



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2019-0438; FRL-10000-92-Region 6]

Air Plan Approval; Arkansas; Interstate Transport Requirements for the 2010 1-Hour SO₂ NAAQS

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 the portion of Arkansas's State Implementation Plan (SIP) submittal addressing two of the CAA interstate transport requirements for the 2010 Sulfur Dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). EPA is determining the Arkansas SIP contains adequate provisions to ensure that the air emissions in the state will not significantly contribute to nonattainment or interfere with maintenance of the 2010 SO₂ NAAQS in any other state.

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-2019-0438. All documents in the docket are listed on the <https://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 <https://www.regulations.gov> or in hard copy at the EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Nevine Salem, EPA Region 6 Office, Ozone and Infrastructure Section, 1201 Elm Street, Suite 500, Dallas, TX 75270, 214-665-7222, salem.nevine@epa.gov. To inspect the hard copy materials, please schedule an appointment with Ms. Salem or Mr. Bill Deese at 214-665-7253.

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

I. Background

On March 24, 2017, Arkansas submitted, through the Arkansas Department of Environmental Quality (ADEQ), a revision to its SIP to satisfy the infrastructure requirements of section 110(a)(2) of the CAA for the 2010 1-hour SO₂ NAAQS, including the interstate transport requirements of section 110(a)(2)(D)(i)(I). On February 14, 2018 (83 FR 6470), EPA approved Arkansas’s infrastructure SIP submittal for the 2010 1-hour SO₂ NAAQS for all applicable elements of section 110(a)(2) with the exception of 110(a)(2)(D)(i)(I) and the portion of 110(a)(2)(D)(i)(II) that pertains to visibility protection. On August 8, 2019, the EPA published a notice of proposed rulemaking (NPRM) to approve the portions of the March 24, 2017 submittal from the state of Arkansas as meeting the interstate transport requirement of the CAA requirements that the Arkansas SIP includes adequate provisions prohibiting any emissions activity in the state that will contribute significantly to nonattainment, or interferes with maintenance, of the 2010 1-hour SO₂ NAAQS in any downwind state. A detailed analysis of the State’s submittals analysis and rationale for approval of the submittal were provided in the NPRM and will not be restated here. The public comment period for this proposed rulemaking

ended on September 9, 2019. The EPA received one anonymous comment in favor/support of our proposed action. A copy of the comment is included in the docket of this rulemaking. We did not receive any adverse comments regarding our proposal. No response to comment is required.

II. Final Action

The EPA is approving the portions of the Arkansas's March 24, 2017 SIP that address two of the interstate transport requirements for the 2010 1-hour SO₂ NAAQS as these portions meet the requirements in CAA section 110 and specifically in 110(a)(2)(D)(i)(I). EPA determines that the Arkansas SIP contains adequate provisions to ensure that the air emissions in the State will not significantly contribute to nonattainment or interfere with maintenance of the 2010 SO₂ NAAQS in any other state. This action is being taken under 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);
- 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, Interstate transport of pollution, Sulfur oxides.

Dated: October 9, 2019.

Kenley McQueen,
Regional Administrator, Region 6.

Title 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 E— Arkansas

2. In §52.170(e), the table titled “EPA-Approved Non-Regulatory Provisions and Quasi-Regulatory Measures in the Arkansas SIP” is amended by revising the entry for “Infrastructure for the 2010 SO₂ NAAQS” to read as follows:

§52.170 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NON-REGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE ARKANSAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* * * * *				
Infrastructure for the 2010 SO ₂ NAAQS	Statewide	3/24/2017	2/14/2018, 83 FR 6470	Approval for 110(a)(2)(A), (B), (C), (D)(i) (portion pertaining to PSD), (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M). Approval for 110(a)(2)(D)(i)(I) on [Insert date of publication in the Federal Register] .
* * * * *				