



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0626; FRL-10017-45-Region 4]

Air Plan Approval; Tennessee; Emissions Inventory and Nonattainment New Source Review Plan for Sullivan County SO₂ Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve portions of State Implementation Plan (SIP) revisions submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on May 12, 2017. The portions that EPA is approving are the emissions inventory and nonattainment new source review (NNSR) requirements for the 2010 1-hour sulfur dioxide (SO₂) primary national ambient air quality standard (NAAQS) for the Sullivan County SO₂ nonattainment area (hereinafter referred to as the “Sullivan County Area” or “Area”). The Sullivan County Area is comprised of a portion of Sullivan County in Tennessee surrounding the Eastman Chemical Company (hereinafter referred to as “Eastman”). EPA is not taking action on the other portions of the May 12, 2017, SIP submissions. EPA has determined that Tennessee has met the applicable emissions inventory and NNSR requirements under the Clean Air Act (CAA or Act) for the 2010 1-hour primary SO₂ NAAQS in the Sullivan County Area.

DATES: This rule is effective [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2017-0626. All documents in the docket are listed on the www.regulations.gov web site. 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 Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Steven Scofield, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Scofield can be reached via telephone at (404) 562-9034 or via electronic mail at scofield.steve@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

On June 22, 2010, EPA published notice of a new 1-hour primary SO₂ NAAQS of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour concentrations does not exceed 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. *See* 75 FR 35520, codified at 40 CFR 50.17(a) and (b). On August 5, 2013, EPA designated a first set of 29 areas of the country as nonattainment for the 2010 SO₂ NAAQS, including the Sullivan County Area within the State of Tennessee. *See* 78 FR 47191, codified at 40 CFR part 81, subpart C. These "Round one" area designations were effective October 4, 2013. Section 191(a) of the CAA directs states to submit SIPs for areas designated as nonattainment for the SO₂ NAAQS to EPA within 18 months of the effective date of the designation, *i.e.*, by no later than April 4, 2015 in

this case. Section 192(a) requires that such plans shall provide for NAAQS attainment as expeditiously as practicable, but no later than 5 years from the effective date of designation, which is October 4, 2018 in this case, in accordance with CAA sections 191-192.

Section 172(c) of part D of the CAA requires such SIP submittals to comply with the following: provide for the implementation of all reasonably available control measures as expeditiously as practicable and attainment of the NAAQS; require reasonable further progress (RFP); include a comprehensive, accurate, current inventory of actual emissions from all sources in the area; identify and quantify the emissions of any pollutants from new or modified major sources in the area and demonstrate the emissions will be consistent with the achievement of RFP and will not interfere with attainment of the applicable NAAQS; require permits for new or modified major sources anywhere in the nonattainment area; include enforceable emission limitations and such other measures as may be necessary or appropriate to provide for attainment the NAAQS; comply with CAA section 110(a)(2); and provide for the implementation of contingency measures to be undertaken if the area fails to make RFP, or to attain the NAAQS by the attainment date. In this action, the only portions of Tennessee's submissions that EPA is approving are the emissions inventory and NNSR requirements of 172(c)(3) and (5), respectively.

On April 23, 2014, EPA issued a guidance document entitled, "Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions." This guidance provides recommendations for the development of SO₂ nonattainment SIPs to satisfy CAA requirements (*see, e.g.*, sections 172, 191, and 192). A nonattainment SIP must also meet the requirements of 40 CFR part 51, subparts F and G, and 40 CFR part 51, appendix W (the *Guideline on Air Quality Models*; "the *Guideline*"), and include inventory data, modeling results, and emissions reduction analyses on which the state has based its projected attainment. The base year emissions inventory (section 172(c)(3)) is required to show a "comprehensive, accurate, current inventory" of all relevant pollutants in the nonattainment area. To meet the NNSR requirements of section 172(c)(5), the

state's SIP is required to include a program to address new and modified major sources as provided in 40 CFR 51.165.

For a number of areas, including the Sullivan County Area, EPA published a document on March 18, 2016, finding that pertinent states had failed to submit the required SO₂ nonattainment plan by the submittal deadline. *See* 81 FR 14736. This finding initiated a deadline under CAA section 179(a) for the potential imposition of new source review and highway funding sanctions, and for EPA to promulgate a federal implementation plan (FIP) under section 110(c) of the CAA. In response to the requirement for SO₂ nonattainment plan submittals, Tennessee submitted a nonattainment plan for the Sullivan County Area on May 12, 2017. Pursuant to Tennessee's May 12, 2017, submittals and EPA's subsequent completeness determination letter dated October 10, 2017, sanctions under section 179(a) will not be imposed as a result of Tennessee having missed the April 4, 2015, submission deadline.

On June 29, 2018 (83 FR 30609), EPA proposed to approve Tennessee's May 12, 2017, nonattainment plan submittals and SO₂ attainment demonstration. The State's submittals and attainment demonstration included all the specific nonattainment SIP elements mentioned above. Comments on EPA's proposed rulemaking were due on or before July 30, 2018. EPA received two sets of relevant comments on the proposed approval of Tennessee's nonattainment area plan for the Sullivan County Area. These comments and others are available in the docket for this final rulemaking action. None of the comments received related to EPA's proposed approval of the emissions inventory pursuant to 172(c)(3) or the NNSR requirements pursuant to 172(c)(5), and these requirements are separate and severable from the requirements for which EPA received comments.

For a comprehensive discussion of EPA's analysis and rationale for approval of the emissions inventory and NNSR portions of the State's submittals for this Area, please refer to EPA's June 29, 2018, notice of proposed rulemaking. EPA has determined that the Tennessee SIP submittals provide a comprehensive, accurate, and current inventory of SO₂ emissions in the

Sullivan County Area. In addition, Tennessee's SIP contains NNSR requirements at Tennessee Air Pollution Control Regulation 1200-03-09-.01(5) that satisfy the applicable federal NNSR requirements for permitting of new and modified major sources.

II. Final Action

EPA is taking final action to approve the emissions inventory and NNSR portions of Tennessee's SO₂ nonattainment SIP submissions, which the State submitted to EPA on May 12, 2017, to meet certain nonattainment area planning requirements. EPA has determined that these portions of Tennessee's nonattainment SIP meet the applicable requirements of sections 110 and 172 of the CAA and applicable regulatory requirements at 40 CFR part 51.

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. 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);
- 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).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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 CAA, 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, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Signing Statement

This document of the Environmental Protection Agency was signed on January 4, 2021, by Mary Walker, Regional Administrator, pursuant to the Statutory Deadline of the Clean Air Act. That document with the original signature and date is maintained by EPA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned EPA Official re-signs the document for publication, as an official document of the Environmental Protection Agency. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Dated: February 23, 2021.

John Blevins,

Acting Regional Administrator,

Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 RR – Tennessee

2. In §52.2220 amend the table in paragraph (e) by adding, at the end of the table, entries for “2010 1-Hour SO₂ Emissions Inventory for the Sullivan County Area” and “2010 1-Hour Nonattainment New Source Review Plan for the Sullivan County Area” to read as follows:

§52.2220 Identification of plan.

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(e) * * *

EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
**	**	*	*	*
2010 1-Hour SO ₂ Emissions Inventory for the Sullivan County Area	Sullivan County	5/10/2017	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	Addressing the base-year emissions inventory requirements of 172(c)(3).
2010 1-Hour SO ₂ Nonattainment New Source Review Plan for the Sullivan County Area	Sullivan County	5/10/2017	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	