

Friday; they are also available electronically at <https://www.regulations.gov>. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Memorandum from N. Belai, Color Technology Branch, Division of Color Certification and Technology, Office of Cosmetics and Colors (OCAC), CFSAN, FDA to S. Hice, Regulatory Review Branch (RRB), Division of Food Ingredients (DFI), Office of Food Additive Safety (OFAS), CFSAN, FDA, September 30, 2022.
2. Memorandum from M. Swain, Chemistry Review Branch, DFI, OFAS, CFSAN, FDA to S. Hice, RRB, DFI, OFAS, CFSAN, FDA, October 7, 2022.
3. Memorandum of Telephone Conversation from S. Hice, RRB, DFI, OFAS, CFSAN, FDA, January 26, 2022.
4. Letter from D. Keefe, OFAS, CFSAN, FDA to H. Newman, Desert Lake Technologies, LLC, Agency Response Letter GRAS Notice 000424, December 6, 2012, (<https://wayback.archive-it.org/7993/20171031010129/https://www.fda.gov/Food/IngredientsPackagingLabeling/GRAS/NoticeInventory/ucm335743.htm>).
5. Memorandum from D. DeGroot, Toxicology Review Branch (TRB), DFI, OFAS, CFSAN, FDA to S. Hice, RRB, DFI, OFAS, CFSAN, FDA, October 8, 2022.
6. Memorandum from D. DeGroot, TRB, DFI, OFAS, CFSAN, FDA to S. Hice, RRB, DFI, OFAS, CFSAN, FDA, October 8, 2022.

#### List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Foods, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of the Food and Drugs, 21 CFR part 73 is amended as follows:

#### PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

- 1. The authority citation for part 73 continues to read as follows:

**Authority:** 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

- 2. Section 73.530 is amended by revising paragraph (c) to read as follows:

##### **§ 73.530 Spirulina extract.**

\* \* \* \* \*

(c) *Uses and restrictions.* Spirulina extract may be safely used for coloring confections (including candy and chewing gum), frostings, ice cream and frozen desserts (including non-dairy frozen dessert), dessert coatings and toppings, beverage mixes and powders, yogurts (including non-dairy yogurt

alternatives), custards, puddings (including non-dairy puddings), cottage cheese, gelatin, breadcrumbs, ready-to-eat cereals (excluding extruded cereals), alcoholic beverages with less than 20 percent alcohol-by-volume content, non-alcoholic beverages, seasoning mixes (unheated), salad dressings, condiments and sauces, dips, coating formulations applied to dietary supplement tablets and capsules, at levels consistent with good manufacturing practice, and to seasonally color the shells of hard-boiled eggs, except that it may not be used to color foods for which standards of identity have been issued under section 401 of the Federal Food, Drug, and Cosmetic Act, unless the use of the added color is authorized by such standards.

\* \* \* \* \*

Dated: November 3, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–24429 Filed 11–9–22; 8:45 am]

**BILLING CODE 4164–01–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

**[EPA–R03–OAR–2022–0528; FRL–10357–02–R3]**

#### **Air Plan Approval; West Virginia; 2021 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. The revision updates West Virginia's incorporation by reference 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 December 12, 2022.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2022–0528. All documents in the docket are listed on the [www.regulations.gov](https://www.regulations.gov) 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](https://www.regulations.gov), or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

#### **FOR FURTHER INFORMATION CONTACT:**

Serena Nichols, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1617 John F Kennedy Blvd., Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2053. Ms. Nichols can also be reached via electronic mail at [Nichols.Serena@epa.gov](mailto:Nichols.Serena@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On August 17, 2022 (87 FR 50593), EPA published a notice of proposed rulemaking (NPRM) for the State of West Virginia. In the NPRM, EPA proposed approval of a formal SIP revision submitted on May 11, 2021. The formal SIP revision updates West Virginia's incorporation by reference 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 found at 40 CFR part 53 into West Virginia's legislative rules.

##### **II. Summary of SIP Revision and EPA Analysis**

West Virginia Department of Environmental Protection (WVDEP) has historically chosen to incorporate by reference the Federal 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 incorporation by reference 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, 2019. West Virginia's May 11, 2021 SIP revision updates the State's incorporation by reference 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, 2020. Since the last West Virginia

incorporation by reference of June 1, 2019, EPA: (1) designated one new equivalent method for measuring concentrations of ozone in ambient air; (2) designated one new reference method for measuring concentrations of nitrogen dioxide; (3) amended an existing reference method for measuring particulate matter (PM<sub>10</sub>) in ambient air; (4) designated on new reference method for measuring concentrations of sulfur dioxide in ambient air; (5) designated one new equivalent method for measuring concentrations of nitrogen dioxide in ambient air. See 84 FR 44299 (August 23, 2019), 84 FR 50833 (September 26, 2019), 85 FR 5958 (February 2, 2020), 85 FR 27221 (May 7, 2020).

The amendments to the legislative rule include changes to section 45–8–1 (General), 45–8–2 (Definitions), and 45–8–3 (Adoption of Standards). The amendments update West Virginia's incorporation by reference of the primary and secondary NAAQS and the ambient air monitoring reference and equivalent methods from June 1, 2019, to June 1, 2020. West Virginia is incorporating the Federal rules in 40 CFR parts 50 and 53 as they existed on June 1, 2020 into 45–8–1 and 45–8–3. The amendment to section 45–8–2 changes the wording of the definition of both the CAA and “Secretary.”

No comments were received on the August 17, 2022 NPRM.

### III. Final Action

EPA is approving the West Virginia SIP revision of May 11, 2021, updating the incorporation by reference of EPA's NAAQS and associated ambient air monitoring reference methods and equivalent methods.

### IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of 45CSR8—*Ambient Air Quality Standards*, as effective June 1, 2021, as discussed in Section II. of this preamble. EPA has made, and will continue to make, these materials generally available through <https://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 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.<sup>1</sup>

### V. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 January 9, 2023. 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 West Virginia SIP revision updating its incorporation by reference of EPA's NAAQS and associated ambient air monitoring reference methods and equivalent methods, 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

<sup>1</sup> 62 FR 27968 (May 22, 1997).

requirements, Sulfur oxides, Volatile organic compounds.

Adam Ortiz,

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 for “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.

\* \* \* \* \*

(c) \* \* \*

### EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
*	*	*	*	*
<b>[45 CSR] Series 8 Ambient Air Quality Standards</b>				
Section 45–8–1 ....	General .....	6/1/21	11/10/2022, [Insert <b>Federal Register</b> citation].	Docket #2022–0528.
Section 45–8–2 ....	Definitions .....	6/1/21	11/10/2022, [Insert <b>Federal Register</b> citation].	Docket #2022–0528.
Section 45–8–3 ....	Adoption of Standards .....	6/1/21	11/10/2022, [Insert <b>Federal Register</b> citation].	Docket #2022–0528.
Section 45–8–4 ....	Inconsistency Between Rules .....	6/1/21	11/10/2022, [Insert <b>Federal Register</b> citation].	Docket #2022–0528.
*	*	*	*	*

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[FR Doc. 2022–24339 Filed 11–9–22; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA–HQ–OAR–2021–0016; FRL–8339–02–OAR]

RIN 2060–AV34

### National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This action finalizes the technology review conducted for the paint stripping and miscellaneous surface coating operations area source categories regulated under national emission standards for hazardous air pollutants (NESHAP). These final amendments also address provisions regarding electronic reporting; make miscellaneous clarifying and technical corrections; simplify the petition for exemption process; and clarify

requirements for emissions during periods of startup, shutdown, and malfunction (SSM). We are making no revisions to the numerical emission limits based on the technology review.

**DATES:** This final rule is effective on November 10, 2022. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of November 10, 2022.

**ADDRESSES:** The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2021–0016. All documents in the docket are listed on the <https://www.regulations.gov/> website. Although listed, some information is not publicly available, *e.g.*, Confidential Business Information 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 <https://www.regulations.gov/>, or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m.

Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

**FOR FURTHER INFORMATION CONTACT:** For questions about this final action, contact Lisa Sutton, Sector Policies and Programs Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–3450; fax number: (919) 541–4991; and email address: [sutton.lisa@epa.gov](mailto:sutton.lisa@epa.gov).

#### SUPPLEMENTARY INFORMATION:

*Preamble acronyms and abbreviations.* Throughout this document the use of “we,” “us,” or “our” is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ASHRAE American Society of Heating, Refrigerating, and Air-Conditioning Engineers  
CAA Clean Air Act  
CDX Central Data Exchange  
CEDRI Compliance and Emissions Data Reporting Interface  
CFR Code of Federal Regulations