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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2007-0314; FRL-9613-2]

Approval and Promulgation of Implementation Plans; Oklahoma; Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving severable portions of State Implementation Plan (SIP) revisions submitted by Oklahoma to address Clean Air Act (CAA) requirements that prohibit air emissions which will contribute significantly to nonattainment in, or interfere with maintenance by, any other State for the 1997 fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS or standards) and the 2006 24-hour PM_{2.5} NAAQS. EPA is also approving the severable portion of a SIP revision submitted by the State of Oklahoma to address the CAA requirement that prohibits air emissions which will contribute significantly to nonattainment in any other State for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards). EPA is taking no action at this time on the severable portion of the SIP revision submitted to address the CAA requirement that prohibits air emissions which will interfere with maintenance of the 1997 ozone NAAQS in any other State. This action is being taken under section 110 of the CAA.

DATES: This final rule is effective on [Insert date 30 days from date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2007-0314. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information 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 at the Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act Review Room between the hours of 8:30 am and 4:30 pm weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The state submittal is also available for public inspection during official business hours, by appointment, at the Oklahoma Department of Environmental Quality, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

FOR FURTHER INFORMATION CONTACT: Carl Young, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-6645; e-mail address *young.carl@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

OUTLINE:

- I. Background
- II. Final Action
- III. Statutory and Executive Order Reviews

I. Background

The background for today’s action is discussed in detail in our October 17, 2011, proposal (76 FR 64065). In that notice, we addressed severable portions of SIP revisions submitted by the state of Oklahoma to address the requirement in section 110(a)(2)(D)(i)(I) of the Clean Air Act that all SIPs contain adequate provisions to prohibit emissions that significantly contribute to nonattainment of the NAAQS in another state and to prohibit

emissions that interfere with maintenance of the NAAQS in another state. 42 U.S.C. 7410(a)(2)(D)(i)(I). Specifically, we proposed to (1) disapprove, or in the alternative, approve the severable portion of the May 1, 2007, SIP submittal asserting that Oklahoma does not interfere with maintenance of the 1997 8-hour ozone NAAQS in other states, (2) approve the severable portion of the May 1, 2007, SIP submittal asserting that Oklahoma emissions do not contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in other states, and (3) approve the severable portions of the May 1, 2007, and April 5, 2011, SIP submittals asserting that Oklahoma emissions do not contribute significantly to nonattainment in, or interfere with maintenance of the 1997 and 2006 PM_{2.5} NAAQS in other states.

We received comments on our proposal from (1) the Oklahoma Department of Environmental Quality, (2) Western Farmers Electric Cooperative and Oklahoma Gas and Electric Company, and (3) the Oklahoma Attorney General. The comments are available for review in the electronic docket for this rulemaking at the regulations.gov website (Docket No. EPA-R06-OAR-2007-0314). All the comments addressed our proposal to disapprove, or in the alternative, approve the severable portion of the May 1, 2007, SIP submittal demonstrating Oklahoma does not interfere with maintenance of the 1997 8-hour ozone NAAQS in other states. We are not taking any final action at this time on that severable portion of our October 17, 2011 proposal. Therefore, we are also not addressing at this time the comments we received regarding that severable portion of the proposal. We intend to respond to comments and take a final action in a future rulemaking.

We did not receive any adverse comments regarding our proposal to approve the severable portions of the SIP submittals demonstrating that Oklahoma emissions (1) do not

contribute significantly to nonattainment of the 1997 ozone NAAQS in other states, and (2) do not contribute significantly to nonattainment, or interfere with maintenance of the 1997 and 2006 PM_{2.5} NAAQS in other states.

II. Final Action

We are approving the severable portion of the Oklahoma SIP revision submitted on May 1, 2007, to address the significant contribution to nonattainment requirement for the 1997 8-hour ozone NAAQS. We are also approving the severable portions of the SIP revisions submitted on May 1, 2007, and April 5, 2011, to address the significant contribution to nonattainment or interference with maintenance requirements for the 1997 PM_{2.5} NAAQS and the 2006 PM_{2.5} NAAQS. This action is being taken under section 110 of the CAA.

III. 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 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 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.

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 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Sulfur dioxide.

Dated: December 16, 2011

Al Armendariz,

Regional Administrator, Region 6.

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 LL – Oklahoma

2. The first table in § 52.1920(e) entitled “EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Oklahoma SIP” is amended by adding entries for “Interstate transport for the 1997 ozone NAAQS (contribute to nonattainment)”, “Interstate transport for the 1997 PM_{2.5} NAAQS (contribute to nonattainment or interfere with maintenance)”, and “Interstate transport for the 2006 PM_{2.5} NAAQS (contribute to nonattainment or interfere with maintenance)” at the end. The additions read as follows:

§ 52.1920 Identification of plan.

* * * * *

(e) * * *

EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Oklahoma SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
Interstate transport for the 1997 ozone NAAQS (contribute to nonattainment)	Statewide	5/1/2007	[Insert date of FR publication] [Insert FR page number where document begins]	

Interstate transport for the 1997 PM _{2.5} NAAQS (contribute to nonattainment or interfere with maintenance)	Statewide	5/1/2007	[Insert date of FR publication] [Insert FR page number where document begins]	
Interstate transport for the 2006 PM _{2.5} NAAQS (contribute to nonattainment or interfere with maintenance)	Statewide	4/5/2011	[Insert date of FR publication] [Insert FR page number where document begins]	

[FR Doc. 2011-33282 Filed 12/28/2011 at 8:45 am; Publication Date: 12/29/2011]