



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2024-0581; FRL-12329-01-R3]

Air Plan Approval; West Virginia; 2024 Amendments to West Virginia's Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of West Virginia. This revision updates West Virginia's incorporation by reference (IBR) of EPA's national ambient air quality standards (NAAQS) and the associated monitoring reference and equivalent methods. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2024-0581 at www.regulations.gov, or via email to Gordon.Mike@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 www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Bryan Cashman, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2012. Mr. Cashman can also be reached via electronic mail at Cashman.Bryan@epa.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2024, the West Virginia Department of Environmental Protection (WVDEP) submitted a revision to its SIP pertaining to the amendments of Legislative Rule, 45 Code of State Rule (CSR) Ambient Air Quality Standards. The SIP submittal updates West Virginia's IBR of the NAAQS promulgated by EPA and found at 40 Code of Federal Regulations (CFR) part 50 and ambient air monitoring reference methods and equivalent methods promulgated by EPA and found at 40 CFR part 53 into West Virginia's legislative rules.

I. Summary of SIP Revision and EPA Analysis

WVDEP has historically chosen to incorporate by reference the NAAQS, found at 40 CFR part 50, and the associated Federal ambient air monitoring reference methods and equivalent methods for these NAAQS found at 40 CFR part 53. When incorporating by reference these Federal regulations, WVDEP has specified that it is incorporating by reference these regulations as they existed on a certain date. The IBR of the NAAQS that is currently approved in the West Virginia SIP incorporates by reference 40 CFR parts 50 and 53 as they existed on June 1, 2023. West Virginia's July 1, 2024 SIP revision updates the State's IBR of the primary and secondary NAAQS and the ambient air monitoring reference and equivalent methods, found in 40 CFR parts 50 and 53, respectively, as of June 1, 2023. Primary NAAQS

establish air quality standards which the administrator of EPA determines are necessary, with an adequate margin of safety, to protect the public health. Secondary NAAQS establish air quality standards which the administrator of EPA determines necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. This revision also incorporates by reference the ambient air monitoring reference methods and equivalent methods promulgated by EPA under 40 CFR part 53.

The amendments to the legislative rule include changes to section 45-8-1 (General) and 45-8-3 (Adoption of Standards). The amendments alphabetize the criteria pollutants list in the scope (1.1), update the filing and effective dates (1.3, 1.4) and update West Virginia's IBR of the primary and secondary NAAQS and the ambient air monitoring reference and equivalent methods from June 1, 2022, to June 1, 2023 (1.6, 3.1, 3.2). West Virginia is incorporating the Federal rules in 40 CFR parts 50 and 53 as they existed on June 1, 2023, into sections 45-8-1 and 45-8-3.

II. Proposed Action

EPA is proposing to approve the West Virginia SIP revision of July 1, 2024, updating the IBR of EPA's NAAQS and associated ambient air monitoring reference methods and equivalent methods. EPA is soliciting public comments on the update to West Virginia's IBR. Please note that EPA is not seeking public comment on the level of the NAAQS which West Virginia incorporated by reference into its regulations. An opportunity for public comment on the level of each individual NAAQS was given when EPA proposed each such NAAQS. Relevant comments will be considered before taking final action.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes IBR. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference 45CSR8, as effective on June 1, 2024. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region III

Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act 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 Clean Air Act. 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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- 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;
- 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 Clean Air Act.

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).

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, Volatile organic compounds.

Amy Van Blarcom-Lackey,
Regional Administrator,
Region III.

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