

no longer performs its intended function.

(7) *Reexports to an alternate launch country.* If a mechanical or weather related issue causes a change from the scheduled launch country to another foreign country after a commodity was exported or reexported under this paragraph (d), then that commodity may be subsequently reexported to the new scheduled launch country, provided all of the terms and conditions of paragraph (d) of this section are met, along with any other applicable EAR provisions. In such instances, the 6-month time limitation described in paragraph (d)(3)(i) of this section would start over again at the time of the subsequent reexport transaction. Note that if the subsequent reexport may be made under the designation No License Required (NLR) or some other authorization under the EAR, a reexporter does not need to rely on the provisions contained in this paragraph (d).

Dated: February 1, 2010.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 2010-2579 Filed 2-8-10; 8:45 am]

**BILLING CODE 3510-33-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2009-0706; FRL-9111-5]

#### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Removal of NO<sub>x</sub> SIP Call Rules

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the West Virginia State Implementation Plan (SIP). The revision removes West Virginia's nitrogen oxides (NO<sub>x</sub>) SIP Call rules. EPA is approving this revision to remove West Virginia's NO<sub>x</sub> SIP Call rules in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on April 12, 2010 without further notice, unless EPA receives adverse written comment by March 11, 2010. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-

R03-OAR-2009-0706 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail:* fernandez.cristina@epa.gov.

C. *Mail:* EPA-R03-OAR-2009-0706, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2009-0706. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, 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 electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

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

#### SUPPLEMENTARY INFORMATION:

##### I. Background

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

On July 20, 2009, the State of West Virginia submitted a formal revision to its SIP. The SIP revision removes West Virginia's NO<sub>x</sub> SIP Call rules. West Virginia's NO<sub>x</sub> SIP Call rules, approved into the West Virginia SIP on May 10, 2002 (67 FR 31733) and September 28, 2006 (71 FR 56881), established West Virginia's NO<sub>x</sub> Budget Trading Program and set forth requirements for its non-trading sources, respectively. The former enabled West Virginia to participate in the EPA-administered regional NO<sub>x</sub> budget trading program under the NO<sub>x</sub> SIP Call. However, EPA discontinued the NO<sub>x</sub> SIP Call trading program after the 2008 ozone season, and starting in 2009, began administration of the trading programs under the Clean Air Interstate Rule (CAIR). CAIR established three separate emissions trading programs. One of these, the CAIR ozone season NO<sub>x</sub> trading program, applies to the electric generating units (EGUs) that are subject to the NO<sub>x</sub> SIP Call but does not apply to the non-EGUs that were also trading sources under the NO<sub>x</sub> SIP Call. To help States address these sources, CAIR provided States with the flexibility to include the non-EGUs as part of their CAIR ozone season NO<sub>x</sub> trading program. West Virginia chose to bring these non-EGUs into its CAIR ozone season NO<sub>x</sub> trading program by including them in regulation 45CSR40—Control of Ozone Season Nitrogen Oxide Emissions to Mitigate Interstate Transport of Ozone and Nitrogen Oxides CAIR. In addition, West Virginia chose to recodify the provisions for its non-trading non-EGUs (internal combustion engines and cement kilns) that were

included in 45CSR1 into 45CSR40. On August 4, 2009 (74 FR 38536), EPA approved West Virginia's CAIR trading programs into the West Virginia SIP. West Virginia's NO<sub>x</sub> SIP Call requirements have therefore been subsumed by the State's CAIR ozone season NO<sub>x</sub> trading program.

## II. Summary of SIP Revision

West Virginia met its NO<sub>x</sub> SIP Call requirements through two regulations: 45CSR1—Control and Reduction of Nitrogen Oxides from Non-Electric Generating Units As a Means to Mitigate Transport of Ozone Precursors; and 45CSR26—NO<sub>x</sub> Budget Trading Program as a Means of Control and Reduction of Nitrogen Oxides from Electric Generating Units. This SIP revision removes these two regulations. West Virginia is meeting its NO<sub>x</sub> SIP Call emission reduction requirements by its approved CAIR ozone season NO<sub>x</sub> trading program, codified in 45CSR40.

## III. Final Action

EPA is approving the SIP revision submitted by West Virginia to remove its NO<sub>x</sub> SIP Call rules 45CSR1 and 45CSR26. West Virginia continues to meet its NO<sub>x</sub> SIP Call requirements through its SIP-approved CAIR ozone season NO<sub>x</sub> trading program.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the Proposed Rules' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on April 12, 2010 without further notice unless EPA receives adverse comment by March 11, 2010. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## IV. Statutory and Executive Order Reviews

### A. General Requirements

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the 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);
  - 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 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 Clean Air Act; 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, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that

it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

### B. Submission to Congress and the Comptroller General

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).

### C. Petitions for Judicial Review

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 April 12, 2010. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking.

This action to approve the West Virginia SIP revision that removes the State's NO<sub>x</sub> SIP Call rules 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, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter.

Dated: January 22, 2010.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

■ 40 CFR Part 52 is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart XX—West Virginia****§ 52.2520 [Amended]**

■ 2. In § 52.2520, the table in paragraph (c) is amended by removing the entries for 45CSR Series 1 and 45CSR Series 26 in their entirety.

[FR Doc. 2010-2675 Filed 2-8-10; 8:45 am]

**BILLING CODE** 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R03-OAR-2010-0010; FRL-9111-7]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Carbon Monoxide Emissions From Basic Oxygen Furnaces**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Maryland State Implementation Plan (SIP). The revision, State of Maryland SIP Revision #05-08, replaces the current SIP requirements for the control of carbon monoxide (CO) emissions from basic oxygen furnaces (BOFs) at steel mills in the State of Maryland with a new, equivalent CO standard. EPA is approving this revision to the Maryland SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on April 12, 2010 without further notice, unless EPA receives adverse written comment by March 11, 2010. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2010-0010 by one of the following methods:

A. *http://www.regulations.gov*. Follow the online instructions for submitting comments.

B. *E-mail:* fernandez.cristina@epa.gov.

C. *Mail:* EPA-R03-OAR-2010-0010, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650

Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2010-0010. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, 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 electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of

the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Maria A. Pino, (215) 814-2181, or by e-mail at *pino.maria@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

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

**I. Background**

On October 31, 2005, the State of Maryland submitted a formal revision to its SIP. The SIP revision consists of establishment of a new standard for CO emissions from BOFs at steel mills. This SIP revision replaces the current SIP requirements for the control of CO emissions from BOFs, which Maryland had previously withdrawn from the Code of Maryland Administrative Regulations (COMAR). However, those requirements were not withdrawn from Maryland's SIP.

CO is generated in large quantities in BOFs at steel mills. BOFs contain hot metal from the blast furnace and scrap metal which is heated with oxygen to produce molten metal. The molten metal is ultimately cast into steel slabs. The BOFs are equipped with a gas collection system or hoods that exhaust the gases into a water scrubber system that is used primarily for control of particulate matter.

**II. Summary of SIP Revision**

This SIP revision establishes a new CO standard for BOFs at steel mills by adding new regulation COMAR 26.11.10.05-1 to the Maryland SIP. This new regulation requires affected sources to demonstrate that the CO concentration in its gas stream does not exceed 1 percent by volume and to demonstrate compliance by conducting an initial stack test and additional stack tests every 2.5 years. COMAR 26.11.10.05-1 replaces the CO emission requirements currently in the Maryland SIP, COMAR 26.11.10.06[2].

COMAR 26.11.10.06[2] required a person who operated a blast furnace, grey iron cupola or BOF to burn the gas with excess oxygen at not less than 1300 °F for at least 0.3 seconds in a direct flame afterburner. In addition, COMAR 26.11.10.06[2] allowed an equivalent control method which reduces the concentration of CO in the effluent to 1.0 percent by volume or less. Maryland withdrew that regulation because: (1) Blast furnace gas is not controlled but is used as fuel in on site fuel burning equipment; (2) there are no grey iron cupolas located at steel mills and cupolas not located at steel mills are