



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2024-0581; FRL-12329-02-R3]

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

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 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. EPA is approving these revisions to the West Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

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 Number EPA-R03-OAR-2024-0581. All documents in the docket are listed on the website. Although listed in the index, some information is not publicly available, e.g., 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 through www.regulations.gov **For Further Information Contact** section for additional availability information.

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:

I. Background

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 the EPA and found at 40 Code of Federal Regulations (CFR) part 50 and ambient air monitoring reference methods and equivalent methods promulgated by the EPA and found at 40 CFR part 53 into West Virginia's legislative rules.

II. Summary of SIP Revision and the EPA Analysis

The 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. This revision also incorporates by reference the ambient air monitoring reference methods and equivalent methods promulgated by the 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.

III. EPA's Response to Comments Received

The EPA received one comment in response to the NPRM, which is available in the docket for this action. The comment was outside the scope of this rulemaking. As such, the comment does not require a response by the EPA.

IV. Final Action

The EPA is approving the West Virginia SIP revision of July 1, 2024 updating the IBR of the EPA's NAAQS and associated ambient air monitoring reference methods and equivalent methods.

V. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference 45CSR8, as effective on June 1, 2024, as described in section II of this preamble. The 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). Therefore, these materials have been approved by the 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

VI. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act, the Administrator is required to approve a SIP submission that

¹ 62 FR 27968 (May 22, 1997).

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, the 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 the 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).

This action is subject to the Congressional Review Act, and the 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 Clean Air Act, 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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.*

Subpart XX—West Virginia

2. In § 52.2520, the table in paragraph (c) entitled “EPA-Approved Regulations in the West Virginia SIP” is amended by revising the entries “Section 45-8-1”, “Section 45-8-2”, “Section 45-8-3” and “Section 45-8-4” under the heading “[45 CSR] Series 8 Ambient Air Quality Standards” to read as follows:

§ 52.2520 Identification of plan.

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(c)* * *

State citation [Chapter 16-20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.2565
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[45 CSR] Series 8 Ambient Air Quality Standards				
Section 45-8-1	General	6/1/24	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]	Docket #2024-0581.
Section 45-8-2	Definitions	6/1/24	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]	Docket #2024-0581.
Section 45-8-3	Adoption of Standards	6/1/24	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]	Docket #2024-0581.
Section 45-8-4	Inconsistency Between Rules	6/1/24	[INSERT DATE OF PUBLICATION IN THE FEDERAL	Docket #2024-0581.

State citation [Chapter 16-20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.2565
			REGISTER], 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]	
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[FR Doc. 2025-18611 Filed: 9/24/2025 8:45 am; Publication Date: 9/25/2025]