

(d) EPA approved state source-specific requirements.

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS

Source name	Permit/order or registration number	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
Mountaineer Carbon Co	Consent Order	7/2/82	9/1/82 47 FR 38532	(c)(18).
National Steel Corp.—Weirton Steel Division.	Consent Order (Bubble)	7/6/82	12/9/82 47 FR 55396	(c)(19).
Columbia Gas Transmission Corporation—Lost River Station.	Consent Order	9/12/90	4/24/91 56 FR 18733	(c)(24).
Wheeling-Pittsburgh Steel Corp	Consent Order CO-SIP-91-29	11/14/91	7/25/94 59 FR 37696	(c)(26).
Standard Lafarge	Consent Order CO-SIP-91-30	11/14/91	7/25/94 59 FR 37696	(c)(26).
Follansbee Steel Corp	Consent Order CO-SIP-91-31	11/14/91	7/25/94 59 FR 37696	(c)(26).
Koppers Industries, Inc	Consent Order CO-SIP-91-32	11/14/91	7/25/94 59 FR 37696	(c)(26).
International Mill Service, Inc	Consent Order CO-SIP-91-33	11/14/91	7/25/94 59 FR 37696	(c)(26).
Starvaggi Industries, Inc	Consent Order CO-SIP-91-34	11/14/91	7/25/94 59 FR 37696	(c)(26).
Quaker State Corporation	Consent Order CO-SIP-95-1	1/9/95	11/27/96 61 FR 60191	(c)(35).
Weirton Steel Corporation	Consent Order CO-SIP-95-2	1/9/95	11/27/96 61 FR 60191	(c)(35).
PPG Industries, Inc	Consent Order CO-SIP-2000-1	1/25/00	8/2/00 65 FR 47339	(c)(44)(i)(B)(1).
Bayer Corporation	Consent Order CO-SIP-2000-2	1/26/00	8/2/00 65 FR 47339	(c)(44)(i)(B)(2).
Columbian Chemicals Company	Consent Order CO-SIP-2000-3	1/31/00	8/2/00 65 FR 47339	(c)(44)(i)(B)(3).
PPG Industries, Inc	Consent Order CO-SIP-C-2003-27	7/29/03	4/28/04 69 FR 23110	(c)(58).
Wheeling-Pittsburgh Steel Corporation	Operating Permit R13-1939A	8/19/03	05/05/04 69 FR 24986	(c)(59)(i)(B)(1).
Weirton Steel Corporation	Consent Order, CO-SIP-C-2003-28	8/4/03	05/05/04 69 FR 24986	(c)(59)(i)(B)(2).

\* \* \* \* \*  
 [FR Doc. E9-2355 Filed 2-9-09; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R03-OAR-2008-0694; FRL-8759-6]

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Ambient Air Quality Standards**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision establishes and requires ambient air quality standards for sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide, and lead equivalent to the national primary and secondary ambient air quality standards. This action is being taken under the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on March 12, 2009.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2008-0694. All documents in the docket are listed in the <http://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 <http://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, WV 25304.

**FOR FURTHER INFORMATION CONTACT:** Gobeail McKinley, (215) 814-2033, or by e-mail at [mckinley.gobeail@epa.gov](mailto:mckinley.gobeail@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On October 28, 2008 (73 FR 63915), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of West Virginia's ambient air quality standards for sulfur oxides, particulate matter (PM), carbon monoxide, ozone, nitrogen dioxide, and lead equivalent to the national primary and secondary ambient air quality standards.

**II. Summary of SIP Revision**

On April 25, 2008, the State of West Virginia submitted as a SIP revision

Rule 45CSR8—Ambient Air Quality Standards, which updates and incorporates all six criteria pollutants to be equivalent to the national ambient air quality standards. The revision repeals rules 45CSR9—Ambient Air Quality Standards for Carbon Monoxide and Ozone and 45CSR12—Ambient Air Quality Standard for Nitrogen Dioxide, and moves these ambient air quality standards into Rule 45CSR8. The revision includes a correction of the sulfur dioxide annual primary standard from 0.003 to 0.030 parts per million (ppm), removes the annual PM<sub>10</sub> standard, and incorporates the annual PM<sub>2.5</sub> standard, the 24-hour PM<sub>2.5</sub> standard of 35 µg/m<sup>3</sup>, the primary and secondary standards for lead, and the primary and secondary 1-hour and 8-hour ozone standards. The SIP revision includes the revocation of the 1-hour ozone standard except for Berkeley and Jefferson Counties and it identifies the 1-hour ozone maintenance areas. The SIP revision also adds new reference conditions for PM<sub>2.5</sub> and measurement methods for PM<sub>2.5</sub> and lead. Other specific requirements of West Virginia's ambient air quality standards and the rationale for EPA's proposed 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 Rule Section 45CSR8—Ambient Air Quality Standards as a revision to the West Virginia SIP.

**IV. Statutory and Executive Order Reviews**

**A. General Requirements**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 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 (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 130 Section 45 (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, 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 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 April 13, 2009. 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 which establishes ambient air quality standards in West Virginia 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 15, 2008.

**William T. Wisniewski,**  
*Acting Regional Administrator, Region III.*

■ 40 CFR Part 52 is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for 40 CFR 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) is amended by revising the entries for [45 CSR] Series 8, Sections 45-8-1 through 45-8-5; adding entries for [45 CSR] Series 8, Sections 45-8-6 and 45-8-7; and removing the entries for [45 CSR] Series 9 and [45 CSR] Series 12. The amendments 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 .....	6/1/08	02/10/09 [Insert page number where the document begins].	Added language to repeal provisions contained in Sections 45CSR9 and 45CSR12.
Section 45-8-2 .....	Anti-Degradation Policy .....	6/1/08	02/10/09 [Insert page number where the document begins].	Added definitions for: Administrator, ambient air, clean air act, equivalent method, ozone, person, PM <sub>2.5</sub> , and reference methods.
Section 45-8-3 .....	Definitions .....	6/1/08	02/10/09 [Insert page number where the document begins].	

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP—Continued

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
Section 45–8–4 .....	Ambient Air Quality Stand- ards.	6/1/08	02/10/09 [Insert page number where the document begins].	Added ambient air quality standards for PM <sub>2.5</sub> , carbon monoxide, nitro- gen dioxide, ozone and lead.
Section 45–8–5 .....	Methods of Measurement ....	6/1/08	02/10/09 [Insert page number where the document begins].	Added reference methods for PM <sub>2.5</sub> , carbon monoxide, nitrogen dioxide, ozone and lead.
Section 45–8–6 .....	Reference Conditions .....	6/1/08	02/10/09 [Insert page number where the document begins].	New Section.
Section 45–8–7 .....	Inconsistency Between Rules.	6/1/08	02/10/09 [Insert page number where the document begins].	
*	*	*	*	*

[FR Doc. E9–2359 Filed 2–9–09; 8:45 am]  
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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 071106673–8011–02]

RIN 0648–XN01

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal To 60 Feet (18.3 Meters) Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands Management Area**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by pot catcher vessels greater than or equal to 60 feet (≥18.3 meters (m)) length overall (LOA) in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2009 Pacific cod allowable catch (TAC) specified for pot catcher vessels ≥60 feet (18.3 m) LOA in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 1, 2009, though 1200 hrs, A.l.t., September 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific

Fishery Management Council under authority of the Magnuson–Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2009 Pacific cod TAC allocated to pot catcher vessels ≥60 feet (18.3 m) LOA in the BSAI is 6,496 metric tons as established by the 2008 and 2009 final harvest specifications for groundfish in the BSAI (73 FR 10160, February 26, 2008). See § 679.20(c)(3)(iii), § 679.20(c)(5), and § 679.20(a)(7)(ii)(A) and (a)(7)(ii)(C)(1)(iv).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the A season directed fishing allowance of the 2009 Pacific cod TAC allocated to pot catcher vessels ≥60 feet (18.3 m) LOA in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by pot catcher vessels ≥60 feet (18.3 m) LOA in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

**Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by

catcher vessels ≥60 ft (18.3 m) LOA using pot gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 29, 2009.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: February 5, 2009.

**Emily H. Menashes,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E9–2745 Filed 2–5–09; 4:15 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 071106673–8011–02]

RIN 0648–XM95

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processors Using Pot Gear in the Bering Sea and Aleutian Islands Management Area**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by pot catcher processors in the Bering Sea and