

reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 2 hours that will prohibit entry within 350 feet of the fireworks launch site at 42 52' 07.96" N 78 53' 00.87" W. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T09–0765 to read as follows:

#### § 165.T09–0765 Safety Zone; Lake Erie, Buffalo, NY.

(a) *Location.* The following area is a safety zone: All waters of Lake Erie, from surface to bottom, encompassed by 350-foot radius around 42 52'07.96" N 78 53'00.87" W.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP) Buffalo in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in section § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP Buffalo or their designated representative.

(2) Vessel operators desiring to enter or operate within the safety zone must contact the COTP Buffalo or their designated representative to obtain permission to do so. The COTP Buffalo or their designated representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP Buffalo, or their designated representative.

(d) *Enforcement period.* The regulated area described in paragraph (a) is effective from 7:30 p.m. through 9:30 p.m. on October 6, 2023.

Dated: September 13, 2023.

**M.I. Kuperman,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

[FR Doc. 2023–21194 Filed 9–27–23; 8:45 am]

**BILLING CODE 9110–04–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R05–OAR–2020–0699; FRL–10754–02–R5]

#### Air Plan Approval; Indiana; ArcelorMittal and NIPSCO Sulfur Dioxide Revisions

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving, under the Clean Air Act (CAA), revisions to the sulfur dioxide (SO<sub>2</sub>) portion of the Indiana State Implementation Plan (SIP). The state of Indiana is requesting revisions to emission limits at the Northern Indiana Public Service Company Bailly Station (NIPSCO) facility reflecting permanently shut down units. Indiana is also requesting SIP revisions for two facilities formerly owned by ArcelorMittal USA LLC and currently owned by Cleveland-Cliffs LLC (the Indiana Harbor East and Indiana Harbor West facilities). The Indiana Harbor East facility is required to demonstrate continuous compliance with final SO<sub>2</sub> emission limits as a daily (24-hour) average. These revisions will result in decreases in allowable SO<sub>2</sub> emissions at all three facilities, maintaining SO<sub>2</sub> attainment/unclassifiable designations for the 2010 1-hour SO<sub>2</sub> national ambient air quality standards (NAAQS). EPA proposed to approve this action on June 26, 2023, and received no adverse comments.

**DATES:** This final rule is effective on October 30, 2023.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2020-0699. 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, *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 through [www.regulations.gov](http://www.regulations.gov) or 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 Federal holidays and facility closures due to COVID-19. We recommend that you telephone Cecilia Magos, at (312) 886-7336 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Cecilia Magos, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7336, [magos.cecilia@epa.gov](mailto:magos.cecilia@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever

“we,” “us,” or “our” is used, we mean EPA.

### I. Background Information

On June 26, 2023, EPA proposed to approve the Indiana Department of Environmental Management (IDEM) site-specific SO<sub>2</sub> SIP revisions to Indiana’s sulfur dioxide rules contained in 326 Indiana Administrative Code (IAC) 7-4-14(2), 326 IAC 7-4.1-10 and 326 IAC 7-4.1-11. See 88 FR 41341. The revisions for the NIPSCO facility in Porter County and ArcelorMittal LLC (Indiana Harbor West) in Lake County, are administrative clean-up revisions removing limits that apply to permanently shut down units. The revisions for ArcelorMittal LLC (Indiana Harbor East) also located in Lake County, remove limits that apply to permanently shut down units and include a demonstration of continuous compliance with SO<sub>2</sub> emission limits as a daily (24-hour) average SO<sub>2</sub> pounds per hour (lbs/hr) emission limit. An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA’s reasons for proposing approval were provided in the notice of proposed rulemaking (88 FR 41341), and will not be restated here.

The public comment period for this proposed rule ended on July 26, 2023. During the comment period, EPA received one supportive comment that covered the improved environmental conditions and the potential health benefits from reduced exposure to SO<sub>2</sub> emissions in an area. The comment received is included in the docket for this action. Because the comment is supportive and does not recommend a different action on the SIP submission from what EPA proposed, we are finalizing our action as proposed.

### II. Final Action

EPA is approving revisions to Indiana’s SO<sub>2</sub> rules submitted on March 31, 2022. Specifically, EPA is approving Indiana’s SO<sub>2</sub> rules for NIPSCO (326 IAC 7-4-14(2)), ArcelorMittal USA LLC (Indiana Harbor West) (326 IAC 7-4.1-10), and ArcelorMittal USA LLC (Indiana Harbor East) (326 IAC 7-4.1-11), effective March 31, 2021. This will strengthen the Indiana SO<sub>2</sub> SIP by lowering SO<sub>2</sub> emission limits overall and update monitoring compliance requirements to the Indiana Harbor East facility.

### III. 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 section II of this preamble and set forth in the amendments to 40 CFR part 52 below. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://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). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

### 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. 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 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;

<sup>1</sup> 62 FR 27968 (May 22, 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 CAA.

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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and

commercial operations or programs and policies.”

IDEM did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA performed an environmental justice analysis, as is described in the section titled, “Environmental Justice Considerations” in the notice of proposed rulemaking. See 88 FR 41343. The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

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 November 27, 2023. 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 19, 2023.

**Debra Shore,**  
Regional Administrator, Region 5.

For the reasons stated in the preamble, title 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, amend the table in paragraph (c), under “Article 7. Sulfur Dioxide Rules”:

■ a. Under “Rule 4. Emission Limitations and Requirements by County”:

■ i. By revising the entry for “7–4–14”, and

■ ii. By adding a second entry for “7–4–14” immediately following the first entry.

■ b. Under “Rule 4.1. Lake County Sulfur Dioxide Emission Limitations” by revising the entries for “7–4.1–10” and “7–4.1–11”.

The revised and added entries read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED INDIANA REGULATIONS**

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
*	*	*	*	*
<b>Article 7. Sulfur Dioxide Rules</b>				
*	*	*	*	*
<b>Rule 4. Emission Limitations and Requirements by County</b>				
7–4–14 .....	Porter County sulfur dioxide emission limitations.	10/23/1988	1/19/1989, 54 FR 2112 .....	Only Sec. 14. (1).
7–4–14 .....	Porter County sulfur dioxide emission limitations.	3/31/2021	9/28/2023, [Insert <b>Federal Register</b> Citation]	Except Sec. 14. (1).

EPA-APPROVED INDIANA REGULATIONS—Continued

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
*	*	*	*	*
<b>Rule 4.1. Lake County Sulfur Dioxide Emission Limitations</b>				
7-4.1-10 ...	ArcelorMittal USA LLC (Indiana Harbor West) sulfur dioxide emission limitations.	3/31/2021	9/28/2023, [Insert <b>Federal Register</b> Citation].	*
7-4.1-11 ...	ArcelorMittal USA LLC (Indiana Harbor East) sulfur dioxide emission limitations.	3/31/2021	9/28/2023, [Insert <b>Federal Register</b> Citation].	*
*	*	*	*	*

\* \* \* \* \*  
 [FR Doc. 2023-20743 Filed 9-27-23; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R10-OAR-2021-0752; FRL-9203-02-R10]

**Air Plan Approval; WA; Yakima County Outdoor and Agricultural Burning Rule Revisions**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving into the Washington State Implementation Plan (SIP) the Yakima Regional Clean Air Agency’s (YRCAA) revised outdoor and agricultural burning rule submitted by the State of Washington (Washington or the State) on October 14, 2021. The submitted revisions improve stringency, clarity and enforceability of the rule. The EPA is proposing to approve the SIP submission as consistent with Clean Air Act (Act or CAA) requirements.

**DATES:** This action is effective on October 30, 2023.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2021-0752. All documents in the docket are listed on the <https://www.regulations.gov> website. 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, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://>

[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:** Claudia Vaupel, EPA Region 10 at (206) 553-6121, or [vaupel.claudia@epa.gov](mailto:vaupel.claudia@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever “we,” “us,” or “our” is used, it means the EPA.

**I. Background**

On July 26, 2023, the EPA proposed to approve Washington’s October 14, 2021, SIP submission which significantly revised the SIP-approved outdoor burning rule for the Yakima area (88 FR 48147). The reasons for our proposed approval were stated in the proposed rulemaking and will not be re-stated here. The public comment period for our proposed approval ended on August 25, 2023, and we did not receive comments. Therefore, we are finalizing our action as proposed.

**II. Final Action**

The EPA is approving into the Washington SIP, the rule revisions for outdoor and agricultural burning submitted by Washington on October 14, 2021, because they meet Clean Air Act requirements. The rule revisions include updates to applicability, general prohibitions and requirements for all burning, permit requirements and limited exemptions, program delegation, and rule renumbering. Based on our review, we determined that the rule revisions result in an overall strengthening of the requirements for open and agricultural burning in Yakima County.

The EPA is approving into the federally-approved SIP the YRCAA Regulation 1, Article 3, Section 3.03 (regulating outdoor and agricultural burning in Yakima County), effective September 9, 2020, except the following

provisions: 3.03.C.2.g, 3.03.E.2.a, 3.03.E.2.c, 3.03.E.3.d, 3.03.K; and the following general rule permit provisions:

- General Rule Permit No. 3.03-1 Conditions: E.2.b, E.2.d, E.2.e, and G;
- General Rule Permit No. 3.03-2 Conditions: E.2.b and G;
- General Rule Permit No. 3.03-3 Conditions: E.2.b and G;
- General Rule Permit No. 3.03-4 Conditions: E.2.c and G; and
- General Rule Permit No. 3.03-5 Conditions E.2.d and G.

We are also removing from the federally-approved SIP the outdated Regulation 1, Article 5 provisions, Sections 5.01 through 5.05 (regulating outdoor burning in Yakima County), state effective December 15, 1995, that are replaced by Section 3.03.

**III. Incorporation by Reference**

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of Regulation 1, Article 3, Section 3.03 provisions described in section II of this preamble. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the State implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of the EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation. The EPA is also removing regulatory text that includes incorporation by