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6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2012-0812; FRL-9955-28-Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Infrastructure for the Lead, Ozone, Nitrogen Dioxide and Sulfur Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the Federal Clean Air Act (CAA), the Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) submissions from the State of Oklahoma regarding the 2008 Lead (Pb), 2008 Ozone, 2010 Nitrogen Dioxide (NO₂), and 2010 Sulfur Dioxide (SO₂) National Ambient Air Quality Standards (NAAQS or standards). The four submittals address how the existing SIP provides for implementation, maintenance, and enforcement of these four NAAQS (infrastructure SIP or i-SIP). These i-SIPs ensure that the Oklahoma SIP is adequate to meet the State's responsibilities under the CAA, including the CAA requirements for interstate transport of Pb and NO₂ emissions.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2012-0812. 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 EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Paige, 214-665-6521,
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SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our September 20, 2016, proposal (81 FR 64377). In that document we proposed to approve the Oklahoma i-SIP submittals dated October 5, 2012; February 28, 2014; and January 28, 2015, which addressed the 2008 Pb NAAQS; the 2010 NO₂ NAAQS; and the 2008 ozone and 2010 SO₂ NAAQS as meeting the requirements of an i-SIP. Two of the submittals did not address Section 110(a)(2)(D)(i)(I), prongs 1 and 2, regarding the contribution to nonattainment and interfere with maintenance of the 2008 ozone and 2010 SO₂ NAAQS in other states, so we did not propose to take action on such elements for these two NAAQS. In addition, we did not propose to take action on section 110(a)(2)(D)(i)(II) – the prong that specifically addresses visibility protection for the 2010 SO₂ NAAQS. We will take separate action on these three prongs for the 2008 ozone and 2010 SO₂ NAAQS. We did not receive any comments regarding our proposal.

II. Final Action

EPA is approving in part the October 5, 2012, February 28, 2014, and January 28, 2015, infrastructure SIP submissions from Oklahoma, which address the requirements of CAA sections

110(a)(1) and (2) as applicable to the 2008 Pb, 2010 NO₂, 2008 ozone, and 2010 SO₂ NAAQS.

Table 1 outlines the specific actions we are approving.

Table 1: Final Action on Oklahoma Infrastructure SIP Submittals for various NAAQS

110(a)(2) Element	2008 ozone	2008 Pb	2010 NO₂	2010 SO₂
(A): Emission limits and other control measures	A	A	A	A
(B): Ambient air quality monitoring and data system	A	A	A	A
(C)(i): Enforcement of SIP measures	A	A	A	A
(C)(ii): PSD program for major sources and major modifications	A	A	A	A
(C)(iii): Permitting program for minor sources and minor modifications	A	A	A	A
(D)(i)(I): Contribute to nonattainment/interfere with maintenance of NAAQS (requirements 1 and 2)	SA	A	A	SA
(D)(i)(II): PSD (requirement 3)	A	A	A	A
(D)(i)(II): Visibility Protection (requirement 4)	A	A	A	SA
(D)(ii): Interstate and International Pollution Abatement	A	A	A	A
(E)(i): Adequate resources	A	A	A	A
(E)(ii): State boards	A	A	A	A
(E)(iii): Necessary assurances with respect to local agencies	A	A	A	A
(F): Stationary source monitoring system	A	A	A	A
(G): Emergency power	A	A	A	A
(H): Future SIP revisions	A	A	A	A
(I): Nonattainment area plan or plan revisions under part D	NG	NG	NG	NG
(J)(i): Consultation with government officials	A	A	A	A
(J)(ii): Public notification	A	A	A	A
(J)(iii): PSD	A	A	A	A
(J)(iv): Visibility protection	A	A	A	A
(K): Air quality modeling and data	A	A	A	A
(L): Permitting fees	A	A	A	A
(M): Consultation and participation by affected local entities	A	A	A	A

Key to Table 1:

NG – Element is not germane to infrastructure SIPs

A – Approving in this action

SA - Acting on this infrastructure requirement in a separate rulemaking

Based upon review of these infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in these submissions and referenced in the Oklahoma SIP, we find Oklahoma has the infrastructure in place to address all applicable required elements of sections 110(a)(1) and (2), except as noted in Table 1, to ensure that the 2008 Pb, 2008 Ozone, 2010 NO₂, and 2010 SO₂ NAAQS are implemented in the State. This action is being taken pursuant to section 110 of the Act.

III. Statutory and Executive Order Reviews

Under the CAA, 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, the 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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, 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 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 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, Incorporation by reference, Intergovernmental relations, Interstate transport of pollution, Lead, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 6, 2016.

Ron Curry,
Regional Administrator, Region 6.

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 LL – Oklahoma

2. In §52.1920(e) the first table titled “EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Oklahoma SIP” is amended by adding the following entries at the end:

§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
* * * * *				
Infrastructure for the 2008 Pb NAAQS	Statewide	10/5/2012	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
Infrastructure for the 2010 NO ₂ NAAQS	Statewide	2/28/2014	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
Infrastructure for the 2008 Ozone NAAQS	Statewide	1/28/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Does not address 110(a)(2)(D)(i)(I).

Infrastructure for the 2010 SO2 NAAQS	Statewide	1/28/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Does not address 110(a)(2)(D) (i)(I) or 110(a)(2)(D) (i)(II) (visibility portion).
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