



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2017-0145; 9983-65-Region 6]

Approval and Promulgation of State Implementation Plan, Oklahoma; Supplemental Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking, Withdrawal of proposed rule.

SUMMARY: In this supplemental notice of proposed rulemaking, the Environmental Protection Agency (EPA) is supplementing our proposed approval published on March 22, 2018, of revisions to the State Implementation Plan (SIP) for Oklahoma, as submitted by the State of Oklahoma designee with a letter dated February 14, 2017. First, we are reopening the comment period based on information submitted by Oklahoma in a letter dated July 31, 2018, and our analysis of it. Second, EPA is withdrawing its proposed action on the Commercial and Industrial Solid Waste Incineration Units rule because the State did not submit it for approval as a SIP revision.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2017-0145, at <http://www.regulations.gov> or via email to shar.alan@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information

(CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Mr. Alan Shar, (214) 665-6691, shar.alan@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, (214) 665-6691;

shar.alan@epa.gov. To inspect the hard copy materials, please schedule an appointment with Mr. Alan Shar.

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us,” or “our” refer to EPA.

I. Background

On March 22, 2018 (83 FR 12514), we published a proposed rulemaking action to approve certain revisions to the Oklahoma SIP, as submitted by Oklahoma on February 14, 2017. The submittal covers updates to the Oklahoma SIP, as contained in annual SIP updates for 2013,

2014, 2015, and 2016, and incorporates the latest changes to the EPA regulations. Specifically, the March 22, 2018 proposal concerned revisions to the following rules in the Oklahoma Administrative Code (OAC) – OAC 252:100-13 Open Burning, OAC 252:100-17 Incinerators, OAC 252:100-25 Visible Emissions and Particulates, OAC 252:100-31 Control of Emission of Sulfur Compounds, OAC 252:100, Appendix E Primary Ambient Air Quality Standards, and OAC 252:100, Appendix F Secondary Ambient Air Quality Standards. Comments on the proposal were required to be received by April 23, 2018.

II. Additional information submitted by Oklahoma

After the close of the public comment period, the Oklahoma Department of Environmental Quality (ODEQ) submitted additional information, by letter dated July 31, 2018, concerning the SIP rule revisions in our March 22, 2018 proposal. ODEQ provided this information in response to adverse comments (EPA-R06-OAR-2017-0145-022) submitted to the EPA during the initial comment period. The information submitted by ODEQ is intended to clarify the rule revisions and their applicability as well as to further demonstrate how the revisions improve the Oklahoma SIP. In particular, ODEQ provided additional information related to the following four rule revisions included in the March 22, 2018 proposal: (1) a revision to OAC 252:100-9(4) that exempts opening burning allowed under OAC 252:100-13-7(6)(B) and OAC 252:100-13-8 from the time restrictions otherwise applicable to opening burning; (2) a revision to OAC 252:100-17-2 adding NSPS Subpart AAAA and NSPS Subpart CCCC to the list of sources exempt from the requirements for general purpose incinerators; (3) a revision to OAC 252:100-25-5(c) eliminating the words “and EPA” from the rule’s requirement concerning alternative monitoring; and (4) a revision to OAC 252:100-31 which replaces SO₂ ambient standards (exposure limits) in the existing SIP at OAC 252:100-31-12 (renumbered

OAC 252:100-31-7) with EPA's 2010 SO₂ National Ambient Air Quality Standards.

III. EPA's evaluation and analysis of ODEQ's July 31, 2018 letter

We have evaluated the information contained in ODEQ's July 31, 2018 letter and find that it affirms our determination that the submitted revisions included in the March 22, 2018 proposal meet SIP requirements, as provided by CAA section 110 and EPA's implementing regulations at 40 CFR Part 51. We have included our evaluation of ODEQ's July 31, 2018 letter and our additional analysis of the four rule revisions identified in part II above in a supplement to the Technical Support Document (TSD) which may be found in the docket. See Supplement 3 to the TSD in the docket for this action. The result of our evaluation and analysis continues to support the proposed approval of the rule revisions identified in the March 22, 2018 proposal, with the recognition of one inadvertent oversight on our part described below.

The March 22, 2018 proposal inadvertently includes a proposal to approve rule revisions to OAC 252:100-17, Part 9 Commercial and Industrial Solid Waste Incineration Units – specifically OAC 252:100-17-60 through 17-76. We are withdrawing our proposal action on these provisions because we lack the authority to act on them under section 110 as a SIP revision. Moreover, these provisions were not submitted to EPA for SIP approval as part of the February 14, 2017 SIP submittal and include provisions that pertain to CAA sections 111(d) and 129, instead, which will be acted upon separately in the future.¹

IV. Supplemental Proposed Action

In summary, EPA proposed to approve certain revisions to the Oklahoma SIP, as

¹ Those provisions are not directly related to CAA section 110 (State implementation Plans for NAAQS) and pertain to CAA sections 111(d) (Standards of performance for existing sources; remaining useful life of source) and 129 (Solid waste combustion) standards. These Subchapter 17 revisions were submitted by the Oklahoma Department of Environmental Quality to EPA, by letter dated September 15, 2017, as an update to Oklahoma's Air Quality State Plan for Commercial and Industrial Solid Waste Incinerators (CISWI) units, under CAA sections 111(d) and 129. Pursuant to those statutory provisions and EPA's implementing regulations related thereto, EPA will be evaluating and acting upon the September 15, 2017 Submittal in a separate action.

submitted by Oklahoma on February 14, 2017, in our March 22, 2018 proposal (83 FR 12514). In this supplemental proposed action, we are withdrawing the proposed action on the revisions to OAC 252:100-17, Part 9 (Part 9), because Part 9 was not included in Oklahoma's February 14, 2017 SIP submittal. We lack the authority to act on this Part 9 under CAA section 110 because the State did not submit it as a SIP revision for approval. We are proposing to affirm the approvability of the other rule revisions contained in the March 22, 2018 proposal based upon the supplemental information in ODEQ's July 31, 2018 letter, as well as additional information included in Supplement 3 to the TSD. The scope of this supplemental notice and the reopening of the comment period is strictly limited to only the supplemental information and our evaluation of it. The EPA is not reopening the comment period on any other aspect of the March 22, 2018 proposal, as an adequate opportunity to comment on those issues has already been provided. The EPA will not respond to comments received during the reopened comment period outside the above-defined scope. This action will allow interested persons additional time to review the supplemental information to prepare and submit relevant comments. The EPA will address all comments received on the original proposal and on this supplemental action in our final action.

V. Incorporation by Reference

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to Oklahoma's regulations, as described in part IV above. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and in hard copy at the EPA Region 6 office.

VI. Statutory and Executive Order Reviews

Under the 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 Act. Accordingly, this action merely proposes to approve 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) 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 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, 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 proposed 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 18, 2018.

David Gray,

Acting Regional Administrator, Region 6.

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