

services, as authorized by applicable federal or state law.

\* \* \* \* \*

*Qualifying central bank* means

(1) A Federal Reserve Bank;

(2) The European Central Bank, and

(3) The central bank of any member

country of the Organisation for Economic Co-operation and Development, if

(i) Sovereign exposures to the member country would receive a zero percent risk-weight under section 324.32 of this part; and

(ii) The sovereign debt of the member country is not in default or has not been in default during the previous 5 years.

\* \* \* \* \*

■ 9. Section 324.10, paragraph (c)(4)(ii) is revised and new paragraph (c)(4)(ii)(J) is added to read as follows:

**§ 324.10 Minimum capital requirements.**

\* \* \* \* \*

(c) \* \* \*

(4) \* \* \*

(ii) For purposes of this part, total leverage exposure means the sum of the items described in paragraphs (c)(4)(ii)(A) through (H) of this section, as adjusted pursuant to paragraph (c)(4)(ii)(I) of this section for a clearing member FDIC-supervised institution and paragraph (c)(4)(ii)(J) of this section for a custody bank:

\* \* \* \* \*

(J) A custody bank shall exclude from its total leverage exposure the lesser of:

(1) The amount of funds that the custody bank has on deposit at a qualifying central bank; and

(2) The amount of funds in deposit accounts at the custody bank that are linked to fiduciary or custodial and safekeeping accounts at the custody bank. For purposes of this paragraph, a deposit account is linked to a fiduciary or custodial and safekeeping account if the deposit account is provided to a client that maintains a fiduciary or custodial and safekeeping account with the custody bank and the deposit account is used to facilitate the administration of the fiduciary or custodial and safekeeping account.

\* \* \* \* \*

Dated: March 25, 2019.

**Joseph M. Otting,**

*Comptroller of the Currency.*

By order of the Board of Governors of the Federal Reserve System.

**Ann E. Misback,**

*Secretary of the Board.*

Dated at Washington, DC, on March 29, 2019.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

**Valerie J. Best,**

*Assistant Executive Secretary.*

[FR Doc. 2019-08448 Filed 4-29-19; 8:45 am]

**BILLING CODE 4810-33-P; 6210-01;-P 6714-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R06-OAR-2018-0673; FRL-9992-04-Region 6]**

**Air Plan Approval; Texas; Infrastructure for the 2015 Ozone National Ambient Air Quality Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve elements of two State Implementation Plan (SIP) submissions from the State of Texas for the 2015 Ozone (O<sub>3</sub>) National Ambient Air Quality Standard (NAAQS). These submittals address how the existing SIP provides for implementation, maintenance, and enforcement of the 2015 O<sub>3</sub> NAAQS (infrastructure SIP or i-SIP). The i-SIP ensures that the Texas SIP is adequate to meet the state's responsibilities under the CAA for this NAAQS.

**DATES:** Written comments must be received on or before May 30, 2019.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2018-0673, at <https://www.regulations.gov> or via email to [paige.carrie@epa.gov](mailto:paige.carrie@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 Carrie Paige (214) 665-6521, [paige.carrie@epa.gov](mailto:paige.carrie@epa.gov). For the full EPA

public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at 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:** Ms. Carrie Paige (214) 665-6521, [paige.carrie@epa.gov](mailto:paige.carrie@epa.gov). To inspect the hard copy materials, please schedule an appointment with Ms. Paige or Mr. Bill Deese at (214) 665-7253.

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

**I. Background**

Below is a short discussion of background on the 2015 Ozone NAAQS addressed in this action. For more information, please see the Technical Support Document (TSD) in the docket for this action.

EPA has regulated Ozone since 1971, when we published the first NAAQS for Photochemical Oxidants (36 FR 8186, April 30, 1971). Most recently, following a periodic review of the 2008 NAAQS for O<sub>3</sub>, EPA revised the primary and secondary O<sub>3</sub> NAAQS to 0.070 ppm (82 FR 65291, October 26, 2015).<sup>1</sup> The primary NAAQS is designed to protect human health, and the secondary NAAQS is designed to protect the public welfare.<sup>2</sup>

Each state must submit a SIP within three years after the promulgation of a new or revised NAAQS showing how it meets the elements of Section 110(a)(2) of the CAA. This section of Act includes a list of specific elements necessary for a States air quality program. We term this SIP an infrastructure SIP or i-SIP. On September 13, 2013, the EPA issued guidance addressing the i-SIP elements for NAAQS.<sup>3</sup> On August 17, 2018, the

<sup>1</sup> Additional information on the history of the NAAQS for ozone is available at <https://www.epa.gov/ozone-pollution/table-historical-ozone-national-ambient-air-quality-standards-naaqs>.

<sup>2</sup> Information on ozone formation and health effects is available at <https://www.epa.gov/ozone-pollution>.

<sup>3</sup> “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2),” Memorandum from Stephen D. Page, September 13, 2013.

Chairman of the Texas Commission on Environmental Quality (TCEQ) made two submissions to address the 2015 NAAQS for O<sub>3</sub>.<sup>4</sup> One submittal addresses CAA sections 110(a)(2)(A) through (C) and (E) through (M), which we refer to as the infrastructure or “i-SIP” submittal and the other addresses CAA section 110(a)(2)(D), which we refer to as the “Transport” submittal.

We are proposing to approve the August 17, 2018 Texas i-SIP submittal for the 2015 ozone NAAQS in its entirety. We are also proposing to approve portions of the August 17, 2018 Texas Transport submittal for the 2015 ozone NAAQS. A copy of each of these submittals is in the docket for this proposed rulemaking.

## II. EPA’s Evaluation of the Texas 2015 O<sub>3</sub> NAAQS i-SIP and Transport Submissions

Below is a summary of our evaluation of the August 17, 2018 Texas submittals for each element of 110(a)(2) that we are proposing to approve.<sup>5</sup>

(A) *Emission limits and other control measures*: The SIP must include enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters as needed to implement, maintain and enforce each of the NAAQS.<sup>6</sup>

The Texas Clean Air Act (TCAA) provides the TCEQ, its Chairman, and its Executive Director with broad legal authority. They may adopt emission standards and compliance schedules applicable to regulated entities; emission standards and limitations and any other measures necessary for attainment and maintenance of national

standards; and enforce applicable laws, regulations, standards and compliance schedules, and seek injunctive relief. This authority has been employed in the past to adopt and submit multiple revisions to the Texas SIP. The federally-approved SIP for Texas is documented at 40 CFR part 52.2270. TCEQ’s air quality rules and standards are codified at Title 30, part 1 of the Texas Administrative Code (TAC). Numerous parts of the regulations codified into 30 TAC necessary for implementing and enforcing the NAAQS have been adopted into the SIP.

(B) *Ambient air quality monitoring/data system*: The SIP must provide for establishment and implementation of ambient air quality monitors, collection and analysis of ambient air quality data, and providing the data to EPA upon request.

The TCAA provides the authority allowing the TCEQ to collect air monitoring data, quality-assure the results, and report the data. TCEQ maintains and operates a monitoring network to measure levels of ozone, as well as other pollutants, in accordance with EPA regulations specifying siting and monitoring requirements. All monitoring data is measured using EPA-approved methods and subject to the EPA quality assurance requirements. TCEQ submits all required data to us, following the EPA regulations. The Texas statewide monitoring network was approved into the SIP on May 31, 1972 (37 FR 10842, 10895), was revised on March 7, 1978 (43 FR 9275), and it undergoes annual review by EPA.<sup>7</sup> In addition, TCEQ submits an assessment of its monitoring network every five years, as required by EPA rules. The most recent of these 5-year monitoring network assessments was submitted by TCEQ and approved by us in July of 2015.<sup>8</sup> The TCEQ website provides the monitor locations and posts past and current concentrations of criteria pollutants measured by the State’s network of monitors.<sup>9</sup>

(C) *Program for enforcement of control measures*: The SIP must include the following three elements: (1) A program providing for enforcement of the measures in CAA section 110(a)(2)(A); (2) a program for the regulation of the modification and construction of stationary sources as

necessary to protect the applicable NAAQS (*i.e.*, state-wide permitting of minor sources); and (3) a permit program to meet the major source permitting requirements of the CAA (for areas designated as attainment or unclassifiable for the NAAQS in question). Each of these elements is described in more detail in the TSD for this action.

(1) *Enforcement of SIP Measures*. As noted earlier, the TCAA provides authority for the TCEQ, its Chairman, and its Executive Director to enforce the requirements of the TCAA, and any regulations, permits, or final compliance orders. These statutes also provide the TCEQ, its Chairman, and its Executive Director with general enforcement powers. Among other things, they can file lawsuits to compel compliance with the statutes and regulations; commence civil actions; issue field citations; conduct investigations of regulated entities; collect criminal and civil penalties; develop and enforce rules and standards related to protection of air quality; issue compliance orders; pursue criminal prosecutions; investigate, enter into remediation agreements; and issue emergency cease and desist orders. The TCAA also provides additional enforcement authorities and funding mechanisms.

(2) *Minor New Source Review (NSR)*. The SIP is required to include measures to regulate construction and modification of stationary sources to protect the NAAQS. The Texas minor NSR permitting requirements are approved as part of the SIP.<sup>10</sup>

(3) *Prevention of Significant Deterioration (PSD) permit program*. The Texas PSD portion of the SIP covers all NSR regulated pollutants as well as the requirements for the 2015 O<sub>3</sub> NAAQS and has been approved by EPA (79 FR 66626, November 10, 2014).<sup>11</sup>

(D) *Interstate and international transport*: The requirements for interstate transport of O<sub>3</sub> emissions are that the SIP contain adequate provisions prohibiting O<sub>3</sub> emission transport to other states which will (1) contribute significantly to nonattainment of the NAAQS, (2) interfere with maintenance

<sup>4</sup> Additional information, including the history of the priority pollutants, their levels, forms and determination of compliance; EPA approach for reviewing i-SIP submittal and EPA’s evaluation; the statute and regulatory citations in the Texas SIP specific to the review the specific i-SIP applicable CAA and EPA regulatory citations, **Federal Register** citations for the Texas SIP approvals; Texas minor New Source Review program and EPA approval activities, and Texas’ Prevention of Significant Deterioration program can be found in the TSD for this action.

<sup>5</sup> A detailed discussion of our evaluation can be found in the TSD for this action.

<sup>6</sup> The specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirements of section 172, not the timing requirement of section 110(a)(1). Thus, section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 2015 Ozone NAAQS. Those SIP provisions are due as part of each state’s attainment plan, and will be addressed separately from the requirements of section 110(a)(2)(A). In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state’s SIP has basic structural provisions for the implementation of the NAAQS.

<sup>7</sup> A copy of the 2018 Annual Air Monitoring Network Plan and our approval letter are included in the docket for this proposed rulemaking.

<sup>8</sup> A copy of TCEQ’s 2015 5-year ambient monitoring network assessment and our response letter are included in the docket for this proposed rulemaking.

<sup>9</sup> See [https://www.tceq.texas.gov/agency/air\\_main.html](https://www.tceq.texas.gov/agency/air_main.html).

<sup>10</sup> EPA is not proposing to approve or disapprove the existing Texas minor NSR program to the extent that it may be inconsistent with EPA’s regulations governing this program. EPA has maintained that the CAA does not require that new infrastructure SIP submissions correct any defects in existing EPA-approved provisions of minor NSR programs for EPA to approve the infrastructure SIP for element C, program for enforcement of control measures (*e.g.*, 76 FR 41076–41079). The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs. See the TSD for more information.

<sup>11</sup> We discuss this requirement further in the TSD.

of the NAAQS, (3) interfere with measures required to prevent significant deterioration or (4) interfere with measures to protect visibility (CAA 110(a)(2)(D)(i)). In addition, states must comply with requirements to prevent transport of international air pollution (CAA section 110(a)(2)(D)(ii)). EPA often refers to these four requirements within CAA section 110(a)(2)(D)(i) as prongs or sub-elements. We are not evaluating sub-elements 1, 2, and 4 in this rulemaking action, but will address them in a separate action. However, we are proposing to approve sub-element 3 of CAA section 110(a)(2)(D)(i), pertaining to the prevention of significant deterioration in other states for O<sub>3</sub>. Texas has a SIP-approved PSD program that regulates all NSR pollutants, including greenhouse gases, and thus, prevents significant deterioration in nearby states. See the TSD for more detail.

Section 110(a)(2)(D)(ii) of the CAA requires SIPs to include adequate provisions to ensure compliance with sections 115 and 126 of the Act, relating to international and interstate pollution abatement. Section 115 of the Act addresses endangerment of public health or welfare in foreign countries from pollution emitted in the United States. There are no final findings by the EPA that Texas air emissions affect other countries. Section 126(a) of the Act requires new or modified sources to notify neighboring states of potential impacts from such sources. The Texas SIP requires that each major proposed new or modified source provide such notification.<sup>12</sup> The State also has no pending obligations under CAA section 126. See the TSD for more detail.

*(E) Adequate authority, resources, implementation, and oversight:* The SIP must provide for the following: (1) Necessary assurances that the state (and other entities within the state responsible for implementing the SIP) will have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) requirements relating to state boards; and (3) necessary assurances that the state has responsibility for ensuring adequate implementation of any plan provision for which it relies on local governments or other entities to carry out that portion of the plan. Both elements (A) and (E) address the requirement that there is adequate authority to implement and enforce the SIP and that there are no legal impediments.

The i-SIP submission for the 2015 O<sub>3</sub> NAAQS describes the SIP regulations governing the various functions of personnel within the TCEQ, including the administrative, technical support, planning, enforcement, and permitting functions of the program.

With respect to funding, the TCAA requires TCEQ to establish an emissions fee schedule for sources to fund the reasonable costs of administering various air pollution control programs and authorizes TCEQ to collect additional fees necessary to cover reasonable costs associated with processing of air permit applications.

As required by the CAA, the Texas statutes and the SIP stipulate that any board or body, which approves permits or enforcement orders, must have a majority of members who represent the public interest and do not derive any “significant portion” of their income from persons subject to permits and enforcement orders or who appear before the board on issues related to the CAA or the TCAA. The members of the board or body, or the head of an agency with similar powers, are required to adequately disclose any potential conflicts of interest.

With respect to assurances that the State has responsibility to implement the SIP adequately when it authorizes local or other agencies to carry out portions of the plan, the Texas statutes and the SIP designate the TCEQ as the primary air pollution control agency and TCEQ maintains authority to ensure implementation of any applicable plan portion. More detail is provided in the TSD for this action.

*(F) Stationary source monitoring system:* The SIP must provide for the establishment of a system to monitor emissions from stationary sources and to submit periodic emission reports. It must require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources, to monitor emissions from such sources. The SIP shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and require that the state correlate the source reports with emission limitations or standards established under the CAA. These reports must be made available for public inspection at reasonable times.

The TCAA authorizes the TCEQ to require persons engaged in operations which result in air pollution to monitor or test emissions and to file reports containing information relating to the nature and amount of emissions. There also are SIP-approved state regulations

pertaining to sampling and testing and requirements for reporting of emissions inventories. In addition, SIP-approved rules establish general requirements for maintaining records and reporting emissions.

The TCEQ uses this information, in addition to information obtained from other sources, to track progress towards maintaining the NAAQS, developing control and maintenance strategies, identifying sources and general emission levels, and determining compliance with SIP-approved regulations and additional EPA requirements. The SIP requires this information be made available to the public. Provisions concerning the handling of confidential data and proprietary business information are included in the SIP-approved regulations. These rules specifically exclude from confidential treatment any records concerning the nature and amount of emissions reported by sources. More detail and links to Texas emissions data are provided in the TSD for this action.

*(G) Emergency authority:* The SIP must provide for authority to address activities causing imminent and substantial endangerment to public health or welfare or the environment and to include contingency plans to implement such authorities as necessary.

The TCAA provides TCEQ with authority to address environmental emergencies, and TCEQ has contingency plans to implement emergency episode provisions. Upon a finding that any owner/operator is unreasonably affecting the public health, safety or welfare, or the health of animal or plant life, or property, the TCAA and 30 TAC chapters 35 and 118 authorize TCEQ to, after a reasonable attempt to give notice, declare a state of emergency and issue without hearing an emergency special order directing the owner/operator to cease such pollution immediately. The TCEQ may issue emergency orders, or issue or suspend air permits as required by an air pollution emergency.

The “Texas Air Quality Control Contingency Plan for Prevention of Air Pollution Episodes” is part of the Texas SIP. However, because 8-hour ozone concentrations in Texas are below 100 ppb, Texas is not required to have contingency plans to meet this i-SIP element for the 2015 O<sub>3</sub> NAAQS.<sup>13</sup> However, to provide additional protection, the State has general emergency powers to address any possible dangerous air pollution episode

<sup>12</sup> See September 18, 2002 (67 FR 58697).

<sup>13</sup> See the TSD for more detail.

if necessary to protect the environment and public health.

*(H) Future SIP revisions:* States must have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

The TCAA authorizes the TCEQ to revise the Texas SIP, as necessary, to account for revisions of an existing NAAQS, establishment of a new NAAQS, to attain and maintain a NAAQS, to abate air pollution, to adopt more effective methods of attaining a NAAQS, and to respond to EPA SIP calls concerning NAAQS adoption or implementation.

*(I) Nonattainment areas:* The CAA section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment, states must meet applicable requirements of part D of the CAA, relating to SIP requirements for designated nonattainment areas.

However, as noted earlier, EPA does not expect infrastructure SIP submissions to address CAA section 110(a)(2)(I). The specific SIP submissions for designated nonattainment areas, as required under CAA title I, part D, are subject to different submission schedules than those for section 110 infrastructure elements. Instead, EPA will act on any part D attainment plan SIP submissions through a separate rulemaking process governed by the requirements for nonattainment areas, as described in part D.

*(J) Consultation with government officials, public notification, PSD and visibility protection:* The SIP must meet the following three CAA requirements: (1) Section 121, relating to interagency consultation regarding certain CAA requirements; (2) section 127, relating to public notification of NAAQS exceedances and related issues; (3) prevention of significant deterioration of air quality; and (4) visibility protection.

*(1) Interagency consultation:* As required by the TCAA, there must be a public hearing before the adoption of any regulations or emission control requirements, and all interested persons are given a reasonable opportunity to review the action that is being proposed and to submit data or arguments, either orally or in writing, and to examine the testimony of witnesses from the hearing. In addition, the TCAA provides the TCEQ the power and duty to establish cooperative agreements with local authorities, and consult with other states, the federal government and other

interested persons or groups in regard to matters of common interest in the field of air quality control. Furthermore, the Texas PSD SIP rules mandate that the TCEQ shall provide for public participation and notification regarding permitting applications to any other state or local air pollution control agencies, local government officials of the city or county where the source will be located, tribal authorities, and Federal Land Manager (FLMs) whose lands may be affected by emissions from the source or modification.

Additionally, the State's PSD SIP rules require the TCEQ to consult with FLMs regarding permit applications for sources with the potential to impact Class I Federal Areas. The SIP also includes a commitment to consult continually with the FLMs on the review and implementation of the visibility program. The State recognizes the expertise of the FLMs in monitoring and new source review applicability analyses for visibility, and has agreed to notify the FLMs of any advance notification or early consultation with a new or modifying source prior to the submission of a permit application. Likewise, the State's Transportation Conformity SIP rules provide for interagency consultation, resolution of conflicts, and public notification.

*(2) Public Notification:* The i-SIP submission from Texas provides the SIP regulatory citations requiring the TCEQ to regularly notify the public of instances or areas in which any NAAQS are exceeded. Included in the SIP are the rules for TCEQ to advise the public of the health hazard associated with such exceedances; and enhance public awareness of measures that can prevent such exceedances and of ways in which the public can participate in the regulatory and other efforts to improve air quality. In addition, as discussed earlier for CAA section 110(a)(2)(B), the TCEQ air monitoring website provides quality data for each of the monitoring stations in Texas; this data is provided instantaneously for certain pollutants, such as ozone. The website also provides information on the health effects of lead, ozone, particulate matter, and other criteria pollutants.

*(3) PSD:* The PSD requirements for this element are the same as those addressed earlier under CAA section 110(a)(2)(C), *Program for enforcement of control measures*.

*(4) Visibility Protection:* The Texas SIP requirements relating to visibility protection are not affected when EPA establishes or revises a NAAQS. Therefore, EPA believes that there are no new visibility protection requirements due to the revision of the

NAAQS, and consequently there are no newly applicable visibility protection obligations pursuant to CAA section 110(a)(2)(J).

*(K) Air quality and modeling/data:* The SIP must provide for performing air quality modeling, as prescribed by EPA, to predict the effects on ambient air quality of any emissions of any NAAQS pollutant, and for submission of such data to EPA upon request.

The TCEQ has the power and duty, under TCAA to develop facts and investigate providing for the functions of environmental air quality assessment. Past modeling and emissions reductions measures have been submitted by the State and approved into the SIP. Additionally, TCEQ has the ability to perform modeling for primary and secondary NAAQS on a case-by-case permit basis consistent with their SIP-approved PSD rules and with EPA guidance.

The TCAA authorizes and requires TCEQ to cooperate with the federal government and local authorities concerning matters of common interest in the field of air quality control, thereby allowing the agency to make such submissions to the EPA.

*(L) Permitting Fees:* The SIP must require each major stationary source to pay permitting fees to the permitting authority, as a condition of any permit required under the CAA, to cover the cost of reviewing and acting upon any application for such a permit, and, if the permit is issued, the costs of implementing and enforcing the terms of the permit. The fee requirement applies until a fee program established by the state pursuant to Title V of the CAA, relating to operating permits, is approved by EPA.

See the earlier discussion for CAA section 110(a)(2)(E) for the description of the mandatory collection of permitting fees outlined in the SIP.

*(M) Consultation/participation by affected local entities:* The SIP must provide for consultation and participation by local political subdivisions affected by the SIP.

See the earlier discussions for CAA sections 110(a)(2)(J), elements (1) and (2) for a description of the SIP's public participation process, the authority to advise and consult, and the PSD SIP's public participation requirements. Additionally, the TCAA also requires initiation of cooperative action between local authorities and the TCEQ, between one local authority and another, or among any combination of local authorities and the TCEQ for control of air pollution in areas having related air pollution problems that overlap the boundaries of political subdivisions,

and entering into agreements and compacts with adjoining states and Indian tribes, where appropriate. The transportation conformity component of the Texas SIP requires that interagency consultation and opportunity for public involvement be provided before making

transportation conformity determinations and before adopting applicable SIP revisions on transportation-related issues.

**III. Proposed Action**

EPA is proposing to approve the August 17, 2018 Texas “i-SIP” submittal

for the 2015 ozone NAAQS in its entirety. We are also proposing to approve portions of the August 17, 2018 Texas “Transport” submittal for the 2015 ozone NAAQS, as detailed in Table 1:

**TABLE 1—PROPOSED ACTION ON TEXAS INFRASTRUCTURE AND TRANSPORT SIP SUBMITTALS FOR THE 2015 OZONE NAAQS**

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

**Key to Table 1:**

- A—Proposing to Approve
- +—Not germane to infrastructure SIPs
- SA—EPA is acting on this infrastructure requirement in a separate rulemaking action.

Based upon review of the State’s infrastructure SIP submission and relevant statutory and regulatory authorities and provisions referenced in this submission or referenced in the EPA-approved Texas SIP, EPA believes that Texas has the infrastructure in place to address all applicable required elements of CAA sections 110(a)(1) and (2), except as noted here, to ensure that the 2015 O<sub>3</sub> NAAQS are implemented in the State.

**IV. 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, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. 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 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 (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).
- 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, Incorporation by reference, Ozone.

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

Dated: April 24, 2019.

**David Gray,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2019-08711 Filed 4-29-19; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2018-0840 FRL-9992-92-Region 5]

#### Air Plan Approval; Wisconsin; Infrastructure SIP Requirements for the 2012 PM<sub>2.5</sub> NAAQS; Interstate Transport

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve elements of the State Implementation Plan (SIP) submission from the Wisconsin Department of Natural Resources (WDNR) regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2012 annual fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS or standard). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under CAA. This action pertains specifically to infrastructure requirements in the Wisconsin SIP concerning interstate transport provisions.

**DATES:** Comments must be received on or before May 30, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2018-0840 at <https://www.regulations.gov>, or via email to [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, 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. 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 the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Samantha Panock, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8973, [panock.samantha@epa.gov](mailto:panock.samantha@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the background of this SIP submission?
- II. What guidance and memoranda is EPA using to evaluate this SIP submission?
- III. WDNR's Analysis and Conclusion
- IV. EPA's Additional Analysis, Review, and Conclusion
- V. What action is EPA taking?
- VI. Statutory and Executive Order Reviews

#### I. What is the background of this SIP submission?

This rulemaking addresses a submission from the WDNR dated November 26, 2018, which describes its infrastructure SIP for the 2012 annual PM<sub>2.5</sub> NAAQS (78 FR 3086, January 15, 2013). Specifically, this rulemaking addresses the portion of the submission dealing with interstate pollution transport under CAA section 110(a)(2)(D)(i), otherwise known as the “good neighbor” provision. The requirement for states to make a SIP submission of this type arises from section 110(a)(1) of the CAA, pursuant to which states must submit “within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any

revision thereof),” a plan that provides for the “implementation, maintenance, and enforcement” of such NAAQS. Section 110(a)(2) of the CAA includes a list of specific elements that “each such plan” submission must address. EPA commonly refers to such state plans as “infrastructure SIPs.” State plans must address four requirements of the good neighbor provisions (commonly referred to as “prongs”), including:

— *Prong 1:* Prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state;

— *Prong 2:* Prohibiting any source or other type of emissions activity in one state from interfering with maintenance of the NAAQS in another state;

— *Prong 3:* Prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration (PSD) of air quality in another state; and

— *Prong 4:* Protecting visibility in another state.

This rulemaking is evaluating whether Wisconsin's interstate transport provisions in its PM<sub>2.5</sub> infrastructure SIP meet prongs one and two of the good neighbor requirements of the CAA. Prongs three and four will be evaluated in a separate rulemaking.

EPA has developed a consistent framework for addressing the prong one and two interstate transport requirements with respect to the PM<sub>2.5</sub> NAAQS in several previous Federal rulemakings. The four basic steps of that framework include: (1) Identifying downwind receptors that are expected to have problems attaining or maintaining the NAAQS; (2) identifying which upwind states contribute to these identified problems in amounts sufficient to warrant further review and analysis; (3) for states identified as contributing to downwind air quality problems, identifying upwind emissions reductions necessary to prevent an upwind state from significantly contributing to nonattainment or interfering with maintenance of the NAAQS downwind; and (4) for states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind, reducing the identified upwind emissions through adoption of permanent and enforceable measures. This framework was most recently applied with respect to PM<sub>2.5</sub> in the August 8, 2011 Cross-State Air Pollution Rule (CSAPR) (76 FR 48208), designed to address both the 1997 and 2006 PM<sub>2.5</sub>