes to the NSR program (the NSR $PM_{2.5}$ Rule). *See* 73 FR 28321. The 2008 NSR $PM_{2.5}$ Rule revised the NSR program requirements to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and nonattainment areas. Among other things, the 2008 NSR $PM_{2.5}$ Rule required states to account for condensables in emissions of particulate matter (PM), PM less than or equal to ten micrometers in diameter (PM_{10}), and $PM_{2.5}$ no later than January 1, 2011. In an October 25, 2012 final rule (77 FR 65107), EPA clarified that condensable PM should be included as part of the emissions measurements only for regulation of $PM_{2.5}$ and $PM_{10.}$ The final rule removed the inadvertent requirement in the 2008 NSR $PM_{2.5}$ Rule that measurements of condensable PM be included as part of the measurement and regulation of PM.

B. U.S. Court of Appeals' Decision in Natural Resources Defense Council v. EPA

On January 4, 2013, the U.S. Court of Appeals, in *Natural Resources Defense Council* v. *EPA,* No. 08–1250, 2013 WL 45653 (D.C. Cir., filed July 15, 2008) (consolidated with 09–1102, 11–1430), issued a judgment that remanded EPA's 2007 and 2008 rules implementing the 1997 $PM_{2.5}$ NAAQS. The Court ordered the EPA to ''repromulgate these rules pursuant to Subpart 4 consistent with this opinion.'' *Id.* at *8. Subpart 4 of Part D, Title 1 of the CAA establishes additional provisions for particulate matter nonattainment areas.

The 2008 implementation rule addressed by the court decision, ''Implementation of New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$),'' 73 FR 28321 (May 16, 2008), promulgated NSR requirements for implementation of $PM_{2.5}$ in both nonattainment areas (nonattainment NSR) and attainment/unclassifiable areas (PSD). As the requirements of Subpart 4 only pertain to nonattainment areas, EPA does not consider the portions of the 2008 rule that address requirements for $PM_{2.5}$ attainment and unclassifiable areas to be affected by the Court's opinion. Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated in the 2008 rule in order to comply with the Court's decision. Accordingly, EPA's narrow disapproval of West Virginia's infrastructure SIP as to elements (C), (D)(i)(II), or (J) with respect to the PSD requirements promulgated by the 2008 implementation rule does not conflict with the Court's opinion.

The Court's decision with respect to the nonattainment NSR requirements promulgated by the 2008 implementation rule also does not affect EPA's current action on the related infrastructure submittals. EPA interprets the Act to exclude nonattainment area requirements, including requirements associated with a nonattainment NSR program, from infrastructure SIP submissions due three years after adoption or revision of a NAAQS. Instead, these elements are typically referred to as nonattainment SIP or attainment plan elements, which would be due by the dates statutorily prescribed under subpart 2 through 5 under part D, extending as far as 10 years following designations for some elements.

C. West Virginia's August 2011 SIP Submission

On August 31, 2011, the State of West Virginia through the West Virginia Department of Environmental Protection (WVDEP) submitted a formal revision to its SIP (the August 2011 SIP submission). The August 2011 SIP submission consisted of amendments to the PSD permitting regulations under West Virginia State Rule 45CSR14. On July 31, 2012 (77 FR 45302), EPA proposed full approval of West Virginia's August 2011 SIP submission, as well as the PSD portions of other related infrastructure submissions required by the CAA which are

necessary to implement, maintain, and enforce the 1997 $PM_{2.5}$ and ozone NAAQS, the 2006 $PM_{2.5}$ NAAQS, and the 2008 lead and ozone NAAQS. During the public comment period, EPA received adverse comment on West Virginia State Rule 45CSR14 and the extent to which condensables were not included in the rule. The commenter stated that West Virginia's PSD regulations did not properly account for condensable emissions of PM. The inclusion of condensable emissions of PM is required by the Federal counterpart language in 40 CFR 52.21 and 51.166 and the NSR $PM_{2.5}$ Rule.

In light of this comment, in an October 17, 2012 final rule (77 FR 63736), EPA granted full approval of West Virginia's August 2011 SIP submission, as well as the PSD portions of other related infrastructure SIP submissions required by the CAA, with the exception of the narrow issue of the requirement to include condensables in the definition of ''regulated NSR pollutant.'' In the October 17, 2012 final rule, EPA stated that West Virginia State Rule 45CSR14 would be reviewed to determine the extent to which condensables were addressed in the August 2011 SIP submission and that this issue would be addressed in a separate rulemaking action. *See* 77 FR 63736.

II. Summary of SIP Revision

As previously stated, on October 17, 2012, EPA granted full approval to the August 2011 SIP submission and PSD portions of other related infrastructure elements required by the CAA, with the exception of the narrow issue of the requirement to include condensables in the definition of ''regulated NSR pollutant.'' Subsequently, EPA has reviewed the remaining portion of the West Virginia August 2011 SIP submission regarding the definition of ''regulated NSR pollutant'' and is proposing to determine that condensable emissions are omitted from the 45CSR14 definition of ''regulated NSR pollutant.'' Therefore, this remaining portion of the August 2011 SIP submission does not satisfy the requirements of the corresponding Federal definition of ''regulated NSR pollutant'' and the NSR $PM_{2.5}$ Rule. EPA is therefore proposing to disapprove this remaining narrow portion of the August 2011 SIP submission. Also, because condensable emissions are a requirement for a PSD program by CAA section 110(a)(2)(C), (D)(i)(II) and (J), EPA is proposing to disapprove the narrow part of the PSD portions related to the definition of ''regulated NSR pollutant'' in other related West Virginia infrastructure SIP submissions required by the CAA which are necessary to implement, maintain, and enforce the 1997 $PM_{2.5}$ and ozone NAAQS, the 2006 $PM_{2.5}$ NAAQS, and the 2008 lead and ozone NAAQS.

III. Proposed Action

EPA is proposing to disapprove the narrow portion of West Virginia's August 2011 SIP submission related to the failure to include condensables in the ''regulated NSR pollutant'' definition on which we took no action in the October 17, 2012 final rule. *See* 77 FR 63736.

Specifically, EPA is proposing to disapprove a narrow portion of West Virginia's August 2011 SIP submission because it does not satisfy the requirement that $PM_{2.5}$ and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form PM at ambient temperatures. Because these grounds for disapproval are narrow and extend only to the lack of condensable emissions within the definition of ''regulated NSR pollutant,'' this proposal does not alter EPA's October 17, 2012 approval of the remaining portions of West Virginia's August 2011 SIP submittal.

Additionally, EPA is proposing to disapprove specific portions of West Virginia's infrastructure SIP submissions dated December 3, 2007, December 11, 2007, April 3, 2008, October 1, 2009, October 26, 2011, and February 17, 2012 (collectively, the West Virginia Infrastructure SIP Submissions) which address certain obligations set forth at CAA sections 110(a)(2)(C), (D)(i)(II) and (J) relating to the West Virginia PSD permit program. In the October 17, 2012 final rule, EPA granted full approval of the PSD portions of the West Virginia infrastructure SIP submissions, with the exception of the narrow issue of the requirement to include condensables in the definition of ''regulated NSR pollutant.'' Because West Virginia's definition of ''regulated NSR pollutant'' in 45CSR14 does not address condensables, EPA is proposing to determine that West Virginia's infrastructure SIP submissions do not meet certain statutory and regulatory obligations relating to a PSD permit program set forth at CAA sections 110(a)(2)(C), (D)(i)(II) and (J) for the narrow issue of condensables as set forth in the table below. EPA is proposing to disapprove the narrow portion of the October 26, 2011 and February 17, 2012 infrastructure SIP submissions from West Virginia because West Virginia has not met its obligations relating to the PSD permit program pursuant to CAA section 110(a)(2)(C), (D)(i)(II), and (J) due to the failure to include condensables in the definition of ''regulated NSR pollutant.'' EPA is also proposing to disapprove the narrow portion of the December 3, 2007, December 11, 2007, April 3, 2008, and October 1, 2009 infrastructure SIP submissions from West Virginia because West Virginia has not met its obligations relating to the PSD permit program pursuant to CAA section 110(a)(2)(D)(i)(II) for the 1997 $PM_{2.5}$ and ozone NAAQS and the 2006 $PM_{2.5}$ NAAQS due to the failure to include condensables in the definition of ''regulated NSR pollutant.'' Specific infrastructure elements and submittal dates are listed in the following table.

Submittal(s) dated	NAAQS	Infrastructure element(s) proposed to be disapproved in this action
December 11, 2007	1997 $PM_{2.5}$	110(a)(2)(D)(i)(II).
April 3, 2008.		
December 3, 2007	1997 ozone	110(a)(2)(D)(i)(II).
December 11, 2007.		
October 1, 2009	2006 $PM_{2.5}$	110(a)(2)(D)(i)(II).
October 26, 2011	2008 lead	110(a)(2)(D)(i)(II), (C), and (J).
February 17, 2012	2008 ozone	110(a)(2)(D)(i)(II), (C), and (J).

Under CAA section 179(a), final disapproval of a submission that addresses a requirement of a Part D Plan (CAA sections 171–193), or is required in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) starts a sanction clock. The specific provisions in the submissions we are proposing to disapprove, due to

the omission of condensables in the definition of ''regulated NSR pollutant,'' were not submitted by West Virginia to meet either of those requirements. Therefore, if EPA takes final action to disapprove these submissions, no sanctions under CAA section 179 will be triggered.

The full or partial disapproval of a SIP revision triggers the requirement under CAA section 110(c) that EPA promulgate a Federal Implementation Plan (FIP) no later than two years from the date of the disapproval unless the State corrects the deficiency, and the Administrator approves the plan or plan revision before the Administrator promulgates such FIP. From discussions with the State, EPA anticipates that WVDEP will make a submission rectifying the deficiency regarding condensables. Further, EPA anticipates acting on WVDEP's submissions within the two year time frame prior to our FIP obligation on this very narrow issue. In the interim, EPA expects WVDEP to account for condensable emissions of PM consistent with Federal regulations for PSD permitting. EPA is soliciting public comments only on the issues discussed in this document. These comments will be considered before taking final action.

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. In this case, EPA is proposing to disapprove a narrow portion of the West Virginia August 2011 SIP submittal and PSD portions of other related infrastructure submissions required by the CAA that do not meet Federal requirements. This proposed 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 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 does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the proposed rule to disapprove a narrow provision in the August 2011 SIP submission and to disapprove narrow portions related to the definition of ''regulated NSR pollutant'' in portions of the West Virginia infrastructure SIP submissions is not approved to apply in Indian country located in the state, and EPA notes that this action 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.

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

Dated: March 6, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2013–06068 Filed 3–14–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2010–0406; FRL–9790–8]

Approval and Promulgation of Implementation Plans; North Dakota; Regional Haze State Implementation Plan; Federal Implementation Plan for Interstate Transport of Pollution Affecting Visibility and Regional Haze; Reconsideration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On April 6, 2012, EPA published a final rule partially approving and partially disapproving a North Dakota State Implementation Plan (SIP) submittal addressing regional haze submitted by the Governor of North Dakota on March 3, 2010, along with SIP Supplement No. 1 submitted on July 27, 2010, and part of SIP Amendment No. 1 submitted on July 28, 2011. The Administrator subsequently received a petition requesting EPA to reconsider certain provisions in the final rule. Specifically, the petition raised several objections to EPA's approval of the State's best available retrofit technology (BART) emission limits for nitrogen oxides (NO_X) for Milton R. Young Station Units 1 and 2 and Leland Olds Station Unit 2, which are coal-fired power plants in North Dakota.

In this action, EPA is initiating the reconsideration of its approval of the NO_X BART limits for these units, proposing to affirm its approval of these limits, and requesting comment on this proposal. We are not reconsidering or requesting comment on any other provisions of the final rule.

DATES: *Comments:* Comments must be received on or before May 14, 2013 unless a public hearing is held, which would extend the comment period (see below).

Public Hearing: If anyone contacts EPA requesting to speak at a public hearing by April 8, 2013, a public hearing will be held in May 2013 in Bismarck, North Dakota. If a public hearing is held, the record for this action will remain open for 30 days after the hearing to accommodate submittal of information related to a public hearing and any other comments on this action, and EPA will publish a document in the **Federal Register** extending the comment period. For more information on a public hearing and requests to speak, see the *General Information* section of this preamble.