



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2015-0843; FRL-9978-48-Region 6]

Approval and Promulgation of Implementation Plans; Texas; Infrastructure and Interstate Transport for the 2012 Fine Particulate Matter Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving elements of the Texas Infrastructure State Implementation Plan (i-SIP) submittal addressing how the existing SIP provides for implementation, maintenance and enforcement of the 2012 fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS).

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-2015-0843. 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: Sherry Fuerst, 214-665-6454,

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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 March 22, 2018 proposal (83 FR 12522). In that document we proposed to approve the December 1, 2015 i-SIP submittal from Texas Commission on Environmental Quality (TCEQ) pertaining to the implementation, maintenance and enforcement of the 2012 PM_{2.5} NAAQS in Texas and three of the four of the interstate transport requirements.

We received two comments in support of our proposal, one from the TCEQ and one that was anonymously submitted. We also received seventeen comments that are not relevant to the action we proposed. All comments can be found in the docket for this action.

II. Response to Comments

Comment: TCEQ commented that while they are in support of our proposed approval that Texas meets its infrastructure and transport obligation for the 2012 PM_{2.5} NAAQS, they believe that Texas is meeting all four sub-element requirements of Section 110(a)(2)(D)(i). TCEQ noted that EPA did not provide an explanation as to why no action was taken on the interference with visibility provision for CAA Section 110(a)(2)(D)(i)(II).

Response: We acknowledge TCEQ’s support of our proposed action. We note that we did not propose to take any action on the portion of the SIP submittal that was submitted to address the interference with visibility provision found in CAA Section 110(a)(2)(D)(i)(II), therefore the comment related to this provision is outside the scope of this action. EPA believes the visibility

transport provision is closely related to the Act's Regional Haze requirements and therefore, intends to address this provision separately in a future action.

II. Final Action

We are finalizing this rule as proposed, therefore approving the portions of the December 1, 2015 2012 PM_{2.5} NAAQS i-SIP submittal pertaining to implementation, maintenance and enforcement including transport except for sub-element four pertaining to interference with visibility protection in other states.

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);
- 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 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 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, Incorporation by reference, Particulate matter.

Dated: May 29, 2018.

Anne Idsal,
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 SS – Texas

2. In §52.2270 the second table titled “EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by adding an entry for “Infrastructure and Interstate Transport for the 2012 PM_{2.5} NAAQS” at the end to read as follows:

§52.2270 Identification of plan

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(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Comments
* * * * *				
Infrastructure and Interstate Transport for the 2012 PM _{2.5} NAAQS	Statewide	12/01/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Approval for CAA elements 110(a)(2)(A), (B), (C), (D)(i)(I), (D)(i)(II) (portion pertaining to PSD), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). [Insert date of publication in the Federal Register], [Insert Federal Register citation]

[FR Doc. 2018-11973 Filed: 6/4/2018 8:45 am; Publication Date: 6/5/2018]