



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R06-OAR-2017-0145; FRL-9975-55-Region 6]**

**Approval and Promulgation of State Implementation Plans, Oklahoma**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the State Implementation Plan (SIP) for Oklahoma submitted by the State of Oklahoma designee with a letter dated 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. The overall intended outcome of this action is to make the approved Oklahoma SIP consistent with current Federal and State requirements. This action is being taken in accordance with the federal Clean Air Act (the Act).

**DATES:** Comments must be received on or before **[Insert date 30 days from 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](mailto: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](mailto: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](http://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 (6MM-AA), (214) 665-6691, [shar.alan@epa.gov](mailto: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,” and “our” refer to EPA.

**I. Background**

On November 3, 2015 (80 FR 67647), the EPA finalized, among other things, its approval of revisions to Oklahoma Administrative Code (OAC) Title 252 Department of Environmental Quality (ODEQ), Chapter 100 Air Pollution Control (OAC:252:100), Subchapter 17 Incinerators, Subchapter 25 Visible Emissions and Particulates, Appendix E Primary Ambient Air Quality Standards, and Appendix F Secondary Ambient Air Quality Standards.

The submittal dated February 14, 2017 (February 14, 2017 Submittal, or Submittal) which is the subject of this proposed action includes revisions to Subchapters 2 Incorporation by Reference, 5 Registration, Emission Inventory and Annual Operating Fees, 13 Open Burning, 17 Incinerators, 25 Visible Emissions and Particulates, 31 Control of Emission of Sulfur Compounds, Appendix E Primary Ambient Air Quality Standards, Appendix F Secondary Ambient Air Quality Standards, and Appendix Q Incorporation by Reference of OAC:252:100. The Submittal covers the annual updates for the years 2013, 2014, 2015, and 2016.

The criteria used to evaluate these SIP revisions are found primarily in section 110 of the Act. Section 110(l) requires that a SIP revision submitted to the EPA be adopted after reasonable notice and public hearing and also requires that the EPA not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. See the Technical Support Document (TSD) prepared in conjunction with this action for more information.

## **II. Evaluation**

Subchapters 2, 5, and Appendix Q of the Submittal are air permit-related provisions of the Oklahoma SIP, and we are not acting upon these provisions in this rulemaking action. The EPA plans to act on these provisions separately in a future rulemaking action.

In this action, we are proposing to approve revisions to OAC 252:100, Subchapters 13, 17, 25, 31, Appendix E, and Appendix F, as contained in the Submittal. Appendices E and F adopt primary and secondary National Ambient Air Quality Standards (NAAQS), respectively.

OAC 252:100, Subchapter 13 imposes requirements for controlling open burning of refuse and other combustible materials. It defines “air curtain incinerator” or “air curtain destructor” as an incineration unit that operates by forcefully projecting a curtain of air across an open,

integrated combustion chamber (fire box) or open pit or trench (trench burner) in which combustion occurs.

The Subchapter 13 revisions limit allowed open burning when an Ozone or PM Watch has been declared for the day of the burn in an area. This provision is intended to assist with attaining and maintaining the Ozone and PM NAAQS. Section OAC 252:100-13-8 concerns the use of air curtain incinerators and prohibits the owner or operator of an air curtain incinerator from accepting to burn any material owned by other persons and transporting any material to the property where the air curtain incinerator is located unless the material is 100 percent wood waste, 100 percent clean lumber, or 100 percent mixture of wood waste and clean lumber. This provision makes the open burning activities more stringent and assists with compliance determinations. Revisions to OAC 252:100-13-8 also mandate compliance with applicable federal incineration requirements of 40 CFR part 60. See the TSD prepared in conjunction with this rulemaking action for more information.

Since the record indicates that the submitted revisions to Subchapter 13 make applicability determinations clearer and improves compliance, we find that the Oklahoma SIP has not been relaxed and that the requirements of section 110(l) of the Act have been satisfied. See the TSD in the docket for this action. Therefore, we are proposing to approve the submitted revisions to Subchapter 13 into the Oklahoma SIP.

OAC 252:100, Subchapter 17 specifies design and operating requirements and establishes emission limitations for incinerators and municipal waste combustors. Submitted revisions to OAC 252:100-17, Part 3 General Purpose Incinerators and Part 9 Commercial and Industrial Solid Waste Incineration (CISWI) Units adjust enforceable requirements and compliance dates consistent with revisions to federal requirements dated February 7, 2013 (78 FR 9112). More

specifically, the submitted revisions incorporate changes to 40 CFR part 60, subpart DDDD Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration (CISWI) Units, Model Rule, Sections 60.2575 through 60.2875, including Tables 1 through 9. The State has adopted federal requirements for incinerators through an Incorporation By Reference (IBR) mechanism. See 64 FR 57392, and 70 FR 73595. The proposed revisions will render Subchapter 17 consistent with federal requirements and make the SIP more stringent. See the TSD for more information. Therefore, we are proposing to approve the submitted revisions to Subchapter 17 into the Oklahoma SIP.

OAC 252:100, Subchapter 25 concerns visible emissions and particulates and its purpose is to control visible emissions and particulate matter from the operation of specified air contaminant sources. More specifically, submitted revisions to OAC 252:100-25-5 require owners or operators of listed stationary sources install, calibrate, operate, and maintain all monitoring equipment for continuously monitoring opacity; it also requires compliance with 40 CFR part 60, Appendix B, and 40 CFR part 51, Appendix P. The proposed revisions will render Subchapter 25 consistent with federal requirements and make the SIP more stringent. See the TSD for more information. Therefore, we are proposing to approve the submitted revisions to Subchapter 25 into Oklahoma SIP.

ODEQ revised OAC 252:100, Subchapter 31 in 2002, 2003 (twice), 2012, and 2013. As a part of our review of the February 14, 2017 Submittal, each one of these five revisions has been evaluated in the TSD associated with this action.

In particular, Subchapter 252:100:31 concerns control of emission of sulfur compounds and its purpose is control emissions of sulfur compounds from stationary sources. Revisions to 252:100:31-25(3) state that required SO<sub>2</sub> emissions monitoring systems must comply with the

provisions of 40 CFR part 60, Appendix B, and 40 CFR part 51, Appendix P. As a result, the proposed revisions will be consistent with federal requirements and make the SIP more stringent. In addition, by replacing State's outdated 24-hour and annual SO<sub>2</sub> standards with the more stringent up-to-date short term federal 2010 1-Hour SO<sub>2</sub> standard (75 FR 35520, June 22, 2010), Subchapter 31 will provide for even better protection of public health and environment and make the SIP more stringent. See the TSD for more information. Therefore, we are proposing to approve the submitted revisions to Subchapter 31 into the Oklahoma SIP.

OAC 252:100, Appendix E concerns the primary NAAQS set forth to provide public health protection, including protecting the health of "sensitive" populations such as asthmatics, children, and the elderly. The submitted revision to Appendix E adopts the primary 2015 8-Hour ozone NAAQS and is consistent with 40 CFR 50.19, making the SIP more stringent. Also, see <https://www.epa.gov/criteria-air-pollutants/naaqs-table>. Therefore, we are proposing to approve the submitted revisions to OAC 252:100, Appendix E into the Oklahoma SIP. See the TSD for more information.

OAC 252:100, Appendix F concerns the secondary NAAQS set forth to provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings. The submitted revision to Appendix F concerns the secondary 2015 8-Hour ozone NAAQS and is consistent with 40 CFR 50.19, making the SIP more stringent. Also, see <https://www.epa.gov/criteria-air-pollutants/naaqs-table>. Therefore, we are proposing to approve the submitted revisions to OAC 252:100, Appendix F into the Oklahoma SIP.

### **III. Proposed Action**

We are proposing to approve revisions to OAC 252:100, Subchapters 13, 17, 25, 31, Appendix E, and Appendix F, as submitted to us by a letter dated February 14, 2017 (Submittal). The Submittal covers Oklahoma's updates for the years 2013, 2014, 2015, and 2016. We are proposing to approve these revisions in accordance with Section 110 of the Act.

### **IV. 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 the Proposed Action section above. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and in hard copy at the EPA Region 6 office.

### **V. 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: March 16, 2018.

**Anne Idsal,**  
*Regional Administrator,*  
*Region 6.*

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