

(ii) Is not an organization engaged in religious activities, unless the qualifying activities are unrelated to religious instruction, worship services, or any form of proselytizing;

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2012-0174; FRL-9764-4]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the West Virginia Portion of the Huntington-Ashland, WV-KY-OH 1997 Annual Fine Particulate Matter Nonattainment Area to Attainment and Approval of the Associated Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and State Implementation Plan (SIP) revision submitted by the State of West Virginia. The West Virginia Department of Environmental Protection (WVDEP) requested that the West Virginia portion of the Huntington-Ashland, WV-KY-OH fine particulate matter (PM_{2.5}) nonattainment area ("Huntington-Ashland Area" or "Area") be redesignated as attainment for the 1997 annual PM_{2.5} national ambient air quality standard (NAAQS). In this rulemaking action, EPA is approving the 1997 annual PM_{2.5} redesignation request for the West Virginia portion of the Area. EPA is also approving the maintenance plan SIP revision that the State submitted in conjunction with its redesignation request. The maintenance plan provides for continued attainment of the 1997 annual PM_{2.5} NAAQS for 10 years after redesignation of the West Virginia portion of the Area. The maintenance plan includes an insignificance determination for the onroad motor vehicle contribution of PM_{2.5}, nitrogen oxides (NO_x), and sulfur dioxide (SO₂) for the West Virginia portion of the Area for purposes of transportation conformity. EPA is approving West Virginia's insignificance determination for transportation conformity. EPA is also finding that the Area continues to attain the standard. This rulemaking action approving the 1997 annual PM_{2.5} NAAQS redesignation request, maintenance plan, and insignificance determination

for transportation conformity for the West Virginia portion of the Area is based on EPA's determination that the Area has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA).

DATES: This final rule is effective on December 28, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2012-0174. All documents in the docket are listed in the www.regulations.gov Web site. Although listed in the electronic docket, 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 electronically through www.regulations.gov or in hard copy for public inspection 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: Rose Quinto, (215) 814-2182, or by email at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Huntington-Ashland Area is composed of Cabell and Wayne Counties and the Graham Tax District in Mason County in West Virginia (West Virginia portion of the Area); Boyd County and a portion of Lawrence County in Kentucky; and Lawrence and Scioto Counties and portions of Adams and Gallia Counties in Ohio. On November 15, 2012 (77 FR 68076), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. Pursuant to sections 107(d)(3) and 175A of the CAA, the NPR proposed approval of West Virginia's redesignation request, a SIP revision that establishes a maintenance plan for the West Virginia portion of the Area that provides for continued attainment of the 1997 annual PM_{2.5} NAAQS for at least 10 years after redesignation, and the insignificance determination for transportation conformity for the West Virginia portion of the Area. The formal SIP revision was submitted by WVDEP on June 30, 2011. In a separate action,

EPA approved the base year emissions inventory on December 11, 2012 (77 FR 73544) meeting the requirements of section 172(c)(3) of the CAA. Other specific details of West Virginia's redesignation request, the associated maintenance plan SIP revision and insignificance determination, and the rationales for EPA's proposed actions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving the redesignation request, maintenance plan, and insignificance determination for transportation conformity for the West Virginia portion of the Area that was submitted by WVDEP on June 30, 2011 because the requirements for approval have been satisfied. EPA has evaluated West Virginia's redesignation request, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. Approval of this redesignation request will change the legal designation of the West Virginia portion of the Area from nonattainment to attainment for the 1997 annual PM_{2.5} NAAQS. EPA is approving the associated maintenance plan for the West Virginia portion of the Area, submitted on June 30, 2011, as a revision to the West Virginia SIP because it meets the requirements of section 175A of the CAA. EPA is also approving the transportation conformity insignificance determination submitted by West Virginia for this Area in conjunction with its redesignation request.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective immediately upon publication. A delayed effective date is unnecessary due to the nature of a redesignation to attainment, which eliminates CAA obligations that would otherwise apply. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that

affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves West Virginia of the obligation to comply with nonattainment-related planning requirements for this PM_{2.5} Area pursuant to Part D of the CAA. For these reasons, EPA finds good cause under 5 U.S.C. 553(d) for this action to become effective on the date of publication of this notice.

III. Statutory and Executive Order Reviews

A. General Requirements

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 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 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, 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

circuit by February 26, 2013. 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 approving the redesignation request, maintenance plan, and transportation conformity insignificance determination for the West Virginia portion of the Area may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

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

Dated: December 18, 2012.

W.C. Early,
Acting Regional Administrator, Region III.

■ 40 CFR parts 52 and 81 are 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

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for the 1997 annual PM_{2.5} Maintenance Plan, West Virginia portion of the Huntington-Ashland, WV-KY-OH Area at the end of the table to read as follows:

§ 52.2520 Identification of plan.

* * * * *
(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
1997 annual PM _{2.5} Maintenance Plan for Huntington-Ashland WV-KY-OH Area.	Hun- Cabell and Wayne Counties, and the Graham Tax District in Mason County.	6/30/11	12/28/12 [Insert page number where the document begins].	

PART 81—[AMENDED]

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

table entry for the Huntington-Ashland, WV-KY-OH Area to read as follows:

■ 1. The authority citation for Part 81 continues to read as follows:

■ 2. Section 81.349 is amended by revising the PM_{2.5} (Annual NAAQS)

§ 81.349 West Virginia

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WEST VIRGINIA—PM_{2.5} (ANNUAL NAAQS)

Designated area	Designation ^a	
	Date ¹	Type
Huntington-Ashland, WV-KY-OH		
Cabell County	12/28/12	Attainment.
Mason County (part) Graham Tax District.	12/28/12	Attainment.
Wayne County	12/28/12	Attainment.

^a Includes Indian County located in each county or area, except otherwise specified.

¹ This date is 90 days after January 5, 2005, unless otherwise noted.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2011-0685; FRL-9726-4]

Approval and Promulgation of Air Quality Implementation Plans; Idaho; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: EPA is updating the materials submitted by Idaho that are incorporated by reference (IBR) into the Idaho State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the Idaho Department of Environmental Quality (IDEQ) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Regional Office.

DATES: *Effective Date:* This action is effective December 28, 2012.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: EPA Region 10, Office of Air, Waste, and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101; the Air and

Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue NW., Room Number 3334, EPA West Building, Washington, DC 20460; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

FOR FURTHER INFORMATION CONTACT: Donna Deneen, EPA Region 10, Office of Air, Waste, and Toxics (AWT-107), 1200 Sixth Avenue, Seattle, Washington 98101, or at (206) 553-6706.

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document which the State revises as necessary to address its unique air pollution problems. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document. On January 25, 2005, EPA published a document in the **Federal Register** beginning the new IBR procedure for Idaho. 70 FR 9450. Since the publication of the January 25, 2005, **Federal Register** document, EPA has approved regulatory changes to the

Idaho Administrative Procedures Act (IDAPA) 58.01.01. These approved changes are identified in the following **Federal Register** notices: 70 FR 58311 (October 6, 2005), 71 FR 39574 (July 13, 2006), 73 FR 44915 (August 1, 2008), 75 FR 72705 (November 26, 2010), 75 FR 72719 (November 26, 2010), 76 FR 33651 (June 9, 2011), 76 FR 36329 (June 22, 2011), and 77 FR 41916 (July 17, 2012).

II. EPA Action

In this action, EPA is doing the following:

A. In paragraph 52.670(b), announcing the update to the IBR material as of August 16, 2012.

B. In paragraph 52.670(c):

1. Removing the section heading "EPA-APPROVED IDAHO REGULATIONS" and adding in its place "EPA-APPROVED IDAHO REGULATIONS AND STATUTES";

2. Correcting the entry for IDAPA 58.01.01.470 by removing "Permit Application Fees for Tier II Permits" and replacing it with "Reserved" consistent with our proposed action on March 18, 2010 (75 FR 13058) and our final action on November 26, 2010 (75 FR 72719); and

3. Removing the entries for IDAPA 58.01.01.726 through 729, consistent with our proposed action on March 18, 2010 (75 FR 13058) and our final action on November 26, 2010 (75 FR 72719).

C. In paragraph 52.683, revising the language to reflect the approvals made on July 17, 2012 (77 FR 41916), that were erroneously not reflected in paragraph 52.683.

EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA)