



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2016-0619; FRL-9995-36-Region 6]

Air Plan Approval; Oklahoma; Regional Haze Five-Year Progress Report

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 a revision to a State Implementation Plan (SIP) submitted by the Governor of Oklahoma through the Oklahoma Department of Environmental Quality (ODEQ) on September 28, 2016. The SIP revision addresses requirements of federal regulations that direct the State to submit a periodic report describing progress toward reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the existing implementation plan.

DATES: This rule is effective [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-2016-0619. All documents listed in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information may not be publicly available, *i.e.*, 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 www.regulations.gov or in hard copy at the EPA Region 6 Office, 1201 Elm Street, Dallas, TX 75270.

FOR FURTHER INFORMATION CONTACT: Clovis Steib, EPA Region 6 Office, Regional Haze & SO₂ Section, 1201 Elm Street, Suite 500, Dallas, TX 75270, (214) 665-7566, steib.clovis@epa.gov. To inspect the hard copy materials, please schedule an appointment with Mr. Bill Deese at 214-665-7253.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” or “our” means the EPA.

I. Background

In a notice of proposed rulemaking (NPRM) published on March 28, 2019 (84 FR 11711), EPA proposed to approve Oklahoma’s (the State’s) Regional Haze Five Year Progress Report.¹ On September 28, 2016, Oklahoma submitted its progress report in the form of a SIP revision under 40 CFR 51.308, which, among other things, detailed the progress made in the first planning period toward implementation of the long-term strategy (LTS) outlined in the State’s regional haze plan. The progress report also included a summary of the visibility improvement measured at the Wichita Mountains Wilderness Area (WMWA), the only Class I area within Oklahoma, an assessment of whether Class I areas outside of the State are potentially impacted by emissions from Oklahoma, and a determination of the adequacy of the existing implementation plan. The details of Oklahoma’s submittal and the rationale for EPA’s action are further explained in the NPRM. EPA did not receive any relevant adverse comments on the proposed action. We received one comment letter from the Texas Commission on Environmental

¹ Oklahoma’s submitted report can be found at www.regulations.gov; Docket EPA-R06-OAR-2016-0619-0002.

Quality (TCEQ) that discussed issues outside the scope of this particular rule making.²

II. Final Action

EPA is approving Oklahoma's regional haze five-year progress report SIP revision, finding it meets the applicable regional haze requirements under the CAA and set forth in 40 CFR 51.308(g), (h) and (i). Because the SIP and Federal Implementation Plan (FIP)³ will ensure the control of SO₂ and NO_x emissions reductions relied upon by Oklahoma and other states in setting their reasonable progress goals, EPA concurs with the State's finding that there is no need for revision of the existing implementation plan to achieve the reasonable progress goals for the Class I areas in Oklahoma and in nearby states impacted by Oklahoma sources.

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. *See* 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 CAA. Accordingly, this action approves a State's determination that their current regional haze plan is 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

² The TCEQ submitted a letter commenting on the remanded 2016 Federal Implementation Plan (FIP) for Texas regarding regional haze reasonable progress, urging EPA to repeal the FIP in its entirety; as well as act on and approve the State's own 2014 Regional Haze Five-Year Progress Report and finalize any action resulting from the additional comment period on the 2017 FIP for the State regarding regional haze Best Available Retrofit Technology (BART). This letter can be found at www.regulations.gov; Docket EPA-R06-OAR-2016-0619-0004. EPA is addressing regional haze requirements for Texas in another action; see Dockets EPA-R06-OAR-2014-0754 and EPA-R06-OAR-2016-0611.

³ As discussed in the NPRM, EPA issued a FIP, promulgating revised SO₂ Best Available Retrofit Technology (BART) emission limits on six-coal-fired EGUs located at three facilities. (See 76 FR 81728 (December 28, 2011), codified at 40 CFR 52.1923) The FIP affects two units at each of two facilities owned and operated by Oklahoma Gas and Electric Company (OG&E): Muskogee Generating Station in Muskogee County, and Sooner Generating Station in Noble County. The FIP also initially applied to two units at American Electric Power/Public Service Company of Oklahoma's (AEP/PSO's) Northeastern Power Station in Rogers County, but those requirements have since been removed from the FIP after EPA approval of a SIP revision addressing these two units.

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 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 (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 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 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).

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, Best Available Retrofit Technology, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Regional haze, Sulfur dioxide, Visibility, Volatile organic compounds.

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

Dated: June 24, 2019.

David Gray,
Acting 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, under paragraph (e), the first table titled “EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Oklahoma SIP” is amended by adding an entry at the end to read as follows:

§ 52.1920 Identification of plan.

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(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

Oklahoma Regional Haze 5-Year Progress Report	Statewide	Submitted 9/28/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

[FR Doc. 2019-13738 Filed: 6/27/2019 8:45 am; Publication Date: 6/28/2019]