

Priority Mail Contract 8 (MC2009–25 and CP2009–32)  
 Priority Mail Contract 9 (MC2009–25 and CP2009–33)  
 Priority Mail Contract 10 (MC2009–25 and CP2009–34)  
 Priority Mail Contract 11 (MC2009–27 and CP2009–37)  
 Priority Mail Contract 12 (MC2009–28 and CP2009–38)  
 Priority Mail Contract 13 (MC2009–29 and CP2009–39)  
 Priority Mail Contract 14 (MC2009–30 and CP2009–40)  
 Outbound International  
 Global Direct Contracts (MC2009–9, CP2009–10, and CP2009–11)  
 Global Expedited Package Services (GEPS) Contracts  
 GEPS 1 (CP2008–5, CP2008–11, CP2008–12, and CP2008–13, CP2008–18, CP2008–19, CP2008–20, CP2008–21, CP2008–22, CP2008–23, and CP2008–24)  
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 Inbound International  
 Inbound Direct Entry Contracts with Foreign Postal Administrations (MC2008–6, CP2008–14 and CP2008–15)  
 International Business Reply Service Competitive Contract 1 (MC2009–14 and CP2009–20)  
 Competitive Product Descriptions  
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 [Reserved for Group Description]  
 Express Mail  
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 Outbound International Expedited Services  
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 Inbound International Expedited Services  
 [Reserved for Product Description]  
 Priority  
 [Reserved for Product Description]  
 Priority Mail  
 [Reserved for Product Description]  
 Outbound Priority Mail International  
 [Reserved for Product Description]  
 Inbound Air Parcel Post  
 [Reserved for Product Description]  
 Parcel Select  
 [Reserved for Group Description]  
 Parcel Return Service  
 [Reserved for Group Description]  
 International  
 [Reserved for Group Description]  
 International Priority Airlift (IPA)  
 [Reserved for Product Description]  
 International Surface Airlift (ISAL)  
 [Reserved for Product Description]  
 International Direct Sacks—M-Bags  
 [Reserved for Product Description]  
 Global Customized Shipping Services  
 [Reserved for Product Description]  
 International Money Transfer Service  
 [Reserved for Product Description]  
 Inbound Surface Parcel Post (at non-UPU rates)  
 [Reserved for Product Description]  
 International Ancillary Services  
 [Reserved for Product Description]  
 International Certificate of Mailing  
 [Reserved for Product Description]  
 International Registered Mail  
 [Reserved for Product Description]

International Return Receipt  
 [Reserved for Product Description]  
 International Restricted Delivery  
 [Reserved for Product Description]  
 International Insurance  
 [Reserved for Product Description]  
 Negotiated Service Agreements  
 [Reserved for Group Description]  
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 [Reserved for Product Description]  
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 [Reserved for Group Description]  
 Part C—Glossary of Terms and Conditions  
 [Reserved]  
 Part D—Country Price Lists for International Mail [Reserved]  
 [FR Doc. E9–18593 Filed 8–3–09; 8:45 am]  
**BILLING CODE 7710–FW–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R03–OAR–2009–0033; FRL–8939–7]

### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Clean Air Interstate Rule

**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 budget trading programs for nitrogen oxides (NO<sub>x</sub>) annual, NO<sub>x</sub> ozone season, and sulfur dioxides (SO<sub>2</sub>) annual emissions to address the requirements of EPA's Clean Air Interstate Rule (CAIR), and recodifies and revises provisions pertaining to internal combustion engines and cement kilns that are subject to the NO<sub>x</sub> SIP Call. West Virginia will meet its CAIR requirements by participating in the EPA-administered regional cap-and-trade program for NO<sub>x</sub> annual, NO<sub>x</sub> ozone season, and SO<sub>2</sub> annual emissions. EPA is determining that the SIP revision fully implements the CAIR requirements for West Virginia. Although the D.C. Circuit found CAIR to be flawed, the rule was remanded without vacatur and thus remains in place. Thus, EPA is continuing to take action on CAIR SIPs as appropriate. CAIR, as promulgated, requires States to reduce emissions of SO<sub>2</sub> and NO<sub>x</sub> that significantly contribute to, or interfere with maintenance of, the national ambient air quality standards (NAAQS) for fine particulates and/or ozone in any downwind State. CAIR establishes budgets for SO<sub>2</sub> and NO<sub>x</sub> for States that contribute significantly to nonattainment in downwind States and

requires the significantly contributing States to submit SIP revisions that implement these budgets. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participation in EPA-administered cap-and-trade programs addressing SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season emissions. In the SIP revision that EPA is approving, West Virginia will meet CAIR requirements by participating in these cap-and-trade programs. EPA is approving the SIP revision, as interpreted and clarified herein, as fully implementing the CAIR requirements for West Virginia. Consequently, this action will also cause the CAIR Federal Implementation Plans (CAIR FIPs) concerning SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season emissions by West Virginia sources to be automatically withdrawn.

**DATES:** *Effective Date:* The final rule is effective on August 4, 2009.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2009–0033. All documents in the docket are listed in the <http://www.regulations.gov> Web site. 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:** Marilyn Powers, (215) 814–2308, or by e-mail at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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- I. What Action Did EPA Propose?
- II. Summary of West Virginia SIP Revision
- III. Final Action
- IV. What Is the Effective Date?
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#### I. What Action Did EPA Propose?

On June 11, 2009 (74 FR 27731), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of a revision to the West Virginia SIP that

addresses EPA's CAIR requirements and recodifies and revises provisions pertaining to internal combustion engines and cement kilns that are subject to the NO<sub>x</sub> SIP Call. The formal SIP revision was submitted by West Virginia on April 22, 2008.

## II. Summary of West Virginia SIP Revision

On April 22, 2008, the West Virginia Department of Environmental Protection (WVDEP) submitted a full CAIR SIP revision to meet the requirements of CAIR, which was promulgated on May 12, 2005 (70 FR 25162), and subsequently revised on April 28, 2006, and December 13, 2006. The SIP revision is comprised of new regulations as follows: 45CSR39—NO<sub>x</sub> Annual Trading Program; 45CSR40—NO<sub>x</sub> Ozone Season Trading Program; and 40CSR41—SO<sub>2</sub> Annual Trading Program. The regulations address all the requirements of the part 96 model rules set forth in the May 12, 2005 CAIR rulemaking.

On June 11, 2009 (74 FR 27731), EPA published a notice of proposed rulemaking (NPR) to approve West Virginia's CAIR SIP revision. A detailed discussion of the CAIR requirements, the CAIR history (including the CAIR remand), West Virginia's CAIR submittal, and EPA's rationale for approval of West Virginia's CAIR SIP revision may be found in the NPR and will not be repeated here. The NPR also includes a discussion of the recodification and revisions pertaining to internal combustion engines and cement kilns that are subject to the NO<sub>x</sub> SIP Call.

On June 11, 2009, EPA received a comment from the West Virginia Department of Environmental Protection noting that the amount of Compliance Supplement Pool allowances in the NPR was incorrect. This comment was addressed by a correction notice published on July 6, 2009 (74 FR 31904).

## III. Final Action

EPA is approving West Virginia's CAIR SIP revision submitted on April 22, 2008. Under the SIP revision, West Virginia will participate in the EPA-administered cap-and-trade programs for NO<sub>x</sub> annual, NO<sub>x</sub> ozone season, and SO<sub>2</sub> annual emissions. The SIP revision meets the applicable requirements in 40 CFR 51.123(o) and (aa), with regard to NO<sub>x</sub> annual and NO<sub>x</sub> ozone season emissions, and 40 CFR 51.124(o), with regard to SO<sub>2</sub> emissions. As a consequence of the SIP approval, the CAIR FIPs for West Virginia are automatically withdrawn, in accordance

with the automatic withdrawal provisions of EPA's November 2, 2007 rulemaking (72 FR 62338). The automatic withdrawal is reflected in the rule text that accompanies this notice and deletes and reserves the provisions in Part 52 that establish the CAIR FIPs for West Virginia sources. EPA is also approving the recodification and revisions to West Virginia provisions pertaining to internal combustion engines and cement kilns.

## IV. What Is the Effective Date?

EPA finds that there is good cause for this approval to become effective upon publication because a delayed effective date is unnecessary due to the nature of the approval, which allows the State, as indicated in the NPR for this rulemaking, to include its non-electric generating units, implement its allowance allocations and remove the opt in provisions of the FIP. The expedited effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rule actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction" and section 5 U.S.C. 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule."

CAIR SIP approvals relieve states and CAIR sources within states from being subject to provisions in the CAIR FIPs that otherwise would apply to them, allowing states to implement CAIR based on their SIP-approved State rule. The relief from these obligations is sufficient reason to allow an expedited effective date of this rule under 5 U.S.C. 553(d)(1). In addition, West Virginia's relief from these obligations provides good cause to make this rule effective immediately upon publication, pursuant to 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in 5 U.S.C. 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Where, as here, the final rule relieves obligations rather than imposes obligations, affected parties, such as the State of West Virginia and CAIR sources within the State, do not need time to adjust and prepare before the rule takes effect.

## V. 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 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, 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 October 5, 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 to approve West Virginia’s CAIR rules 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, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 22, 2009.  
**Judith M. Katz,**  
*Acting Regional Administrator, Region III.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

■ 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) is amended by:

■ a. Adding entries for Sections 45–39–1 through 45–39–8, 45–39–10 through 45–39–15, 45–39–20 through 45–39–24, 45–39–43, 45–39–51 through 45–39–57, 45–39–60 through 45–39–62, and 45–39–70 through 45–39–75, 45–39–90.

■ b. Revising the entries for 45–39–40, 45–39–41, and 45–39–42.

■ c. Adding entries for 45–40–1 through 45–40–8, 45–40–10 through 45–40–15, 45–40–20 through 45–40–24, 45–40–43, 45–40–51 through 45–40–57, 45–40–60 through 45–40–62, 45–40–70 through 45–40–75, and 45–40–90 through 45–40–110.

■ d. Revising the entries for 45–40–40, 45–40–41, and 45–40–42.

■ e. Adding entries at the end of the table for 45–41–1 through 45–41–8, 45–41–10 through 45–41–15, 45–41–20 through 45–41–24, 45–41–51 through 45–41–57, 45–41–60 through 45–41–62, 45–41–70 through 45–41–75, and 45–41–90.

The amendment reads 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
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**[45 CSR] Series 39 Control of Annual Nitrogen Oxide Emissions To Mitigate Interstate Transport of Fine Particle Matter and Nitrogen Oxides**

Section 45–39–1 .....	General .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–2 .....	Definitions .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–3 .....	Measurements, Abbreviations and Acronyms .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–4 .....	Applicability .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–5 .....	Retired Unit Exemptions .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–6 .....	Standard Requirements .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–7 .....	Computation of Time .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–8 .....	Appeal Procedures .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–10 .....	Authorization and Responsibilities of the CAIR Designated Representative.	5/1/08	8/4/09 [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 45–39–11 .....	Alternate CAIR Designated Representative .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–12 .....	Changing the CAIR Designated Representative and Alternate CAIR Designated Representative; Changes in Owners and Operators.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–13 .....	Certificate of Representation .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–14 .....	Objections Concerning the CAIR Designated Representative.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–15 .....	Delegation by CAIR Designated Representative and alternate CAIR Designated Representative.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–20 .....	General CAIR NO <sub>x</sub> Annual Trading Program Permit Requirements.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–21 .....	Submission of CAIR Permit Applications .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–22 .....	Information Requirements for CAIR Permit Applications.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–23 .....	CAIR Permit Contents and Term .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–24 .....	CAIR Permit Revisions .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–40 .....	CAIR NO <sub>x</sub> Annual Trading Budget .....	5/1/08	8/4/09 [Insert page number where the document begins].	Adding annual trading budget for 2015 and thereafter.
Section 45–39–41 .....	Timing Requirements for CAIR NO <sub>x</sub> Annual Allowance Allocations.	5/1/08	8/4/09 [Insert page number where the document begins].	Adding requirements that apply to 2015 and thereafter.
Section 45–39–42 .....	CAIR NO <sub>x</sub> Annual Allowance Allocations .....	5/1/08	8/4/09 [Insert page number where the document begins].	Adding requirements that apply to 2015 and thereafter.
Section 45–39–43 .....	Compliance Supplement Pool .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–51 .....	Establishment of Accounts .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–52 .....	Responsibilities of CAIR Authorized Account Representative.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–53 .....	Recordation of CAIR NO <sub>x</sub> Annual Allowance Allocations.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–54 .....	Compliance with CAIR NO <sub>x</sub> Emissions Limitation	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–55 .....	Banking .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–56 .....	Account Error .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–57 .....	Closing of General Accounts .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–60 .....	Submission of CAIR NO <sub>x</sub> Annual Allowance Transfers.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–61 .....	U.S. EPA Recordation .....	5/1/08	8/4/09 [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 45–39–62 .....	Notification .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–70 .....	General Monitoring and Reporting Requirements	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–71 .....	Initial Certification and Recertification Procedures	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–72 .....	Out of Control Periods .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–73 .....	Notifications .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–74 .....	Recordkeeping and Reporting .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–75 .....	Petitions .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–39–90 .....	Inconsistency Between Rules .....	5/1/08	8/4/09 [Insert page number where the document begins].	
<b>[45 CSR] Series 40 Control of Ozone Season Nitrogen Oxide Emissions To Mitigate Interstate Transport of Ozone and Nitrogen Oxides</b>				
Section 45–40–1 .....	General .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–2 .....	Definitions .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–3 .....	Measurements, Abbreviations and Acronyms .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–4 .....	Applicability .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–5 .....	Retired Unit Exemption .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–6 .....	Standard Requirements .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–7 .....	Computation of Time .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–8 .....	Appeal Procedures .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–10 .....	Authorization and Responsibilities of the CAIR Designated Representative.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–11 .....	Alternate CAIR Designated Representative .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–12 .....	Changing the CAIR Designated Representative and Alternate CAIR Designated Representative; Changes in Owners and Operators.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–13 .....	Certificate of Representation .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–14 .....	Objections Concerning the CAIR Designated Representative.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–15 .....	Delegation by CAIR Designated Representative and alternate CAIR Designated Representative.	5/1/08	8/4/09 [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 45–40–20 .....	General CAIR NO <sub>x</sub> Ozone Season Trading Program Permit Requirements.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–21 .....	Submission of CAIR Permit Applications .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–22 .....	Information Requirements for CAIR Permit Applications.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–23 .....	CAIR Permit Contents and Term .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–24 .....	CAIR Permit Revisions .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–40 .....	CAIR NO <sub>x</sub> Ozone Season Trading Budget .....	5/1/08	8/4/09 [Insert page number where the document begins].	Adding ozone season trading budget for 2015 and thereafter, and non-EGU budget.
Section 45–40–41 .....	Timing Requirements for CAIR NO <sub>x</sub> Ozone Season Allowance Allocations.	5/1/08	8/4/09 [Insert page number where the document begins].	Adding requirements that apply to 2015 and thereafter.
Section 45–40–42 .....	CAIR NO <sub>x</sub> Ozone Season Allowance Allocations	5/1/08	8/4/09 [Insert page number where the document begins].	Adding requirements that apply to 2015 and thereafter.
Section 45–40–43 .....	CAIR NO <sub>x</sub> Ozone Season Allowance Allocation for PPG Unit 002.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–51 .....	Establishment of Accounts .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–52 .....	Responsibilities of CAIR Authorized Account Representative.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–53 .....	Recordation of CAIR NO <sub>x</sub> Ozone Season Allowance Allocations.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–54 .....	Compliance with CAIR NO <sub>x</sub> Emissions Limitation	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–55 .....	Banking .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–56 .....	Account Error .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–57 .....	Closing of General Accounts .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–60 .....	Submission of CAIR NO <sub>x</sub> Ozone Season Allowance Transfers.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–61 .....	U.S. EPA Recordation .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–62 .....	Notification .....	5/1/08	8/4/09 [Insert page number where the document begins].	
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Section 45–40–72 .....	Out of Control Periods .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–73 .....	Notifications .....	5/1/08	8/4/09 [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 45–40–74 .....	Recordkeeping and Reporting .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–75 .....	Petitions .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–90 .....	Ozone Season NO <sub>x</sub> Reduction Requirements for Stationary Internal Combustion Engines.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–100 .....	Ozone Season NO <sub>x</sub> Reduction Requirements for Emissions of NO <sub>x</sub> from Cement Manufacturing Kilns.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–40–110 .....	Inconsistency Between Rules .....	5/1/08	8/4/09 [Insert page number where the document begins].	
<b>[45 CSR] Series 41 Control of Annual Sulfur Dioxides Emissions To Mitigate Interstate Transport of Sulfur Dioxide</b>				
Section 45–41–1 .....	General .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–2 .....	Definitions .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–3 .....	Measurements, Abbreviations and Acronyms .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–4 .....	Applicability .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–5 .....	Retired Unit Exemption .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–6 .....	Standard Requirements .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–7 .....	Computation of Time .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–8 .....	Appeal Procedures .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–10 .....	Authorization and Responsibilities of the CAIR Designated Representative.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–11 .....	Alternate CAIR Designated Representative .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–12 .....	Changing the CAIR Designated Representative and Alternate CAIR Designated Representative; Changes in Owners and Operators.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–13 .....	Certificate of Representation .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–14 .....	Objections Concerning the CAIR Designated Representative.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–15 .....	Delegation by CAIR Designated Representative and alternate CAIR Designated Representative.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–20 .....	General CAIR SO <sub>2</sub> Trading Program Permit Requirements.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–21 .....	Submission of CAIR Permit Applications .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–22 .....	Information Requirements for CAIR Permit Applications.	5/1/08	8/4/09 [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 45–41–23 .....	CAIR Permit Contents and Term .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–24 .....	CAIR Permit Revisions .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–51 .....	Establishment of Accounts .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–52 .....	Responsibilities of CAIR Authorized Account Representative.	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–53 .....	Recordation of CAIR SO <sub>2</sub> Allowances .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–54 .....	Compliance with CAIR SO <sub>2</sub> Emission Limitation ...	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–55 .....	Banking .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–56 .....	Account Error .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–57 .....	Closing of General Accounts .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–60 .....	Submission of CAIR SO <sub>2</sub> Allowance Transfers .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–61 .....	U.S. EPA Recordation .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–62 .....	Notification .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–70 .....	General Monitoring and Reporting Requirements	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–71 .....	Initial Certification and Recertification Procedures	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–72 .....	Out of Control Periods .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–73 .....	Notifications .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–74 .....	Recordkeeping and Reporting .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–75 .....	Petitions .....	5/1/08	8/4/09 [Insert page number where the document begins].	
Section 45–41–90 .....	Inconsistency Between Rules .....	5/1/08	8/4/09 [Insert page number where the document begins].	



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**§ 52.2540 [Removed and Reserved]**

■ 3. Section 52.2540 is removed and reserved.

**§ 52.2541 [Removed and Reserved]**

■ 4. Section 52.2541 is removed and reserved.

[FR Doc. E9-18536 Filed 8-3-09; 8:45 am]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 300**

[Docket No. 090130104-91027-02]

RIN 0648-AX60

**International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Restrictions and Observer Requirements in Purse Seine Fisheries for 2009-2011 and Turtle Mitigation Requirements in Purse Seine Fisheries**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act) to implement certain decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC). Those decisions require that the members of the WCPFC, including the United States, take certain measures with respect to their purse seine fisheries in the area of competence of the WCPFC, which includes most of the western and central Pacific Ocean (WCPO). The regulations include limits on the number of days that may be fished, periods during which fishing may not be done on schools in association with fish aggregating devices (FADs), areas of high seas closed to fishing, requirements to retain tuna on board up to the first point of landing or transshipment, requirements to carry observers, and requirements to handle sea turtles in a specified manner. This action is necessary for the United States to satisfy its international obligations under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the

Western and Central Pacific Ocean (Convention), to which it is a Contracting Party.

**DATES:** The rule is effective August 3, 2009, except for the amendments to §§ 300.222(aa) and 300.223(f), which are effective October 5, 2009.

**ADDRESSES:** Copies of supporting documents that were prepared for this final rule, including the regulatory impact review (RIR) and environmental assessment (EA), as well as the proposed rule, are available via the Federal e-Rulemaking portal, at <http://www.regulations.gov>. Those documents, and the small entity compliance guide prepared for this final rule, are also available from the Regional Administrator, NMFS, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700. The initial regulatory flexibility analysis (IRFA) and final regulatory flexibility analysis (FRFA) prepared for this rule are included in the proposed rule and this final rule, respectively.

**FOR FURTHER INFORMATION CONTACT:** Tom Graham, NMFS PIRO, 808-944-2219.

**SUPPLEMENTARY INFORMATION:****Electronic Access**

This final rule is also accessible at <http://www.gpoaccess.gov/fr>.

**Background**

On June 1, 2009, NMFS published a proposed rule in the **Federal Register** (74 FR 26160) that would revise regulations at 50 CFR part 300, subpart O, in order to implement certain decisions of the WCPFC. The proposed rule was open to public comment through June 22, 2009.

This final rule is implemented under authority of the WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), which authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the WCPFC. The authority to promulgate regulations has been delegated to NMFS.

The objective of this final rule is to implement, with respect to U.S. purse seine vessels, two Conservation and Management Measures (CMM) adopted by the WCPFC in December 2008, at its Fifth Regular Annual Session. The first is CMM 2008-01, "Conservation and Management Measure for Bigeye and Yellowfin Tuna in the Western and Central Pacific Ocean" The second is

CMM 2008-03, "Conservation and Management of Sea Turtles."

The proposed rule includes further background information, including information on the Convention and the WCPFC, the international obligations of the United States under the Convention, the provisions of CMM 2008-01 and CMM 2008-03 as they relate to purse seine vessels, and the basis for the proposed regulations.

**New Requirements**

This final rule establishes the following requirements:

*(1) Fishing Effort Limits*

Limits are established for 2009 through 2011 on the number of fishing days that may be spent by the U.S. purse seine fleet on the high seas and in areas under U.S. jurisdiction (including the U.S. exclusive economic zone, or EEZ) within the Convention Area. First, there is a limit of 7,764 fishing days for the entire three-year 2009-2011 period. Second, there is a limit of 6,470 fishing days for each of the two-year periods 2009-2010 and 2010-2011. Third, there is a limit of 3,882 fishing days for each of the one-year periods 2009, 2010, and 2011. Once NMFS determines during any of these time periods that, based on information collected in vessel logbooks and other sources, the limit is expected to be reached by a specific future date, NMFS will issue a notice in the **Federal Register** announcing the closure of the purse seine fishery in the Convention Area on the high seas and in areas of U.S. jurisdiction, starting on that specific future date until the end of the applicable time period. Upon closure of the fishery, it will be prohibited to use a U.S. purse seine vessel to fish in the Convention Area on the high seas or in areas under U.S. jurisdiction, effective until the end of the applicable time period. NMFS will publish the notice at least seven calendar days before the effective date of the closure to provide fishermen advance notice of the closure.

*(2) FAD Prohibition Periods*

During specified periods in each of the years 2009, 2010, and 2011 it will be prohibited to set purse seines around FADs, deploy FADs, or service FADs or their associated electronic equipment in the Convention Area. It will be prohibited during these periods to set a purse seine within one nautical mile of a FAD or to set a purse seine in a manner intended to capture fish that have aggregated in association with a FAD, such as by setting the purse seine in an area from which a FAD has been moved or removed within the previous eight hours or setting the purse seine in