

results from the Ozone Transport Commission's (OTC's) SIP air quality modeling.<sup>7</sup> The model used by the OTC was the Community Multi-scale Air Quality Model version 5.0.2 (CMAQ). This model is a photochemical grid model capable of simulating ozone production on a regional or national scale. The OTC CMAQ model projected 2015–2017 design value results indicating that all air quality monitors in the NY-NJ-CT nonattainment area will attain the 1997 ozone NAAQS in 2017.

In summary, the photochemical grid modeling used by New Jersey and New York in their SIP submittals to demonstrate attainment of the 1997 ozone NAAQS meets the EPA's guidelines and is acceptable to the EPA. Air quality monitoring data for 2014–2016 also demonstrates attainment of the 1997 8-hour ozone standard throughout the NY-NJ-CT area, as have the subsequent design values for 2015–2017, 2016–2018 and 2017–2019.<sup>8</sup> The purpose of the attainment demonstration is to demonstrate how, through enforceable and approvable emission reductions, an area will meet the standard by the attainment date. New York and New Jersey have already adopted, submitted, approved and implemented all necessary ozone control measures necessary for attainment of the 1997 ozone NAAQS. Based on: (1) The States following the EPA's modeling guidance, (2) the modeled attainment of 1997 standard, (3) the air quality monitoring data for 2014–2016, 2015–2017, 2016–2018, 2017–2019, and (4) the implemented SIP-approved control measures, the EPA is proposing to approve the attainment demonstration analyses for the 1997 ozone NAAQS for the New Jersey and New York portion of the NY-NJ-CT area. The EPA is not taking action on the other elements of the State submittals.

## V. Proposed Action

The EPA has evaluated the information provided by New Jersey and New York and has considered all other information it deems relevant to a demonstration of attainment of the 1997 8-hour ozone standard and the continued attainment of the 1997 8-hour ozone standard based on the modeling, the quality assured and certified

monitoring data, and the implementation of the more stringent 2008 8-hour ozone standard. The EPA is therefore proposing to approve New Jersey's and New York's attainment demonstrations for the states' respective portions of the NY-NJ-CT area for the 1997 ozone NAAQS. This proposed rulemaking is intended to address the EPA's obligations to act on the 1997 8-hour standard attainment demonstration portions of the New Jersey January 2, 2018 submittal and the New York November 13, 2017 submittal addressing the NY-NJ-CT nonattainment area.

The EPA is soliciting public comments on the issues discussed in this proposal. Any timely comment submitted will be considered before the EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments as discussed in the **ADDRESSES** section of this rulemaking.

## VI. 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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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) 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 proposed rulemaking action, pertaining to New York's and New Jersey's 1997 8-hour ozone attainment demonstration submissions 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, Incorporation by reference, Nitrogen dioxide, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Particulate matter, Volatile organic compounds.

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

Dated: June 8, 2021.

**Walter Mugdan,**

*Acting Regional Administrator, Region 2.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2020–0544, EPA–R05–OAR–2021–0144; FRL–10024–94–Region 5]

### Air Plan Approval; Illinois; National Ambient Air Quality Standards Updates; Reference and Equivalent Methods Updates

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve

<sup>7</sup> The OTC modeling results are available in the "Technical Support Document for the 2011 Ozone Transport Commission/Mid-Atlantic Northeastern Visibility Union Modeling Platform", November 15, 2016 in the docket for this action.

<sup>8</sup> The design values are available on the EPA's website at: [www.epa.gov/air-trends/air-quality-design-values#report](http://www.epa.gov/air-trends/air-quality-design-values#report). The 2015–2017 DV is 0.083 ppm, the 2016–2018 DV is 0.082 ppm and the 2017–2019 DV is 0.082 ppm.

several revisions to the Illinois State Implementation Plan (SIP). First, EPA is proposing to approve amendments to the Illinois SIP that incorporate by reference EPA's current national ambient air quality standard (NAAQS) for ozone, particulate matter, lead, nitrogen dioxide, and sulfur oxides. Second, EPA is proposing to approve revisions to the Illinois SIP that incorporate by reference current Federal Reference Methods (FRMs) for monitoring carbon monoxide, ozone, particulate matter, lead, nitrogen dioxide, and sulfur oxides. Third, EPA is proposing to approve an amendment to the Illinois SIP that reflects a recent update to EPA's List of Designated Reference and Equivalent Methods. Lastly, EPA is also proposing to approve minor revisions and corrections to the Illinois SIP.

**DATES:** Comments must be received on or before July 21, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID Nos. EPA-R05-OAR-2020-0544 and EPA-R05-OAR-2021-0144 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://Regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://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:** Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8777,

[maietta.anthony@epa.gov](mailto:maietta.anthony@epa.gov). The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

**SUPPLEMENTARY INFORMATION:**

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

- I. Background
- II. EPA's Analysis of the SIP Amendments
- III. What action is EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

**I. Background**

On October 20, 2020 and February 16, 2021, the Illinois Environmental Protection Agency (IEPA) requested that EPA approve amendments to the Illinois SIP. The following sections of Title 35 of the Illinois Administrative Code (IAC), Part 243, Subpart A: *General Provisions* were amended: 243.101 *Definitions*, 243.102 *Scope*, 243.105 *Air Quality Monitoring Data Influenced by Exceptional Events*, 243.107 *Reference Conditions*, and 243.108 *Incorporations by Reference*. The SIP revisions also amend the following sections of 35 IAC Part 243, Subpart B: *Standards and Measurement Methods*: 243.120 *PM<sub>10</sub> and PM<sub>2.5</sub>*; 243.122 *Sulfur Oxides (Sulfur Dioxide)*; 243.123 *Carbon Monoxide*; 243.124 *Nitrogen Oxides (Nitrogen Dioxide as Indicator)*; and 243.126 *Lead*.

The Illinois Pollution Control Board (IPCB) adopted these SIP amendments in four different state actions. Three of those actions, R19-14 (July 1, 2018 through December 31, 2018), R20-3 (January 1, 2019 through June 30, 2019), and R20-11 (July 1, 2019 through December 31, 2019), were consolidated into a single docket by IPCB called R19-14/R20-3/R20-11 (Consolidated) and a proposal of the consolidated amendments was published in the Illinois Register on June 5, 2020. IPCB held a public hearing on the consolidated rulemakings on July 16, 2020, with remote access because of the coronavirus pandemic. A public comment was received requesting clarification on a potential error in the proposed amendment, and in response the error was recognized and corrected by IPCB. A final notice of adopted amendments was published in the Illinois Register on September 4, 2020 with an effective date of August 18, 2020.

The proposed amendments contained in the fourth state action, R21-1, were published in the Illinois Register on October 2, 2020. IPCB held a public hearing on R21-1 on November 19,

2020, with remote access because of the coronavirus pandemic. A public comment was received requesting to add punctuation to an abbreviation contained in the amended rules, and the request was responded to and fulfilled by the IPCB. A final notice of adopted amendments was published in the Illinois Register on January 4, 2021 with an effective date of December 17, 2020.

**II. EPA's Analysis of the SIP Amendments**

Section 10(H) of the Illinois Environmental Protection Act at Chapter 415 of the Illinois Compiled Statutes directs IPCB to adopt ambient air quality standards that are identical in substance to the NAAQS promulgated by EPA. Illinois requested the amendments to 35 IAC Part 243 be approved into the Illinois SIP to meet this state requirement. The amendments contained in the October 20, 2020 and February 16, 2021 submittals update the air quality standards, revise FRMs, and provide corrections and grammatical revisions that increase the clarity of the rules.

*Amendments to 35 IAC 243.101*

There were several amendments to 35 IAC 243.101 *Definitions* in the February 16, 2021 submittal. Under the definitions of “Exceptional event”, “Federal equivalent method”, and “Federal reference method”, the word “which” has been replaced with “that”. In all three cases, the revisions are grammar corrections and do not change the meaning of the definitions but do help make these definitions clearer to the reader and therefore are approvable.

Reference years for Code of Federal Regulations (CFR) citations have been removed from the definition of “Federal land manager”, which is approvable because they do not affect the citations listed, instead they will reference the most current edition of the CFR. The definition of “USEPA” was revised to replace “where” with “if” when describing the use of “USEPA” in context of quoting EPA using the word “Administrator”. These revisions are approvable because they simply correct grammar or make the definitions clearer.

*Amendments to 35 IAC 243.102*

In the February 16, 2021 submittal, paragraph (a) of 35 IAC 243.102 *Scope* contained amended language to make clearer that both Sections 7.2 and 10(H) of the Illinois Environmental Protection Act apply to 35 IAC Part 243. The amendment is approvable because the previous wording did not make clear that both Section 7.2 and Section 10(H) are in Chapter 415 of the Illinois

Compiled Statutes. In the Board Note at the end of this section, a 2012 reference year in a citation to 40 CFR 50.2 was removed. This is an approvable amendment because it removes a specific edition year and instead points the reader to the current edition of 40 CFR 50.2.

#### *Amendments to 35 IAC 243.105*

In the Board Note at the end of 35 IAC 243.105 *Air Quality Monitoring Data Influenced by Exceptional Events*, a 2012 reference year in a citation to 40 CFR 50.14 was removed, thereby indicating the current edition of 40 CFR 50.14. 35 IAC 243.105(a) was revised to improve the grammar of the description of an exceptional event. An incorrect spelling of the word “determination” was corrected in 35 IAC 243.105(b). The grammar and spelling revisions are approvable because they improve the clarity of the rules for the reader.

#### *Amendments to 35 IAC 243.107*

35 IAC 243.107 *Reference Conditions* was amended to correct a notation of temperature by placing the degree symbol next to the number of degrees indicated in the rule. This is approvable because it is simply a correction. The Board Note at the end of this section was amended to remove a reference year to a citation to 40 CFR 50.3. This is approvable because it points the reader to the most current edition of the CFR.

#### *Amendments to 35 IAC 243.108*

In the October 20, 2020 submittal, 35 IAC 243.108 *Incorporations by Reference* was amended by removing the specific street address and outdated telephone number for the Government Printing Office (GPO) in Washington, DC. An updated telephone number and website have been added. Since the amendment updates outdated information to make the rule clear and current, it is acceptable.

Incorporations by reference for the following appendices to title 40, part 50 of the CFR have been amended in the October 20, 2020 submittal by changing the reference year of 2018 to 2019 in order to reflect EPA actions taken to sections corresponding to each appendix in 2019. Illinois updated section 243.108 to incorporate by reference appendices A–1, A–2, B, C, D, F, G, J, K, L, N, O, P, Q, R, S, T, and U of 40 CFR part 50, to the 2019 edition of the CFR. Because the amendments simply update the reference year for the incorporation of the appendices to 2019, which was the latest version of the CFR available at the time of Illinois’ rule adoption, they are approvable.

In the October 20, 2020 submittal, Illinois also amended the reference year to 2019 for incorporations by reference to 40 CFR 50 appendices H and I. However, in its subsequent February 16, 2021 submittal Illinois removed these two incorporations by reference. Removal of these two incorporations by reference is acceptable because they pertain to the 1979 and 1997 ozone NAAQS, which have been revoked by EPA and references to these NAAQS have already been removed from the Illinois SIP (80 FR 28835 and 82 FR 32771). Therefore, removal of incorporations by reference to 40 CFR 50 appendices H and I from 35 IAC 243.108 from the Illinois SIP is approvable.

In the October 20, 2020 submittal, the incorporation by reference of definitions contained in the Clean Air Act (CAA) was incorrectly amended from 2016 to 2019. The February 16, 2021 submittal corrected the reference date to 2018 in the state’s rule, reflecting the correct date of the latest CAA edition and *Definitions* section at 35 IAC 243.101. Those changes are approvable because they make clear the correct version of the CAA edition as well as the correct state rule that the definitions incorporated from the CAA apply to within Illinois’ rules (35 IAC 243.101). EPA proposes taking no action on the October 20, 2020 submittal’s amendment of this incorporation by reference and proposes approval of the February 16, 2021 amendment for the aforementioned reason.

In the February 16, 2021 submittal, a link to the GPO website was amended to reflect the current [www.govinfo.gov](http://www.govinfo.gov) address, which is acceptable. As noted in the rule, the latest editions of EPA rules and methods incorporated by reference in 35 IAC 243.108 can currently be found at that web address.

In the October 20, 2020 submittal, the incorporation by reference of EPA’s List of Designated Reference and Equivalent Methods was incorrectly amended for a reference year of June 15, 2018 to December 15, 2019. The February 16, 2021 submittal subsequently amended the reference year to June 15, 2020 which is consistent with the most current revision of the list at the time of the R21–1 final rulemaking. EPA is taking no action on the October 20, 2020 amendment and proposing to approve the subsequent February 16, 2021 amendment.

#### *Amendments to 35 IAC 243.120*

In the October 20, 2020 submittal, the Board Note at the end of 35 IAC 243.120

*PM<sub>10</sub> and PM<sub>2.5</sub>*<sup>1</sup> subsection (a) was amended to remove language referencing the 1997 primary annual PM<sub>2.5</sub> NAAQS. Reference to the 1997 primary annual PM<sub>2.5</sub> NAAQS was removed from 35 IAC 243.120(b). Additionally, subsection (b)(4), which identified the St. Louis 1997 PM<sub>2.5</sub> nonattainment area, was removed. Subsection (c) was revised to remove language referencing the 2006 primary annual PM<sub>2.5</sub> NAAQS. Additionally, paragraph (c)(4), which identified the St. Louis 2006 annual PM<sub>2.5</sub> nonattainment area, was removed. The remainder of 35 IAC 243, including references to the 1997 and 2006 secondary annual PM<sub>2.5</sub> NAAQS, was not revised. The revisions to 35 IAC Part 243 are approvable because they reflect EPA’s revocation of the 1997 annual PM<sub>2.5</sub> NAAQS on August 24, 2016 (81 FR 58010) and the subsequent redesignation of the Illinois portion of the St. Louis area to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS on December 27, 2018 (83 FR 66631).

#### *Revisions to 35 IAC Part 243.122*

In the October 20, 2020 submittal, 35 IAC 243.122 *Sulfur Oxides (Sulfur Dioxide)* was revised to remove applicability of the 1971 primary annual average and 24-hour NAAQS for sulfur dioxide (SO<sub>2</sub>) for all areas in Illinois except for Macon County because EPA has yet to promulgate the attainment status of Macon County (83 FR 1098). This revision is approvable because EPA revoked the 1971 primary annual and 24-hour SO<sub>2</sub> NAAQS on June 22, 2010 (75 FR 35520).

#### *Amendments to 35 IAC 243.123, 243.124, and 243.126*

In the October 20, 2020 submittal, Illinois made a minor revision to 35 IAC 243.123 *Carbon Monoxide* with a cleanup of language in the Board Note within the section. Similar revisions were made to the Board Notes within and at the ends of 35 IAC 243.124 *Nitrogen Oxides (Nitrogen Dioxide as Indicator)* and 35 IAC 243.126 *Lead*. These revisions condense the language and remove the reference date to a CFR citation in each section’s Board Note. The revisions are approvable because they make clearer to the reader where the regulatory content of the sections come from and direct the reader to the most current edition of the CFR.

<sup>1</sup> PM<sub>10</sub> refers to particles with an aerodynamic diameter of less than or equal to 10 micrometers. PM<sub>2.5</sub> refers to particles with an aerodynamic diameter of less than or equal to 2.5 micrometers, oftentimes referred to as “fine” particles.

### III. What action is EPA taking?

EPA is proposing to approve the October 20, 2020 submittal, except for 35 IAC 243.108, and the February 16, 2021 submittal, in its entirety.

### 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 is proposing to incorporate by reference the following rules in Part 243 of the Illinois Administrative Code: Rules 243.120, 243.122, 243.123, 243.124, and 243.126, effective August 18, 2020, and Rules 243.101, 243.102, 243.105, 243.107, and 243.108, effective December 17, 2020, discussed in section II of this preamble. 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);
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- 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, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 14, 2021.

**Cheryl Newton,**

*Acting Regional Administrator, Region 5.*

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