



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2019-0535; FRL-11020-02-R4]

Air Plan Approval; TN; 2010 1-Hour SO₂ NAAQS Transport Infrastructure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving Tennessee's July 31, 2019, State Implementation Plan (SIP) submission pertaining to the "good neighbor" provision of the Clean Air Act (CAA or Act) for the 2010 1-hour sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). The good neighbor provision requires each State's implementation plan to contain adequate provisions prohibiting the interstate transport of air pollution in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of a NAAQS in any other State. EPA has determined that Tennessee will not contribute significantly to nonattainment or interfere with maintenance of the 2010 1-hour SO₂ NAAQS in any other State. Therefore, EPA is approving the July 31, 2019, SIP revision as meeting the requirements of the good neighbor provision for the 2010 1-hour SO₂ NAAQS.

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-2019-0535. All documents in the docket are listed on the www.regulations.gov website. 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: Evan Adams, 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. Adams can be reached via phone number (404) 562-9009 or via electronic mail at adams.evan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On June 2, 2010, EPA promulgated a revised primary SO₂ NAAQS with a level of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations. *See* 75 FR 35520 (June 22, 2010). Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may describe. These SIPs, which EPA has historically referred to as “infrastructure SIPs,” are to provide for the “implementation, maintenance, and enforcement” of such NAAQS, and the requirements are designed to ensure that structural components of each State's air quality management program are adequate to meet the State's responsibility under the CAA. Section 110(a) of the CAA requires States to make a SIP submission to EPA for a new or revised NAAQS, but the contents of individual State submissions may vary depending upon the facts and circumstances. The content of the changes in such SIP submissions may also vary

depending upon what provisions the State's approved SIP already contains. Section 110(a)(2) requires States to address basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS.

Section 110(a)(2)(D)(i)(I) of the CAA requires SIPs to include provisions prohibiting any source or other type of emissions activity in one State from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of a NAAQS in another State. The two clauses of this section are referred to as prong 1 (significant contribution to nonattainment of the NAAQS) and prong 2 (interference with maintenance of the NAAQS).

On July 31, 2019, the Tennessee Department of Environment & Conservation (TDEC) submitted a revision to the Tennessee SIP¹ addressing prongs 1 and 2 of CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO₂ NAAQS.² TDEC completed updated transport modeling for the Eastman Chemical facility in Sullivan County, Tennessee, and submitted it to EPA on November 30, 2021, to supplement the July 31, 2019 submission.³ EPA is approving TDEC's July 31, 2019, SIP submission because the State has demonstrated that Tennessee will not contribute significantly to nonattainment, or interfere with maintenance, of the 2010 1-hour SO₂ NAAQS in any other State. All other elements related to the infrastructure requirements of section 110(a)(2) for the 2010 1-hour SO₂ NAAQS for Tennessee are addressed in separate rulemakings.⁴

In a notice of proposed rulemaking (NPRM) published on June 26, 2023 (88 FR 41344), EPA proposed to approve TDEC's July 31, 2019, SIP submission for the 2010 1-hour SO₂ NAAQS. The details of the SIP revision and the rationale for EPA's action is explained in the

¹ TDEC submitted its SIP revision on August 1, 2019, through a transmittal letter dated July 31, 2019.

² On March 13, 2014, TDEC submitted a SIP revision addressing all infrastructure elements with respect to the 2010 1-hour SO₂ NAAQS with the exception of prongs 1 and 2 of CAA 110(a)(2)(D)(i)(I).

³ EPA officially received the supplemental file dated November 30, 2021, on December 7, 2021.

⁴ EPA acted on all other infrastructure elements for the 2010 1-hour SO₂ NAAQS in Tennessee's March 13, 2014, SIP revision on November 28, 2016 (81 FR 85410) and September 24, 2018 (83 FR 48237).

June 26, 2023, NPRM.⁵ Comments on the June 26, 2023, NPRM were due on or before July 26, 2023. No comments were received on the June 26, 2023, NPRM, adverse or otherwise.

II. Final Action

EPA is approving Tennessee's July 31, 2019, SIP submission as meeting the good neighbor provision of CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO₂ NAAQS. EPA is finalizing approval based on the information and analysis detailed in EPA's proposed rule, which demonstrates that Tennessee will not contribute significantly to nonattainment, or interfere with maintenance, of the 2010 1-hour SO₂ NAAQS in any other State. This action is being taken under section 110 of the CAA.

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 14094 (88 FR 21879, April 11, 2023);
- 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.*);

⁵ Additional details regarding EPA's evaluation of TDEC's modeling are provided in the Modeling Technical Support Document (TSD) available in the docket supporting this final action.

- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms

and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

TDEC did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 28, 2023.

Jeaneanne Gettle,

*Acting Regional Administrator,
Region 4.*

For the reasons stated in the preamble, 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(e), amend the table by adding the entry “110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO₂ NAAQS” at the end of the table 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 |
|---|--|-----------------------------|---|--|
| ** | ** | * | * | * |
| 110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO ₂ NAAQS | Tennessee | 7/31/2019 | [Insert date of publication in <i>Federal Register</i>], [Insert citation of publication] | Addressing prongs 1 and 2 of section 110(a)(2)(D)(i) only. |

