



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2012-0119; FRL- 9759-9]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; The 2002 Base Year Emissions Inventory for the Huntington-Ashland, WV-KY-OH Nonattainment Area for the 1997 Fine Particulate Matter National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the fine particulate matter (PM_{2.5}) 2002 base year emissions inventory portion of the West Virginia State Implementation Plan (SIP) revision submitted by the State of West Virginia, through the West Virginia Department of Environmental Protection (WVDEP), on May 28, 2009. The emissions inventory is part of the May 28, 2009 SIP revision that was submitted to meet nonattainment requirements related to the West Virginia portion of the Huntington-Ashland, WV-KY-OH nonattainment area for the 1997 PM_{2.5} National Ambient Air Quality Standard (NAAQS). EPA is approving the 2002 base year PM_{2.5} emissions inventory in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on [insert date 30 days from date of publication].

ADDRESSES: EPA has established a docket for this action under Docket ID Number **EPA-R03-OAR-2012-0119**. All documents in the docket are listed in the www.regulations.gov website. 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: Asrah Khadr, (215) 814-2071, or by e-mail at khadr.asrah@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. On October 2, 2012 (77 FR 60085), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of the 2002 base year emissions inventory portion of the West Virginia SIP revision submitted by the State of West Virginia on May 28, 2009.

II. Summary of SIP Revision

The 2002 base year emissions inventory submitted by WVDEP on May 28, 2009 includes emissions estimates that cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides (NO_x), volatile organic compounds (VOCs), PM_{2.5}, coarse particles (PM₁₀), ammonia (NH₃), and sulfur dioxide (SO₂). EPA has reviewed the results, procedures and methodologies for the base year emissions inventory submitted by

WVDEP. The year 2002 was selected by WVDEP as the base year for the emissions inventory per 40 CFR 51.1008(b). A discussion of the emissions inventory development as well as the emissions inventory can be found in the May 28, 2009 SIP submittal and in the NPR. Specific requirements of the base year inventory and the rationale for EPA's action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving the 2002 base year PM_{2.5} emissions inventory as a revision to the West Virginia SIP.

IV. 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 (Public Law 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. 5 U.S.C. 804(2).

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 [Insert date 60 days from date of publication of this document in the Federal Register]. 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 pertaining to the PM_{2.5} 2002 base year emissions inventory portion of the West Virginia SIP 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 21, 2012.

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

40 CFR Part 52 is amended 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 (e) is amended by adding at the end of the table an entry for 2002 Base Year Emissions Inventory for the 1997 fine particulate matter (PM_{2.5}) standard 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
* * * * * *				
2002 Base Year Emissions Inventory for the 1997 fine particulate matter (PM _{2.5}) standard	West Virginia portion of the Huntington-Ashland, WV-KY-OH nonattainment area	5/28/09	<u>[Insert Federal Register publication date]</u> <u>[Insert page number where the document begins]</u>	52.2531(b)

3. § 52.2531 is amended by revising the section heading, designating the existing paragraph as paragraph (a), and adding paragraph (b). The amendments read as follows:

§ 52.2531 Base year emissions inventory.

* * * * *

(b) EPA approves as a revision to the West Virginia State Implementation Plan the 2002 base year emissions inventory for the Huntington-Ashland, WV-KY-OH fine particulate matter (PM_{2.5}) nonattainment area submitted by the West Virginia Department of Environmental Protection on May 28, 2009. The 2002 base year emissions inventory includes emissions estimates that cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides (NO_x), volatile organic compounds (VOCs), PM_{2.5}, coarse particles (PM₁₀), ammonia (NH₃), and sulfur dioxide (SO₂).

[FR Doc. 2012-29763 Filed 12/10/2012 at 8:45 am; Publication Date: 12/11/2012]