



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2019-0331; FRL-10001-88-Region 5]

Air Plan Approval; Illinois; NAAQS Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Illinois State implementation plan (SIP). The revision, submitted on May 30, 2019, incorporates several revisions to the Illinois air pollution control rules entitled "Part 243 - Ambient Air Quality Standards" related to the National Ambient Air Quality Standards (NAAQS). The revision updates the "List of Designated Reference and Equivalent Methods" in response to EPA rulemakings. In addition, Illinois addresses EPA's revocation of the 1971 sulfur dioxide and the 1978 lead NAAQS.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2019-0331. All documents in the docket are listed on the www.regulations.gov web site. 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 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. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886-6031 before visiting the Region 5 office.

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.

I. What is being addressed in this document?

This rule acts on the May 30, 2019, request from the Illinois Environmental Protection Agency to incorporate revisions to Title 35 of the Illinois Administrative Code, Part 243 - Air Quality Standards (Part 243). The background for today's action is discussed in detail in EPA's proposal, dated August 15, 2019 (84 FR 41672).

II. What comments did we receive on the proposed action?

EPA provided a 30-day review and comment period for the August 15, 2019 proposed rule. The comment period ended on September 16, 2019. We received no adverse comments on the proposed rule.

EPA did, however, receive one anonymous comment. The commenter was unable to access the submission materials for the Illinois 2018 NAAQS Update, R19-6, through the online docket at www.regulations.gov, and therefore suggested the comment period be extended another 30 days. According to the document information on www.regulations.gov, the submission materials were posted on September 11, 2019. The comment was posted on September 17, 2019. EPA's August 15, 2019 proposed rule included contact information for the EPA Region 5 office, which could have assisted the commenter with accessing or receiving the submission materials, but EPA has no record of the commenter

making such contact. Furthermore, since the commenter did not explain (or provide a legal basis for) how the final rule should differ in any way from the proposed action, and made no specific mention of the substantive aspects of the proposed action, the comment is not germane to this rulemaking. Therefore, EPA will not extend comment period for another 30 days.

III. What action is EPA taking?

EPA is approving a revision to Part 243 of the Illinois SIP.

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 Illinois regulations described 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 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 Clean Air Act (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.¹

V. 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 13563 (76 FR 3821, January 21, 2011);
- Is not expected to be an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant under Executive Order 12866;

¹ 62 FR 27968 (May 22, 1997).

- 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. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: October 24, 2019.

Cathy Stepp,
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 by revising the entries “243.108”, “243.120”, “243.122”, “243.125”, and “243.126” to 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
* * * * *				
Subchapter I: Air Quality Standards and Episodes				
Part 243: Air Quality Standards				
Subpart A: General Provisions				
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243.108	Incorporation by Reference	2/19/2019	[insert date of publication in the Federal Register], [insert Federal Register citation]	
Subpart B: Standards and Measurements				
243.120	PM ₁₀ and PM _{2.5}	2/19/2019	[insert date of publication in the Federal Register], [insert Federal Register citation]	
243.122	Sulfur Oxides (Sulfur Dioxide)	2/19/2019	[insert date of publication in the Federal Register], [insert Federal Register citation]	
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243.125	Ozone	2/19/2019	[insert date of publication in the Federal Register], [insert Federal Register citation]	

243.126	Lead	2/19/2019	[insert date of publication in the Federal Register], [insert Federal Register citation]	
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[FR Doc. 2019-24068 Filed: 11/4/2019 8:45 am; Publication Date: 11/5/2019]