

**§ 100.T08–0329 Special Local Regulation; Ohio River, Portsmouth, OH.**

(a) *Location.* All navigable waters of the Ohio River from mile marker (MM) 355.5 to MM 356.8 Portsmouth, OH.

(b) *Effective period.* This section is effective from August 31, 2019 through September 2, 2019.

(c) *Enforcement period.* The section will be enforced from 9 a.m. through 6 p.m. on August 31, 2019, from 7 a.m. through 5:30 p.m. on September 1, and from 7 a.m. through 4 p.m. on September 2, 2019.

(d) *Special local regulations.* (1) Entry into this area is prohibited unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

(2) Recreational vessels are permitted to transit the regulated area during scheduled breaks for commercial traffic. There shall be no anchoring or loitering in the navigation channel. Recreational vessels transiting into and away from this area are restricted to the slowest safe speed creating minimum wake.

(3) The COTP may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(4) All persons or vessels desiring entry into or passage through the area must request permission from the COTP or a designated representative. U.S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1–800–253–7465.

**A.M. Beach,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.*

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

[EPA–R05–OAR–2019–0331; FRL–9998–03–Region 5]

**Air Plan Approval; Illinois; NAAQS Update**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a state submission as a revision to the Illinois state implementation plan (SIP). The revision, submitted on May 30, 2019, incorporates several revisions to Illinois’s air pollution control rules entitled “Ambient Air Quality Standards” and is related to the

National Ambient Air Quality Standards (NAAQS). The revision updates the “List of Designated Reference and Equivalent Methods” in response to EPA rulemakings. In addition, Illinois addresses EPA’s revocation of the 1971 sulfur dioxide (SO<sub>2</sub>) and the 1978 lead (Pb) NAAQS.

**DATES:** Comments must be received on or before September 16, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2019–0331 at <http://www.regulations.gov> or via email to [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov). For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, [hatten.charles@epa.gov](mailto:hatten.charles@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What are the State rule revisions?
- II. What is EPA’s analysis of the State’s submittal?
- III. What action is EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

**I. What are the State rule revisions?**

On May 30, 2019, the Illinois Environmental Protection Agency (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). The submission updates the following rules in Part 243: Sections 243.108, 243.120, 243.122, 243.125, and 243.126. Part 243 includes Illinois’s regulation adoption of ambient air quality standards related to the NAAQS.

**II. What is EPA’s analysis of the State’s submittal?**

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 (PM<sub>2.5</sub>) and coarse particulate matter (PM<sub>10</sub>), SO<sub>2</sub>, carbon monoxide (CO), Pb, oxides of nitrogen (NO<sub>x</sub>), and ozone (O<sub>3</sub>)). In addition to these changes Illinois updated existing rule language to address EPA’s revocation of the 1971 SO<sub>2</sub> and the 1978 Pb NAAQS.

Other revisions to Part 243 include a range of administrative changes, such as making grammatical corrections to language updates; removing the unnecessary version date from the Code of Federal Regulations (CFR) citations and updating the CFR citations to the latest version available.

EPA is proposing to approve the revisions to Part 243 which are described below:

*Section 243.108 Incorporation by Reference*—incorporates by reference EPA’s “List of Designated Reference and Equivalent Methods” for measuring ambient concentrations to demonstrate compliance with the NAAQS (PM<sub>2.5</sub> and PM<sub>10</sub>, SO<sub>2</sub>, CO, Pb, NO<sub>x</sub>, and O<sub>3</sub>).

EPA designated two new Federal reference monitoring methods on February 13, 2018 (83 FR 6174) and on June 1, 2018 (83 FR 13198) for nitrogen dioxide (NO<sub>2</sub>) in ambient air. On June 15, 2018, EPA updated the “List of Designated Reference and Equivalent Methods” to include these new Federal reference monitoring methods for NO<sub>2</sub>. The proposed SIP revision would update section 243.108 to incorporate the changes based on EPA’s action dated June 15, 2018.

Additionally, Illinois updated section 243.108, to incorporate by reference the following monitoring methods: Appendices A–1, A–2, B, C, D, F, G, H, I, J, K, L, N, O, P, Q, R, S, T and U of 40 CFR part 50, to the 2018 edition of the CFR.

*Section 243.120 PM<sub>10</sub> and PM<sub>2.5</sub>*—contains the 1987 and 1997 primary and secondary standards and measurement methods for PM<sub>10</sub> and PM<sub>2.5</sub>. In this section, the revisions are administrative changes.

*Section 243.122 Sulfur Oxides (Sulfur Dioxide)*—contains the 1971 primary and secondary standards and measurement methods for sulfur oxide (as SO<sub>2</sub>), respectively, in subsections 243.122(a) and (b).

In this section, Illinois revised subsection 243.122(a)(5) by updating the “Board note” listing the specific areas where the 1971 NAAQS no longer applies. These areas in Illinois have been designated nonattainment for the more stringent 2010 primary SO<sub>2</sub> NAAQS. Thus, the proposed revision will only revoke the 1971 standard where EPA has adopted Round 1 and Round 2 area designations for the 2010 NAAQS for SO<sub>2</sub> (78 FR 47191; 81 FR 45039).

*Section 243.125 Ozone*—contains the 2008 and 2015 primary and secondary 8-hour standards and measurement methods for O<sub>3</sub>. In this section the revisions are administrative changes.

*Section 243.126 Lead*—contains the 1978 and 2008 primary and secondary standards and measurement methods for Pb, respectively, in subsections 243.126(a) and 243.126(b). In this section, Illinois proposed to revoke the 1978 NAAQS for Pb by removing the provision in subsection 243.126(a).

EPA’s final 2008 Pb regulation states that the 1978 NAAQS for Pb no longer applies one year after the effective date. (November 12, 2008, 73 FR 66964). Illinois updated a Board note explaining the reason for the removal of the 1978 NAAQS based on EPA designation of the Granite City area nonattainment for the 2008 primary and secondary three-month average NAAQS for Pb effective December 31, 2011 and an area of Chicago effective December 31, 2012. See 75 FR 71033, 71042 (Nov. 22, 2010); 76 FR 72097, 79108 (Nov. 22, 2011). The remaining areas of the state were designated as “unclassifiable/attainment”, effective December 31, 2012.

#### *Section 110(l) Analysis of the State’s Submittal*

EPA is proposing to approve the revisions to Part 243 discussed above because the revisions meet all applicable requirements under the Clean Air Act (CAA), consistent with section 110(k)(3) of the CAA. Furthermore, Illinois has shown that the revisions to Part 243 do not interfere with any applicable requirement

concerning attainment and reasonable further progress or any other applicable CAA requirement, consistent with section 110(l) of the CAA.

Under Section 110(l) of the CAA, EPA shall not approve a SIP revision if it would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171 of the CAA) or any other applicable requirement of the CAA. The proposed SIP revision would not interfere with any applicable CAA requirements based on technical analysis submitted by Illinois. Part 243 contains the state’s ambient air quality standards, which are consistent with the NAAQS. The changes to the ambient air quality standards in Part 243 rules will have no effect on actual or allowable emissions as they only clarify EPA’s rulemaking related to the NAAQS.

Illinois has shown there is no impact of revising Part 243 that would hinder Illinois’s ability to maintain and meet the NAAQS for NO<sub>2</sub>, O<sub>3</sub>, Pb, PM<sub>2.5</sub>, PM<sub>10</sub>, SO<sub>2</sub>, and CO. Therefore, these revisions to Part 243 are approvable as they update Part 243 to be consistent with EPA’s rulemaking related to the NAAQS. The revisions will not increase any emissions to the atmosphere because they do not impact on any source applicability or emissions.

### III. What action is EPA taking?

EPA is proposing to approve revisions to Illinois’s Part 243 submitted on May 30, 2019, as a revision to the Illinois SIP. EPA is also proposing approval of a revision removing the provisions of the 1978 NAAQS for Pb, specifically, section 243.126(a)(1) and (2) from Part 243.

### IV. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA proposes to incorporate by reference revisions to 35 Illinois Administrative Code Part 243 “Air Quality Standards”, sections 243.108, 243.120, 243.122, 243.125, and 243.126, effective February 19, 2019. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://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).

### 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 13563 (76 FR 3821, January 21, 2011);
  - Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted 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 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, 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: July 30, 2019.

**Cheryl L. Newton,**

*Acting Regional Administrator, Region 5.*

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R08-OAR-2019-0354; FRL-9998-07-Region 8]

#### Finding of Failure To Attain and Reclassification of Denver Area for the 2008 Ozone National Ambient Air Quality Standard

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

**ACTION:** Proposed rule; notice of public hearing.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to determine that the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado nonattainment area (Denver Area) failed to attain the 2008 ozone National Ambient Air Quality Standard (NAAQS) by the applicable attainment date for “Moderate” nonattainment areas. The effect of failing to attain by the attainment date is that the area will be reclassified by operation of law to “Serious” upon the effective date of the final reclassification notice. The EPA is proposing deadlines for submittal of those SIP revisions and implementation of the related control requirements. This proposed action is necessary to fulfill the EPA’s statutory obligation to determine whether the Denver Area attained the NAAQS by the attainment date, and, within six months of the attainment date, publish a document in the **Federal Register** identifying each area that is determined as having failed to attain and its reclassification. Previously, the EPA had proposed on November 14, 2018, to grant a request by the State of Colorado for a 1-year attainment date extension for the Denver Area, but by letter dated March 26, 2019, the Governor of Colorado withdrew the State’s previous request for this extension. This proposal withdraws the EPA’s previous proposed

approval of the State’s now-withdrawn extension request. This document also announces a public comment period and details for a scheduled public hearing to provide the public with an opportunity to present oral testimony on the proposal. The comment period will ensure the public has sufficient time to comment on the proceedings of the public hearing and the proposal.

**DATES:** The public hearing will be held on September 6, 2019 beginning at 9 a.m. Mountain Time (MT). Written comments must be received on or before September 16, 2019. Please refer to the **ADDRESSES** for additional information on the public hearing and comment period.

**ADDRESSES:**

**Public Hearing.** The public hearing will be held on the 2nd floor of the EPA Region 8 office, 1595 Wynkoop St., Denver, CO 80202. The public hearing will convene at 9:00 a.m. and end one hour after the last registered speaker has spoken, or no later than 5:00 p.m. mountain time (MT) in any event. A lunch break is scheduled from 1:00 to 2:00 p.m. MT. The public hearing will be held in a federal building.

Individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff to gain access to the meeting room. The REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. These requirements took effect July 21, 2014. If your driver’s license is issued by American Samoa, you must present an additional form of identification to enter the federal building where the public hearing will be held. Acceptable alternative forms of identification include Federal employee badges, passports, enhanced driver’s licenses, and military identification cards. For additional information for the status of your state regarding REAL ID, go to <http://www.dhs.gov/real-id-enforcement-brief>.

Oral testimony will be limited to five minutes for each commenter. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (by email) or in hard copy form.

**Written Comments:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2019-0354, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](http://www.regulations.gov). The 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. The 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>. Written statements and supporting information that are submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments must be postmarked by the last day of the comment period.

Pertinent comments submitted in response to the EPA’s November 2018 proposal to grant the State of Colorado’s request for a 1-year attainment date extension for the Denver Area, which were part of a national rulemaking concerning Moderate areas, will be considered in this action and do not need to be re-submitted. Other documents from the national rulemaking that are relevant to this proposed action for the Denver Area will also be included in the docket for this action. However, we are not re-opening comment in this proposal on any of the final agency actions for the other Moderate Areas addressed in the national rulemaking.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Abby Fulton, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6563, [fulton.abby@epa.gov](mailto:fulton.abby@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.