



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2016-0574; FRL- 9971-56-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
West Virginia; Removal of Clean Air Interstate Rule Trading Programs Replaced by
Cross-State Air Pollution Rule Trading Programs; Withdrawal of Direct Final Rule**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the September 25, 2017 direct final rule that approved two state implementation plan (SIP) revisions submitted by the State of West Virginia removing the Clean Air Interstate Rule (CAIR) annual nitrogen oxide (NO_x) and annual sulfur dioxide (SO₂) trading programs from the West Virginia SIP.

DATES: The direct final rule published at 82 FR 44525 on September 25, 2017 is withdrawn as of **[Insert date of publication in the Federal Register]**.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers, (215) 814 -2308, or by e-mail at powers.marilyn@epa.gov.

SUPPLEMENTARY INFORMATION: On July 13, 2016, the State of West Virginia, through the West Virginia Department of Environmental Protection (WVDEP), submitted three SIP

revisions requesting that EPA remove from its SIP three regulations that implemented the CAIR (70 FR 25162, May 12, 2005) trading programs: Regulation 45CSR39 – *Control of Annual Nitrogen Oxides Emissions*, Regulation 45CSR40 – *Control of Ozone Season Nitrogen Oxides Emissions*, and Regulation 45CSR41 – *Control of Annual Sulfur Dioxide Emissions*. The September 25, 2017 action pertained to the two submittals that requested removal of 45CSR39 and 45CSR41, the CAIR annual NO_x and annual SO₂ trading programs, respectively, from the West Virginia SIP. The submittal pertaining to removal of the CAIR ozone season NO_x trading program was not a part of that action and is being addressed in a separate action. In the direct final rule published on September 25, 2017 (82 FR 44525), EPA stated that if EPA received adverse comments by October 25, 2017, the rule would be withdrawn and not take effect. EPA subsequently received an adverse comment from an anonymous commenter.

Because an adverse comment was received, EPA is withdrawing the direct final rule approving the revisions to the West Virginia SIP that remove the CAIR annual trading programs for NO_x and SO₂. EPA will address the comment received in a subsequent final action based upon the proposed rulemaking action also published on September 25, 2017 (82 FR 44544), for the two July 13, 2016 SIP submissions. EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 22, 2017.

Cosmo Servidio,
Regional Administrator,
Region III.

Accordingly, the amendments to § 52.2520(c) published on September 25, 2017 (82 FR 44525), which were to become effective December 26, 2017, are withdrawn as of **[Insert date of publication in the Federal Register]**.

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