



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2020-0604; FRL-10017-37-Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or Act), the Environmental Protection Agency (EPA) is proposing to approve the State Implementation Plan (SIP) submittal from Louisiana submitted on November 4, 2020 for the 2015 ozone (O₃), 2006 PM_{2.5}, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide and the 2012 PM_{2.5} National Ambient Air Quality Standards (NAAQS). This submittal addresses how the existing SIP contains adequate provisions prohibiting emissions which interfere with required measures in any other State to protect visibility with respect to the 2015 ozone NAAQS as well as the 2006 PM_{2.5}, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide and the 2012 PM_{2.5} NAAQS.

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-2020-0604, at <https://www.regulations.gov> or via email to huser.jennifer@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 Jennifer Huser, (214) 665-7347, huser.jennifer@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. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Jennifer Huser, EPA Region 6 Office, Air and Radiation Division - State Planning and Implementation Branch, 1201 Elm Street, Suite 500, Dallas, TX 75270, 214-665-7347, huser.jennifer@epa.gov. Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID-19. We encourage the public to submit comments via <https://www.regulations.gov>, as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

Under section 109 of the CAA, EPA establishes NAAQS to protect human health and public welfare. On October 26, 2015, the EPA revised the primary and secondary 8-hour ozone NAAQS from 0.075 ppm to 0.070 ppm to provide increased protection of public health and

public welfare.¹ In 2006, the EPA revised the PM_{2.5} NAAQS,² in 2008, the ozone NAAQS,³ in 2010, the nitrogen dioxide NAAQS,⁴ in 2010, the sulfur dioxide NAAQS,⁵ and in 2012, the PM_{2.5} NAAQS.⁶ The primary standards are set to protect human health, while secondary standards are set to protect public welfare.

The CAA requires states to submit, within 3 years after promulgation of a new or revised NAAQS, SIPs that meet the applicable infrastructure elements of sections 110(a)(1) and (2). This SIP submission is commonly referred to as an “infrastructure SIP” or “i-SIP”. Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as prongs, that must be addressed in these infrastructure SIP submissions. These prongs require that states adopt measures that prohibit certain adverse air quality effects on neighboring states due to interstate transport of pollution. Prong 4 requires states to demonstrate that their SIP contains adequate measures that prohibit emissions from any source within a state from interfering with the visibility protection measures of other states (also referred to as visibility transport).

In EPA’s 2013 guidance for states regarding i-SIPs,⁷ EPA discussed its interpretation of Prong 4 and its relationship to the Regional Haze program under CAA sections 169A and 169B. EPA suggested two options states may have to demonstrate that the requirements of Prong 4 are met. One way in which Prong 4 may be satisfied for any relevant NAAQS is through confirmation in its infrastructure SIP submission that it has an approved regional haze SIP that fully meets the requirements of 40 CFR 51.308 or 51.309. Alternatively, states may submit a demonstration in its infrastructure SIP submission that shows that emissions within its jurisdiction do not interfere with other states’ plans to protect visibility. The demonstration must

¹ 80 FR 65291 (October 26, 2015)

² 71 FR 61144 (October 17, 2006)

³ 73 FR 16483 (March 27, 2008)

⁴ 75 FR 6474 (February 9, 2010)

⁵ 75 FR 35520 (June 22, 2010)

⁶ 78 FR 3085 (January 15, 2013)

⁷ Stephen D. Page, Director, Office of Air Quality Planning and Standards. “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Section 110(a)(1) and 110(a)(2).” Memorandum to EPA Air Division Directors, Regions 1 through 10, September 13, 2013 (hereinafter “2013 I-SIP Guidance”).

show that the state has sufficient measures that have been approved into its SIP that prevent emissions within its jurisdiction from interfering with the visibility protection plans of other states.

A. Louisiana's Infrastructure SIP Submittals for 2006 PM_{2.5}, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide and the 2012 PM_{2.5} National Ambient Air Quality Standards (NAAQS)

Louisiana made the following submissions to EPA to satisfy the i-SIP requirements: 2006 PM_{2.5} NAAQS, on May 11, 2011; 2008 O₃, 2010 NO₂, 2010 SO₂ NAAQS on June 7, 2013 and the 2012 PM_{2.5} NAAQS on December 16, 2015.⁸ In an October 2016 action, we disapproved the portions of these submissions which addressed Prong 4 and approved the other portions which address the other elements found in section 110(a)(2).⁹ We disapproved Prong 4 for these specific NAAQS, because the state did not have a fully approved Regional Haze SIP at the time of submittal, nor did the state provide a demonstration which shows that they have met the Prong 4 requirement.

B. Regional Haze and Visibility Transport in Louisiana

On June 13, 2008, Louisiana submitted a SIP to EPA, which addressed the regional haze requirements. EPA acted upon this SIP in two separate actions. The first was a limited disapproval for best available retrofit technology (BART) determinations for electric generating units (EGUs) as there were deficiencies in the SIP arising from the remand by the US Court of Appeals for the District of Columbia of the Clean Air Interstate Rule (CAIR)¹⁰. The second action was a partial limited approval/partial disapproval; EPA found that the revision met some,

⁸ These i-SIP submittals are available on regulations.gov in docket number EPA-R06-OAR-2013-0465.

⁹ 81 FR 68322 (October 4, 2016).

¹⁰ 77 FR 33642 (June 7, 2012).

but not all of the applicable requirements.¹¹ EPA granted a partial limited approval of the LA Regional Haze (RH) SIP submittal for meeting the requirements of: 51.308(d), for the core requirements for regional haze SIPs, except for the requirements of 51.308(d)(3); 51.308(f), for the commitment to submit comprehensive periodic revisions of regional haze SIPs; 51.308(g), for the commitment to submit periodic reports describing progress towards the reasonable progress goals (RPGs); 51.308(h), for the commitment to conduct periodic determinations of the adequacy of the existing regional haze SIP; and 51.308(i), for coordination with state and Federal Land Managers¹². In that action, the EPA also partially disapproved the LA RH SIP submittal because it did not include fully approvable measures for meeting the requirements of 40 CFR 51.308(d)(3), long-term strategy for regional haze as it relied on deficient non-EGU BART analyses; and 51.308(e), BART requirements for regional haze visibility impairment with respect to emissions of visibility impairing pollutants from four non-EGUs.

In response to EPA's partial disapproval and limited disapproval of the original regional haze submittal, Louisiana performed BART determinations for both electric generating units (EGUs) and other facilities (non-EGUs). On August 11, 2016, Louisiana submitted a SIP revision to address the deficiencies related to BART for the non-EGU facilities. EPA proposed approval of this submittal on October 27, 2016.¹³ On February 10, 2017, Louisiana submitted a SIP revision intended to address the deficiencies related to BART for EGU sources. On May 19, 2017, EPA proposed approval of that revision with the exception of the portion related to a coal-burning facility in Calcasieu Parish.¹⁴ On June 20, 2017, and in a subsequent revision on October 26, 2017, Louisiana submitted a SIP revision for parallel processing related to the EGU in Calcasieu Parish. On September 25, 2017, EPA proposed approval on this SIP revision.¹⁵ On December 21, 2017, EPA published final approval of these SIP revisions addressing the BART

¹¹ 77 FR 39425 (July 3, 2012).

¹² 77 FR 39425 (July 3, 2012).

¹³ 81 FR 74750 (August 16, 2016).

¹⁴ 82 FR 22936 (May 19, 2017).

¹⁵ 82 FR 44753 (September 26, 2017).

requirements for these facilities. This SIP approval determined that Louisiana has met all applicable regional haze requirements as set forth in sections 169A and 169B of the CAA and 40 CFR 51.300-308.¹⁶

II. Louisiana's Visibility Transport Submittal

On November 4, 2020, LDEQ submitted a SIP revision to EPA in order to satisfy the visibility transport requirements for the following NAAQS: 2015 ozone, 2006 particulate matter (PM_{2.5}), 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide, and the 2012 particulate matter (PM_{2.5}). Louisiana determined that they have met the Prong 4 requirements for the 2015 ozone NAAQS. Louisiana's submittal also addresses the Prong 4 requirements that were previously disapproved for the 2006 PM_{2.5}, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide and the 2012 PM_{2.5} NAAQS. Louisiana did not have a fully approved Regional Haze SIP at the time of the disapproval action. The SIP revision contains the state's Regional Haze SIP history: Louisiana submitted their first regional haze SIP to EPA on June 13, 2008, and after multiple SIP revisions, EPA approved their Regional Haze SIP on December 21, 2017.¹⁷ Based on the full approval of their Regional Haze SIP, Louisiana has determined that they now meet the Prong 4 requirements for visibility transport for the 2015 Ozone NAAQS. Louisiana has also determined that they now meet the Prong 4 requirements for the 2006 PM_{2.5}, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide and the 2012 PM_{2.5} NAAQS, which we previously disapproved.

III. The EPA's Evaluation of Louisiana's i-SIP

¹⁶ 82 FR 60520 (December 21, 2017).

¹⁷ 82 FR 60520 (December 21, 2017).

Under section 110(a)(2)(D)(i)(II), an infrastructure SIP submission cannot be approved with respect to Prong 4 (visibility transport) until the EPA has issued final approval of SIP provisions that the EPA has found to adequately address any contribution of that state's sources to impacts on visibility program requirements in other states. The EPA interprets this prong to be pollutant-specific, such that the infrastructure SIP submission need only address the potential for interference with protection of visibility caused by the pollutant (including precursors) to which the new or revised NAAQS applies.

One way in which Prong 4 may be satisfied is through an air agency's confirmation in its infrastructure SIP submission that it has an approved regional haze SIP that fully meets the requirements of 40 CFR 51.308 or 51.309. 40 CFR 51.308 and 51.309 specifically require that a state participating in a regional planning process include all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. See 40 CFR 51.308(d)(3)(ii). Thus, a fully approved regional haze SIP will ensure that emissions from sources under an air agency's jurisdiction are not interfering with measures required to be included in other air agencies' plans to protect visibility.

The last remaining elements of Louisiana's Regional Haze SIP were approved by EPA on December 21, 2017.¹⁸ Accordingly, EPA proposes to find that Louisiana meets the visibility protection requirements of 110(a)(2)(D)(i)(II) for the 2015 ozone, 2006 PM_{2.5}, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide and the 2012 PM_{2.5} NAAQS.

IV. Proposed Action

The EPA is proposing to approve the SIP revision submitted on November 4, 2020 which addresses the Prong 4 requirements for the following NAAQS: 2015 Ozone, 2006 PM_{2.5}, 2008 Ozone, 2010 Nitrogen dioxide, 2010 Sulfur Dioxide, and the 2012 PM_{2.5} as Louisiana now has a fully approved Regional Haze SIP.

¹⁸ 82 FR 60520 (December 21, 2017).

V. 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 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);
- 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 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur dioxide.

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

Dated: February 5, 2021.

David Gray,

Acting Regional Administrator, Region 6.

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