



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2013-0388; FRL-12796-02-R6]

### Air Plan Approval; Texas; Interstate Transport Requirements for the 2010 SO<sub>2</sub> NAAQS

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

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving the portion of the State Implementation Plan (SIP) submittal from the State of Texas demonstrating that the State satisfies the interstate transport requirements of section 110(a)(2)(D)(i)(I), also known as the “good neighbor” provision of the CAA, for the 2010 1-hour sulfur dioxide (SO<sub>2</sub>) primary 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.

**DATES:** This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2013-0388. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., 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. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Nevine Salem, EPA Region 6 Office, Ozone and Infrastructure SIP Section, 214-665-7222, *salem.nevine@epa.gov*. 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 “we,” “us,” and “our” means the EPA.

## **I. Background**

Section 110(a)(2)(D)(i)(I) of the CAA requires a State’s SIP to include provisions prohibiting any source or other type of emission activity in the State from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in any other State. EPA has long interpreted this language to enact a “functional prohibition” on certain emissions from upwind states, necessitating the EPA’s independent assessment whether those emissions will occur or have been adequately controlled in the State where they originate. The EPA often refers to these requirements as Prong 1 (significant contribution to nonattainment of the NAAQS) and Prong 2 (interference with maintenance of the NAAQS). Additional background for this action is discussed in detail in our June 18, 2025, proposal (90 FR 25924). In that document we proposed to approve the portions of the infrastructure SIP submission adopted by the state of Texas on April 23, 2013, and submitted May 06, 2013, addressing interstate transport for the 2010 1-hour SO<sub>2</sub> NAAQS.

The EPA provided a 30-day review and comment period for the June 18, 2025, proposed rulemaking. The comment period ended on July 18, 2025. We received two comments on our proposed action, one in support from the Texas Commission on Environmental Quality (TCEQ) and another that was outside the scope of our rulemaking from an anonymous commentor. EPA acknowledges receipt of the comments. See

section II of this preamble for a brief discussion of the comments and EPA's response.

Full copies of the comments received are included in the docket for this rule making.

## **II. Response to Comments**

*Comment:* The TCEQ comment states that the EPA's review of recent air monitoring data in their supplemental analysis arrived at the same conclusion Texas made in the 2013 SIP submittal; Texas does not contribute significantly to nonattainment or maintenance of the 2010 1-hour SO<sub>2</sub> NAAQS in other states.

*Response:* EPA appreciates the TCEQ's comment in support of EPA's rulemaking.

*Comment:* An anonymous public comment recommends EPA to not accept the Texas plan and notes issues that are outside the scope of this rulemaking.

*Response:* EPA acknowledges receipt of the anonymous comment. This comment does not address, with any specificity, any particular issues with EPA's rationale or basis in the proposal, thus we do not have any information upon which to respond that would change our rationale put forward in the proposal. The remainder of the items raised in this comment are outside the scope of this action.

## **III. Final Action**

The EPA is approving the portions of the Texas' SIP that address two of the interstate transport requirements for the 2010 1-hour SO<sub>2</sub> NAAQS as these portions meet the requirements in CAA section 110 and specifically in 110(a)(2)(D)(i)(I). EPA determines that the Texas SIP contains adequate provisions to ensure that the air emissions in the state will not significantly contribute to nonattainment or interfere with maintenance of the 2010 SO<sub>2</sub> NAAQS in any other state. This action is being taken under section 110 of the Act.

## **IV. Statutory and Executive Order Reviews**

Under the Clean Air 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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, 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);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 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 Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the 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).

This action is subject to the Congressional Review Act, and the 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 Clean Air Act, 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, Interstate transport of pollution, Sulfur oxide.

Dated: August 20, 2025.

**Walter Mason**  
*Regional Administrator, Region 6.*

For the reasons stated in the preamble, the Environmental Protection Agency 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 SS— Texas**

2. In § 52.2270, the second table in paragraph (e), titled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by adding an entry for “Interstate transport for the 2010 SO<sub>2</sub> NAAQS (contribute to nonattainment or interfere with maintenance)” at the end of the table to read as follows:

**§ 52.2270 Identification of plan**

\* \* \* \* \*

(e) \* \* \*

**EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES  
IN THE TEXAS SIP**

Name of SIP provision	Applicable geographic or nonattainment area	State Submittal/ effective data	EPA approval date	Comments
* * * * *				
Interstate transport for the 2010 SO <sub>2</sub> NAAQS (contribute to nonattainment or interfere with maintenance)	Statewide	05/06/2013	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]	Adequate provisions prohibiting emissions which will contribute significantly to nonattainment in or interfere with maintenance of the 2010 SO <sub>2</sub> NAAQS in any other State.

\* \* \* \* \*

[FR Doc. 2025-16467 Filed: 8/27/2025 8:45 am; Publication Date: 8/28/2025]