



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2016-0512; EPA-R05-OAR-2016-0522; EPA-R05-OAR-2017-0322; FRL-9964-97-Region 5]**

**Air Plan Approval; Illinois; NAAQS Updates**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revised rules submitted by the State of Illinois as State Implementation Plan (SIP) revisions. The submitted rules update Illinois' ambient air quality standards to include the 2015 primary National Ambient Air Quality Standard (NAAQS) for ozone (O<sub>3</sub>), add EPA-promulgated monitoring methods for several NAAQS, and address EPA's revocation of the 1997 O<sub>3</sub> NAAQS. In addition, the revised rules contain the timing requirements for the "flagging of exceptional events" and the submission of documentation supporting exceptional events for the initial area designations for the 2015 primary annual O<sub>3</sub> standard. These SIP revisions update Illinois air pollution control regulations to be "identical-in-substance" to EPA rulemakings related to the NAAQS that occurred between January 1, 2014 and June 17, 2016.

**DATES:** This direct final rule will be effective **[insert date 60**

**days after date of publication in the Federal Register],** unless EPA receives adverse comments by **[insert date 30 days after date of publication in the Federal Register]**. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2016-0512, EPA-R05-OAR-2016-0522, or EPA-R05-2017-0322 at <https://www.regulations.gov> or via email to Aburano.Douglas@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:** Michelle Becker, Life Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3901, Becker.Michelle@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. When and why did the State make these submittals?
- II. What are the State rule revisions?
- III. Did the State hold public hearings for these submittals?
- IV. What is EPA's analysis of the State's submittals?
- V. What action is EPA taking?
- VI. Incorporation by Reference.
- VII. Statutory and Executive Order Reviews.

**I. When and why did the State make these submittals?**

Section 109 of the Clean Air Act (CAA) requires EPA to establish national primary (protective of human health) and secondary (protective of human welfare) air quality standards for pollutants for which air quality criteria have been issued under Section 108 of the CAA (the criteria pollutants<sup>1</sup>).

Individually and collectively these standards are referred to as NAAQS. Section 109(d)(1) of the CAA requires EPA to review, and if necessary, based on accumulated health and welfare data, to revise each NAAQS every five years. If a NAAQS is revised, states whose rules include state air quality standards may revise their rules to address the revised NAAQS and associated monitoring requirements, and submit them to EPA as SIP revision requests. See, e.g., 415 ILCS 5/10(H).

On August 9, 2016, the Illinois Environmental Protection Agency (IEPA) submitted to EPA for approval as SIP revisions: updating Illinois' ambient air quality standards by revoking the 1997 O<sub>3</sub> NAAQS and adding the 2015 primary O<sub>3</sub> NAAQS; revising the timing requirements for the "flagging of exceptional events" and

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<sup>1</sup> The criteria pollutants are ozone (O<sub>3</sub>), nitrogen oxides (represented by nitrogen dioxide (NO<sub>2</sub>)), sulfur oxides (represented by sulfur dioxide (SO<sub>2</sub>)), carbon monoxide (CO), particulate matter (represented by total suspended particulates (TSP), particulates (PM<sub>10</sub>), and fine particulates (PM<sub>2.5</sub>)), and lead (Pb). Note that Illinois also has air quality standard and monitoring rules for "coarse particulate matter" (PM<sub>2.5-10</sub>), although this is not a criteria pollutant and is generally considered to be included in PM<sub>10</sub>.

the submission of demonstrations to justify data exclusion as a result of exceptional events for the initial designations for the 2015 primary annual O<sub>3</sub> standard; and adding EPA-promulgated monitoring methods. These updates correspond to revisions to the NAAQS adopted by EPA during the period January 1, 2015 through June 30, 2015, August 26, 2015, October 26, 2015, and November 19, 2015. The Illinois Pollution Control Board (IPCB) adopted these rule revisions on March 3, 2016.

On August 11, 2016, IEPA submitted to EPA for approval as SIP revisions additional updates to the methods used by Illinois to monitor air quality for several NAAQS. These updates correspond to EPA's revised monitoring methods promulgated during the period of January 1, 2014, through December 18, 2014. The IPCB adopted these rule revisions on March 5, 2015.

On May 30, 2017, IEPA submitted to EPA for approval as SIP revisions additional updates to the methods used by Illinois to monitor air quality for several NAAQS. These updates correspond to EPA's revised monitoring methods promulgated during the period of January 1, 2016, through July 13, 2016. The IPCB adopted these rule revisions on January 19, 2017.

The proposed SIP revisions would update Illinois air pollution control regulations to be "identical-in-substance" to

EPA rulemakings related to the NAAQS that occurred between January 1, 2014 and July 13, 2016.<sup>2</sup> These revisions update Illinois ambient air quality standards to reflect revisions and EPA actions that affect the Federal NAAQS.

## **II. What are the State rule revisions?**

### **35 IAC 243.105. Air Quality Monitoring Data Influenced by Exceptional Events**

Illinois amended 35 IAC 243.105 to incorporate changes to the schedule for flagging data and submitting exceptional events demonstrations considered for initial area designations (80 FR 65292, October 26, 2015). The changes include the addition of 243.105(c)(2)(F), which identifies 243.Table A as the data submission process for a new or revised NAAQS. Also, 243.105(c)(3)(A) was revised to include an exception to the timing requirements for demonstration submissions that are allowed under 243.105(c)(2)(F).

### **35 IAC 243.108. Incorporations by Reference**

Illinois revised this section to incorporate by reference EPA's updated "List of Designated Reference and Equivalent Methods" from January 1, 2014, to July 13, 2016. EPA issued

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<sup>2</sup> Regulations that are "identical-in-substance" means State regulations which require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations if EPA administered the subject program in Illinois. See 415 ILCS 5/7.2(a).

updated versions of the "List of Designated Reference and Equivalent Methods" that included new Federal Equivalent Methods (FEMs) and Federal Reference Methods (FRMs) for monitoring of Carbon Monoxide (CO), Lead (Pb), oxides of nitrogen (NOx), O<sub>3</sub>, fine particulates (PM<sub>2.5</sub>), and coarse particulates (PM<sub>2.5-10</sub>). See 79 FR 34734 (June 18, 2014), 79 FR 65392 (November 4, 2014), 80 FR 32114 (June 5, 2015), 80 FR 12264 (August 26, 2015), 80 FR 72432 (November 19, 2015), 81 FR 4292 (January 26, 2016), 81 FR 25397 (April 28, 2016), and 81 FR 45284 (July 13, 2016).

The list with all approved FEMs and FRMs is located at:  
<https://www3.epa.gov/ttn/amtic/criteria.html>.

Illinois also added a statement to 35 IAC 243.108 that the incorporation by reference of EPA's promulgated monitoring methods "includes the following USEPA methods designations that occurred after June 17, 2016: 81 FR 45284 (July 13, 2016)."

Additionally, Illinois updated 35 IAC 243.108 to incorporate by reference the 2016 versions of appendices A-1, A-2, B, C, D, F, G, H, I, J, K, L, N, O, P, Q, R, S, T and U of 40 CFR part 50. These appendices contain the reference monitoring methods for and the "interpretation" of (i.e., data handling conventions and computations) the ambient standards for the criteria air pollutants.

EPA made two changes in the 2015 versions of these appendices relative to the 2013 versions.<sup>3</sup> First, EPA revised the appendix D reference method for the determination of O<sub>3</sub> adding new methodology and retaining previous measurement techniques (80 FR 65292, October 26, 2015). Second, EPA added appendix U to 40 CFR 50 (80 FR 65292, October 26, 2015). Appendix U, titled "Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone," explains the data handling conventions and computations necessary for determining when the primary and secondary NAAQS for O<sub>3</sub> are met. Illinois' rule revisions incorporate by reference these amended CFR appendices.

### **35 IAC 243.120 PM<sub>10</sub> and PM<sub>2.5</sub>**

Illinois updated 35 IAC 243.120 to incorporate by reference the 2015 versions of 40 CFR 50, the changes to which are discussed above. Additionally, Illinois corrected a citation in subsection (a) (2) to 40 CFR 50.6, which contains the PM<sub>10</sub> NAAQS. Previously this subsection had incorrectly cited to 40 CFR 51.6.

### **35 IAC 243.125 Ozone**

Illinois added subsection (b) to incorporate the 2015 primary and secondary eight-hour NAAQS for ozone. The 2015

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<sup>3</sup> EPA did not make any changes to the appendices in 2014.

NAAQS for ozone is 70 parts per billion, determined by calculating the three-year average of the annual fourth-highest daily maximum eight-hour average (October 26, 2015, 80 FR 65292).

Additionally, Illinois removed subsection (a) "1997 Primary and Secondary Eight-Hour NAAQS for Ozone," and renumbered former subsection (b), "2008 Primary and Secondary Eight-Hour NAAQS for Ozone" to new subsection (a). This was in response to EPA's promulgation of "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements" (SIP Requirements Rule), where EPA, among other things, revised the 1997 O<sub>3</sub> NAAQS so that it no longer applies after the April 6, 2016 effective date of the SIP Requirements Rule.<sup>4</sup> For a detailed explanation of this action, see 80 FR 12264 (March 6, 2015).

Consistent with 40 CFR 50.19 (c), the revised O<sub>3</sub> standards must be measured by either a FRM based on appendix D of 40 CFR part 50, incorporated by reference in 35 IAC 243.108, or a FEM designated by EPA in accordance with 40 CFR part 53 and listed in EPA's "List of Designated Reference and Equivalent Methods," which is also incorporated by reference in 35 IAC 243.108.

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<sup>4</sup> The SIP Requirements Rule contained other requirements applicable to Illinois that are outside the scope of this "identical-in-substance" rulemaking and will be addressed through separate actions.

**35 IAC 243.TABLE A. Schedule for Flagging and Documentation  
Submission for Data Influenced by Exceptional Events for Use in  
Initial Area Designations**

Illinois amended Table A to update the flagging and document submission deadlines for exceptional events demonstrations considered for initial area designations for O<sub>3</sub> to be consistent with EPA rulemaking as detailed in 80 FR 65292 (October 26, 2015).

The flagging and initial event description deadlines for data years one, two and three depend on the following conditions: (1) if state and tribal initial designation recommendations for a new/revised NAAQS are due August through January, then the flagging and initial event description deadline will be the July 1 prior to the recommendation deadline; (2) if state and tribal recommendations for a new/revised NAAQS are due February through July, then the flagging and initial event description deadline will be the January 1 prior to the recommendation deadline. The exceptional events demonstration submittal deadline for data years one, two and three is no later than the date state and tribal recommendations are due to EPA. Flagging, initial event description and exceptional events demonstration submittal

deadline for data year four, and, where applicable, data year five is by the last day of the month that is one year and seven months after promulgation of a new/revised NAAQS. The two exceptions to this deadline are: (1) if EPA follows a three-year designation schedule, the deadline is two years and seven months after promulgation of a new/revised NAAQS; (2) if EPA notifies the state/tribe that it intends to complete the initial area designations process according to a schedule between two and three years, the deadline is five months prior to the date specified for final designations decisions in such EPA notification. The flagging and demonstration submittal deadlines are the same as the deadlines provided in Table 2 in 40 CFR 50.14.

### **III. Did the State hold public hearings for these submittals?**

Illinois held a public hearing for the rule changes discussed in the August 9, 2016, submittal on February 18, 2016. Illinois held a public hearing for the rule revisions discussed in the August 11, 2016, submittal on January 8, 2015. Illinois held a public hearing for the rule revisions discussed in the May 30, 2017 submittal on December 7, 2016. Three comments pertaining to these submittals were received. The comments related to minor administrative issues and typographical errors,

which were addressed by Illinois. No adverse comments were received.

#### **IV. What is EPA's analysis of the State's submittals?**

EPA finds the state's requested SIP revisions to be approvable because the state's rule revisions make the state's air quality standards and associated monitoring requirements identical-in-substance to EPA's promulgated NAAQS and monitoring methods as revised through July 13, 2016.

Additionally, EPA finds that the specified exceptional event flagging and demonstration submittal deadlines are approvable because they are consistent with the deadlines in 40 CFR 50.14.

#### **V. What action is EPA taking?**

EPA is approving the submitted rule revisions as revisions of the Illinois SIP. Specifically, we are approving 35 IAC sections 243.105, 243.108, 243.120, 243.125, and 243.Table A revised as discussed above, and we are incorporating by reference these revised rules into the Illinois SIP.

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. 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. If we do not receive any comments, this action will be effective **[insert date 60 days after date of publication in the Federal Register]**.

#### **VI. 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 Illinois Regulations described in the amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, 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 by the Director of the Federal Register in the next update to the SIP compilation.<sup>5</sup> EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

#### **VII. 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

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<sup>5</sup> 62 FR 27968 (May 22, 1997).

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 (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 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).

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 CAA, 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 today's Federal Register, rather than file an

immediate petition for judicial review of this direct final rule, so that EPA can withdraw 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.

Dated: July 6, 2017.

Cheryl L. Newton,  
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 § 52.720 the table in paragraph (c) is amended under “Part 243: Air Quality Standards”:

a. Under “Subpart A”, by revising the entries for “243.105” and “243.108”; and

b. Under “Subpart B”, by revising the entries for “243.120”, “243.124”, “243.125”, and “243.TABLE A”.

The revisions read as follows:

**§ 52.720 Identification of plan.**

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(c) \* \* \*

**EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES**

Illinois citation	Title / subject	State effective date	EPA approval date	Comments
* * *	* * *	*	*	*
<b>Subchapter 1: Air Quality Standards and Episodes</b>				
<b>Part 243: Air Quality Standards</b>				
<b>Subpart A: General Provisions</b>				
* * *	* * *	*	*	*
243.105	Air Quality Monitoring Data Influenced by Exceptional Events	01/23/17	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
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Illinois citation	Title / subject	State effective date	EPA approval date	Comments
243.108	Incorporation by Reference	01/23/17	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
<b>Subpart B: Standards and Measurement Methods</b>				
243.120	PM10 and PM2.5	01/23/17	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
243.124	Nitrogen Oxides (Nitrogen Dioxide as Indicator)	01/23/17	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
243.125	Ozone	01/23/17	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
243.TABLE A	Schedule of Exceptional Event Flagging and Documentation Submission for New or Revised NAAQS	01/23/17	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
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