



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2017-0276; FRL-9985-11-Region 5]

Air Plan Approval; Illinois; Permit-by-Rule Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Illinois State Implementation Plan (SIP) to establish a general framework for permits-by-rule (PBR) and specifically provide a PBR for small boilers. In addition, EPA is approving other state provisions that are affected by the addition of the PBR regulations, as well as minor changes in nomenclature. EPA proposed to approve these revisions on July 18, 2018.

DATES: This final rule is effective on **[insert date 30 days after publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2017-0276. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, 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 through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Danny Marcus, Environmental Engineer, at (312) 353-8781 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Danny Marcus, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8781, marcus.danny@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. Background
- II. What Comments Did We Receive on the Proposed Action?
- III. What Action is EPA Taking?
- IV. Incorporation by Reference.
- V. Statutory and Executive Order Reviews.

I. Background

On May 2, 2017, the Illinois Environmental Protection Agency (IEPA) submitted a SIP revision to establish a general framework for a PBR program. PBR programs establish a streamlined process that allows an individual applicant to notify the reviewing authority that it meets the eligibility criteria for the permit and the permit conditions rather than going through a reviewing authority review and approval process.

Specifically, the SIP revision consists of: (1) IEPA revisions to 35 IAC Part 201 to add a new Subpart M (35 IAC 201.500 through 201.540), which establishes general provisions for a PBR program; (2) IEPA revisions to Part 201 to add Subpart N to 35 IAC Part 201 (35 IAC 201.600 through 201.635), which establishes PBR requirements for boilers burning certain types of fuel and with heat input capacities of less than or equal to 100 Million British Thermal Units per Hour (MMBtu/hr); (3) IEPA revisions to 35 IAC 201.103 and 35 IAC 211.4720 to change and add certain abbreviations and definitions related to the new PBR rules; (4) IEPA revisions to 35 IAC 201.104, incorporation by reference, to reference regulations contained in the PBR program; and (5) IEPA revisions to 35 IAC 201.146 to change the abbreviation of "mmbtu/hr" to "MMBtu/hr."

II. What Comments Did We Receive on the Proposed Action?

Our July 18, 2018 proposed rule (83 FR 33894) provided a 30-day review and comment period. The comment period closed on August 17, 2018. EPA received one unrelated comment. This comment is outside the scope of this rulemaking and does not provide information that would alter EPA's evaluation of the proposed rule, which is based on applicable statutory criteria.

III. What Action is EPA Taking?

EPA is approving Illinois' general PBR program contained in Subpart M, the PBR for boilers less than or equal to 100 MMBtu/hr contained in Subpart N, changes to other SIP rules affected by the PBR regulations, and minor changes in nomenclature because they meet all applicable requirements under the CAA. Specifically, EPA is approving into the Illinois SIP IAC Sections 201.103(a) and (b); 201.104 (a), (c), (d), and (e); 201.146(c), (d), (h), (i), and (fff); 201.500; 201.505; 201.510; 201.515; 201.520; 201.525; 201.530; 201.535; 201.540; 201.600; 201.605; 201.610; 201.615; 201.620; 201.625; 201.630; 201.635; and 211.4720. EPA is not acting on the revisions to IAC Section 201.146(mmm) for the reasons discussed in the proposal (at 83 FR 33897).

IV. Incorporation by Reference.

In this rule, 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 the Illinois Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through 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). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, 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.¹

V. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act 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 Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and

¹ 62 FR 27968 (May 22, 1997).

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 (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 Clean Air Act; 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).

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).

Under section 307(b)(1) of the Clean Air Act, 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 after date of publication 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 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 requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 25, 2018.

James Payne,
Acting Regional Administrator, Region 5.

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.*

2. In § 52.720, the table in paragraph (c) is amended by:

a. Under "201: Permits and General Provisions":

i. Revising the entries for 201.103 and 201.104 under "Subpart A: Definitions".

ii. Revising the entry for 201.146 under "Subpart C: Prohibitions".

iii. Adding headings after the entry for 201.408 titled "Subpart M: Permit By Rule (PBR) - General Provisions" with entries for 201.500 through 201.540 and "Subpart N: Permit By Rule (PBR) - Boilers Less Than Or Equal To 100 MMBtu/hr" with entries for 201.600 through 201.635.

b. Revising the entry for 211.4720 under "Part 211: Definitions and General Provisions", "Subpart B: Definitions".

The revisions and additions read as follows:

§ 52.720 Identification of plan.

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(c) * * *

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES

Illinois citation	Title/subject	State effective	EPA approval date	Comments
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		date		
*	*	*	*	*
Part 201: Permits and General Provisions				
Subpart A: Definitions				
*	*	*	*	*
201.103	Abbreviations and Units	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.104	Incorporations by Reference	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	Except (b)
*	*	*	*	*
Subpart C: Prohibitions				
*	*	*	*	*
201.146	Exemptions From State Permit Requirements	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	Except (mmm)
*	*	*	*	*
Subpart M: Permit By Rule (PBR) - General Provisions				
201.500	Purpose	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.505	Applicability	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.510	Notice of Intent to Be Covered By a PBR (Notification)	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.515	Commencing Construction or Modification	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.520	Modification or Change in Status of an Emission Unit Covered by a PBR	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	

201.525	Standard Conditions for PBR	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.530	Recordkeeping and Reporting	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.535	Authority to Operate	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.540	Enforcement Authority	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
Subpart N: Permit By Rule (PBR) - Boilers Less Than Or Equal To 100 MMBtu/hr				
201.600	Applicability	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.605	Boiler Notice of Intent to Be Covered by a PBR (Notification) 201.610	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.615	Opacity Requirements	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.620	Requirements for Use of Diesel Fuel and Refinery Fuel Gas 201.625	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.625	Carbon Monoxide (CO) Requirements	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
201.630	Nitrogen Oxide (NOx) Requirements	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	

			Register citation]	
201.635	PBR Boiler Reporting Requirements	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
*	*	*	*	*
Part 211: Definitions and General Provisions				
*	*	*	*	*
Subpart B: Definitions				
*	*	*	*	*
211.4720	Pipeline Natural Gas	3/24/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
*	*	*	*	*

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