



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2022-0673; FRL-10900-02-R5]

Air Plan Approval; Illinois; NAAQS Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Illinois Environmental Protection Agency (IEPA) on July 8, 2022. Illinois revised its air pollution control rules entitled "Part 243-Ambient Air Quality Standards" and updated the "List of Designated Reference and Equivalent Methods" in response to EPA rulemakings and changes to the National Ambient Air Quality Standards (NAAQS) that EPA adopted in 2021.

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-2022-0673. All documents in the docket are listed on the *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* 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 Daphne Onsay at (312) 886-5945 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Daphne Onsay, Life Scientist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-5945, *onsay.daphne@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background Information

On July 8, 2022, IEPA submitted a request to EPA to incorporate revisions to the Illinois air pollution control rules in Title 35 of the Illinois Administrative Code, Part 243 - Air Quality Standards. Part 243 sets forth the NAAQS adopted by EPA under section 109 of the Clean Air Act (CAA). The submission updates Part 243: Sections 243.108 and 243.122, effective May 18, 2022. Illinois revised Part 243 to reflect amendments to EPA's "List of Designated References and Equivalent Methods" used to determine compliance with the NAAQS (fine particulate matter and coarse particulate matter, sulfur dioxide (SO₂), carbon monoxide, lead, oxides of nitrogen, and

ozone). In addition to these changes, Illinois updated existing rule language to address EPA's revocation of the 1971 primary, 24-hour, and annual average NAAQS for SO₂. 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 and will not be restated here. The public comment period for this proposed rule ended on August 23, 2023.

During the comment period, EPA received one comment that covered a variety of topics including comments on administrative changes being made that could increase the complexity and burden of regulatory compliance on affected industry. The comment is summarized and addressed below and the comment itself is included in the docket for this action. We do not consider this comment to be germane or relevant to this action and therefore not adverse to this action. The comment lacks the required specificity to the proposed SIP revision and the relevant requirements of CAA section 110. Moreover, the comment does not address a specific regulation or provision in question or recommend a different action on the SIP submission from what EPA proposed. Therefore, we are finalizing our action as proposed.

II. Response to Public Comments

Comment 1: The commenter is concerned that the potential complexity of these administrative changes could increase the complexity of regulatory compliance and reporting. The commenter states that businesses may be required to dedicate

more resources for compliance, which could place a financial burden on small and medium businesses. The commenter also states that the changes require consistent monitoring, increasing the possibility of non-compliance due to unawareness or misunderstanding.

Response 1: Illinois is adopting requirements that are already established at the Federal level and making them applicable at the State level. Illinois is incorporating these Federal regulations into the Illinois air pollution control rules entitled "Part 243 - Ambient Air Quality Standards" and also updating the "List of Designated Reference and Equivalent Methods" in response to EPA rulemakings. Illinois is also changing Section 243.122 to be consistent with the Round 4 area designations for the primary 2010 NAAQS for SO₂ that EPA issued in 2021. These administrative changes do not place additional requirements on regulated entities beyond those already established in the NAAQS. The commenter stated that the administrative changes should be consolidated to a degree that decreases the frequency of these changes. These administrative changes have been consolidated to include the Illinois updates to Part 243, which reflect amendments to EPA's "List of Designated References and Equivalent Methods" used to determine compliance with the NAAQS. In addition, Illinois updated existing rule language to address EPA's revocation of the 1971 primary, 24-hour, and annual average NAAQS for SO₂. Regarding the frequency of these administrative changes, EPA is required

to update the NAAQS every 5 years, in accordance with section 109 of the CAA. EPA is following statutory requirements.

III. Final Action

EPA is approving a revision to the Illinois SIP. The submittal updates revisions to the Illinois regulations at Title 35 of the Illinois Administrative Code, Part 243 - Air Quality Standards (Part 243). Specifically, the updates made to Part 243: Sections 243.108 and 243.122 - are intended to be "identical in substance" to, and consistent with the updates to the list of designated Federal equivalent and reference methods and updates to the NAAQS adopted by EPA. IEPA's revisions mirror EPA's reference method for the 2010 1-hour SO₂ standard. IEPA removed the 1971 primary, 24 hour, and annual SO₂ standard reflecting EPA's action at the Federal level.

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 Illinois Regulations described in section I 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 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.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 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.*);

¹ 62 FR 27968 (May 22, 1997).

- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- 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."

IEPA 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 did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record 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 **[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).)

List of Subjects in 40 CFR Part 52

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

Dated: January 9, 2024.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, 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:

a. Revising the entry for “243.108” and the first entry for “243.122” (State effective date 8/18/2020); and

b. Removing the second entry for “243.122” (State effective date 2/19/2019).

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 |
|-------------------|--------------------------------|----------------------|---|----------|
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| 243.108 | Incorporation by Reference | 3/4/2022 | [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION] | |
| * * * * * | | | | |
| 243.122 | Sulfur Oxides (Sulfur Dioxide) | 3/4/2022 | [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION] | |
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