

revisions required under CAA section 179(d) would be due for submittal to EPA no later than one year after the publication date of the final action. However, for the Rhinelander area, if EPA approves the recently revised SIP submission submitted by the State of Wisconsin, EPA is proposing to treat that submission as satisfying the requirement to submit revisions to the SIP to address the failure to timely attain the 2010 SO<sub>2</sub> NAAQS.

EPA is soliciting public comments on the issues discussed in this action. EPA will accept comments from the public on this proposal for the next 30 days and will consider these comments before taking final action.

#### IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

##### A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and therefore was not submitted to the Office of Management and Budget (OMB) for review.

##### B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the PRA because it does not contain any information collection activities.

##### C. Regulatory Flexibility Act (RFA)

EPA certifies that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This proposed action, if finalized, would require the State to adopt and submit SIP revisions to satisfy CAA requirements and would not itself directly regulate any small entities.

##### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of \$100 million or more, as described in UMRA (2 U.S.C. 1531–1538) and does not significantly or uniquely affect small governments. This action itself imposes no enforceable duty on any state, local, or tribal governments, or the private sector. This action proposes to determine that the Detroit and Rhinelander SO<sub>2</sub> nonattainment areas failed to attain the NAAQS by the applicable attainment

dates. If finalized, this determination would trigger existing statutory timeframes for the State to submit SIP revisions. Such a determination in and of itself does not impose any Federal intergovernmental mandate.

##### E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

##### F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. The proposed finding of failure to attain the SO<sub>2</sub> NAAQS does not apply to tribal areas, and the proposed rule would not impose a burden on Indian reservation lands or other areas where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction within the Detroit and Rhinelander SO<sub>2</sub> nonattainment areas. Thus, this 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.

##### G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive order. This proposed action is not subject to Executive Order 13045 because the effect of this proposed action, if finalized, would be to trigger additional planning requirements under the CAA. This proposed action does not establish an environmental standard intended to mitigate health or safety risks.

##### H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

##### I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

##### J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The effect of this proposed action, if finalized, would be to trigger additional planning requirements under the CAA.

##### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

Dated: October 20, 2021.

**Cheryl Newton,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2021–23274 Filed 10–26–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R06–OAR–2021–0621; FRL–9085–01–R6]

### Air Plan Approval; Oklahoma; Updates to the General SIP and Incorporation by Reference Provisions

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve identified portions of two revisions to the Oklahoma State Implementation Plan (SIP) submitted by the State of Oklahoma designee on May 15, 2020, and February 9, 2021. This action addresses the revisions submitted to the Oklahoma SIP pertaining to the general SIP definitions and the incorporation by reference of Federal requirements under Oklahoma Administrative Code (OAC).

**DATES:** Written comments must be received on or before November 26, 2021.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2021–0621, at <https://www.regulations.gov> or via email to

[wiley.adina@epa.gov](mailto:wiley.adina@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 Adina Wiley, (214) 665-2115, [wiley.adina@epa.gov](mailto:wiley.adina@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](http://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:** Ms. Adina Wiley, EPA Region 6 Office, Air Permits Section, 214-665-2115, [wiley.adina@epa.gov](mailto:wiley.adina@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 email 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

Section 110 of the Act requires states to develop air pollution regulations and control strategies to ensure that air quality meets the EPA’s National Ambient Air Quality Standards (NAAQS). These ambient standards are established under section 109 of the Act and they currently address six criteria

pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. The state’s air regulations are contained in its SIP, which is basically a clean air plan. Each state is responsible for developing SIPs to demonstrate how the NAAQS will be achieved, maintained, and enforced. The SIP must be submitted to the EPA for approval, and any changes a state makes to the approved SIP also must be submitted to the EPA for approval.

On December 15, 2020, Mr. Kenneth Wagner, Secretary of Energy and Environment, submitted revisions to the Oklahoma SIP that included the annual SIP updates for 2019. The submittal included revisions to OAC 252:100, Subchapter 2 and Appendix Q to update the incorporation by reference of Federal requirements, which will be addressed in this proposal. The submittal also included revisions to OAC 252:100, Subchapter 39, to revise the regulations for control of volatile organic compounds (VOCs) in nonattainment areas and former nonattainment areas. The EPA has determined that the May 15, 2020, submitted revisions to OAC 252:100, Subchapter 39 will be addressed in a separate rulemaking.<sup>1</sup>

On February 9, 2021, Mr. Wagner, Secretary of Energy and Environment, submitted revisions to the Oklahoma SIP that included the annual SIP updates for 2020. The submittal included revisions to OAC 252:100, Subchapter 1 to update the definitions for the Oklahoma SIP and revisions to OAC 252:100, Subchapter 2 and Appendix Q to update the incorporation by reference of Federal requirements. This proposal will address the submitted revisions to OAC 252:100-1-3, Subchapter 2 and Appendix Q. We have determined that the revisions to the statutory definitions at OAC 252:100-1-2 should be reviewed in a separate action. The submittal also included revisions to OAC 252:100, Subchapter 13, to revise the open burning regulations; Subchapters, 37, 39, and Appendix N to revise the regulations for control of VOC emissions in nonattainment areas and former nonattainment areas from aerospace industries coating operations; and revisions to Subchapters 39-49 to revise the regulations for the control of VOC emissions in nonattainment areas and former nonattainment areas from manufacturing of fiberglass reinforced plastic products. The EPA has

<sup>1</sup>The EPA’s action on the revisions to OAC 252:100, Subchapter 39 can be found at [www.regulations.gov](http://www.regulations.gov), Docket No. EPA-R06-OAR-2020-0437.

determined that the February 9, 2021, submitted revisions to OAC 252:100, Subchapters 13, 37, 39-49, and Appendix N will be addressed in a separate rulemaking action.

## II. The EPA’s Evaluation

The accompanying Technical Support Document for this action includes a detailed analysis of the submitted revisions to the Oklahoma SIP which are the subject of this proposed rulemaking. Our analysis indicates that the May 15, 2020, and the February 9, 2021, SIP revisions addressed in this proposed rulemaking action were developed in accordance with the CAA and the State provided reasonable notice and public hearing.

### *Updates to the Oklahoma SIP Definitions*

The general SIP provisions of OAC 252:100, Subchapter 1, incorporate statutory definitions at OAC 252:100-1-2 and general definitions at OAC 252:100-1-3. On February 9, 2021, the ODEQ submitted revisions to OAC 252:100-1-2 and OAC 252:100-1-3 adopted on June 25, 2020, effective September 15, 2020. The EPA is only addressing the submitted revisions to OAC 252:100-1-3 at this time.

The revisions to OAC 252:100-1-3, update the definitions used throughout the Oklahoma SIP. The revisions to the definitions of “Best available control technology” and “responsible official” and the new definition for “Title V permit” are consistent with the underlying federal requirements.

### *Updates to the Oklahoma SIP Incorporation by Reference Provisions*

The ODEQ submitted revisions on May 15, 2020 and February 9, 2021, to update the Incorporation by Reference provisions found in the Oklahoma SIP. These revisions ensure the Oklahoma SIP maintains consistency with current federal requirements.

On May 15, 2020, the ODEQ submitted revisions to OAC 252:100-2-3 and Appendix Q that were adopted on May 28, 2019 and effective September 15, 2019. These revisions updated the incorporation by reference date in the opening paragraph of OAC 252:100-2-3 and revoked and replaced the previous version of OAC 252, Chapter 100, Appendix Q.

On February 9, 2021, the ODEQ submitted another set of revisions to OAC 252:100-2-3 and Appendix Q that were adopted on June 25, 2020, and effective September 15, 2020. The February 9, 2021, revisions updated the opening paragraph of OAC 252:100-2-3 to include the current incorporation

by reference date and revoked and replaced the prior version of Appendix Q that was submitted on May 15, 2020.

### III. Impact on Areas of Indian Country

Following the U.S. Supreme Court decision in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020), the Governor of the State of Oklahoma requested approval under Section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005: A Legacy for Users, Public Law 109–59, 119 Stat. 1144, 1937 (August 10, 2005) (“SAFETEA”), to administer in certain areas of Indian country (as defined at 18 U.S.C. 1151) the State’s environmental regulatory programs that were previously approved by the EPA for areas outside of Indian country. The State’s request excluded certain areas of Indian country further described below. In addition, the State only sought approval to the extent that such approval is necessary for the State to administer a program in light of *Oklahoma Dept. of Environmental Quality v. EPA*, 740 F.3d 185 (D.C. Cir. 2014).<sup>2</sup>

On October 1, 2020, the EPA approved Oklahoma’s SAFETEA request to administer all the State’s EPA-approved environmental regulatory programs, including the Oklahoma SIP, in the requested areas of Indian country. As requested by Oklahoma, the EPA’s approval under SAFETEA does not include Indian country lands, including rights-of-way running through the same, that: (1) Qualify as Indian allotments, the Indian titles to which have not been extinguished, under 18 U.S.C. 1151(c); (2) are held in trust by the United States on behalf of an individual Indian or Tribe; or (3) are owned in fee by a Tribe, if the Tribe (a) acquired that fee title to such land, or an area that included such land, in accordance with a treaty with the United States to which such Tribe was a party, and (b) never allotted the land to a member or citizen of the Tribe (collectively “excluded Indian country lands”).

EPA’s approval under SAFETEA expressly provided that to the extent EPA’s prior approvals of Oklahoma’s

environmental programs excluded Indian country, any such exclusions are superseded for the geographic areas of Indian country covered by the EPA’s approval of Oklahoma’s SAFETEA request.<sup>3</sup> The approval also provided that future revisions or amendments to Oklahoma’s approved environmental regulatory programs would extend to the covered areas of Indian country (without any further need for additional requests under SAFETEA).

The EPA is proposing to approve revisions to the general definitions used in the Oklahoma SIP as well as updates to the incorporation by reference provisions to maintain consistency with federal requirements, which will apply statewide in Oklahoma. Consistent with the D.C. Circuit’s decision in *ODEQ v. EPA* and with EPA’s October 1, 2020 SAFETEA approval, if this approval is finalized as proposed, these SIP revisions will apply to all Indian country within the State of Oklahoma, other than the excluded Indian country lands, as described above. Because—per the State’s request under SAFETEA—EPA’s October 1, 2020 approval does not displace any SIP authority previously exercised by the State under the CAA as interpreted in *ODEQ v. EPA*, the SIP will also apply to any Indian allotments or dependent Indian communities located outside of an Indian reservation over which there has been no demonstration of tribal authority.<sup>4</sup>

### IV. Proposed Action

We are proposing to approve under section 110 of the CAA, revisions to the Oklahoma SIP that update the definitions relied on throughout the SIP

<sup>3</sup> EPA’s prior approvals relating to Oklahoma’s SIP frequently noted that the SIP was not approved to apply in areas of Indian country (consistent with the D.C. Circuit’s decision in *ODEQ v. EPA*) located in the state. *See, e.g.*, 85 FR 20178, 20180 (April 10, 2020). Such prior expressed limitations are superseded by the EPA’s approval of Oklahoma’s SAFETEA request.

<sup>4</sup> In accordance with Executive Order 13990, EPA is currently reviewing our October 1, 2020 SAFETEA approval and is engaging in further consultation with tribal governments and discussions with the State of Oklahoma as part of this review. EPA also notes that the October 1, 2020 approval is the subject of a pending challenge in federal court. (*Pawnee v. Regan*, No. 20–9635 (10th Cir.)). Pending completion of EPA’s review, EPA is proceeding with this proposed action in accordance with the October 1, 2020 approval. EPA’s final action on the approved revisions to the Oklahoma SIP that include revisions to OAC 252:100–1–3, 2–3, and Appendix Q will address the scope of the state’s program with respect to Indian country, and may make any appropriate adjustments, based on the status of our review at that time. If EPA’s final action on Oklahoma’s SIP is taken before our review of the SAFETEA approval is complete, EPA may make further changes to the approval of Oklahoma’s program to reflect the outcome of the SAFETEA review.

and update the incorporation by reference dates for Federal requirements. We have determined that the revisions submitted on May 15, 2020, and February 9, 2021, were developed in accordance with the CAA and EPA’s regulations, policy, and guidance for SIP development.

The EPA proposes approval of the following revisions to the Oklahoma SIP adopted on May 28, 2019, effective September 15, 2019, and submitted to the EPA on May 15, 2020:

- Revisions to OAC 252:100–2–3, Incorporation by Reference,
- Repeal of OAC 252:100, Appendix Q, and
- Adoption of new OAC 252:100, Appendix Q.

The EPA proposes approval of the following revisions to the Oklahoma SIP adopted on June 25, 2020, effective September 15, 2020, and submitted to the EPA on February 9, 2021:

- Revisions to OAC 252:100–1–3, Definitions,
- Revisions to OAC 252:100–2–3, Incorporation by Reference,
- Repeal of OAC 252:100, Appendix Q, and
- Adoption of new OAC 252:100, Appendix Q.

### V. 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 the Oklahoma regulations as described in the Proposed Action section above. We have made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### VI. 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

<sup>2</sup> In *ODEQ v. EPA*, the D.C. Circuit held that under the CAA, a state has the authority to implement a SIP in non-reservation areas of Indian country in the state, where there has been no demonstration of tribal jurisdiction. Under the D.C. Circuit’s decision, the CAA does not provide authority to states to implement SIPs in Indian reservations. *ODEQ* did not, however, substantively address the separate authority in Indian country provided specifically to Oklahoma under SAFETEA. That separate authority was not invoked until the State submitted its request under SAFETEA, and was not approved until EPA’s decision, described in this section, on October 1, 2020.

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 (Pub. L. 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).

This proposal to approve revisions to the Oklahoma SIP that update the definitions relied on throughout the SIP and update the incorporation by reference dates for Federal requirements as discussed more fully elsewhere in this document will apply, if finalized as proposed, to certain areas of Indian country as discussed in the preamble, and therefore has tribal implications as specified in E.O. 13175 (65 FR 67249, November 9, 2000). However, this action will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. This action will not impose substantial direct compliance costs on federally recognized tribal governments because no actions will be required of tribal governments. This action will also not preempt tribal law as no Oklahoma tribe implements a regulatory program under the CAA, and thus does not have applicable or related tribal laws. Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes (May 4, 2011), the EPA has offered consultation

to tribal governments that may be affected by this action.

#### 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.

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

Dated: October 15, 2021.

**David Gray,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2021–23035 Filed 10–26–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA–R04–OAR–2021–0370; FRL–9092–01–R4]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Florida; Control of Emissions From Existing Municipal Solid Waste Landfills

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a Clean Air Act (CAA) section 111(d) plan submitted by the Florida Department of Environmental Protection (FDEP) on December 22, 2020. This plan was submitted to fulfill the requirements of the CAA and is responsive to EPA's promulgation of Emissions Guidelines and Compliance Times for municipal solid waste (MSW) landfills. The Florida plan establishes emission limits for existing MSW landfills and provides for the implementation and enforcement of those limits.

**DATES:** Written comments must be received on or before November 26, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2021–0370 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). 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. 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Katy Lusky, Air Analysis and Support Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth St. SW, Atlanta, Georgia 30303. The telephone number is (404) 562–9130. Ms. Lusky can also be reached via electronic mail at [lusky.kathleen@epa.gov](mailto:lusky.kathleen@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 29, 2016, EPA finalized revised Standards of Performance for new MSW landfills and Emission Guidelines and Compliance Times for existing MSW Landfills in 40 CFR part 60, subparts XXX and Cf, respectively (81 FR 59331 and 81 FR 59275). These actions were taken in accordance with section 111 of the CAA.

Section 111(d) of the CAA requires EPA to establish a procedure for a state to submit a plan to EPA which establishes standards of performance for any existing source for any air pollutant: (1) For which air quality criteria have not been issued or which is not included on a list published under CAA section 108 or emitted from a source category which is regulated under CAA section 112, but (2) to which a standard of performance under CAA section 111 would apply if such existing source were a new source. EPA established these requirements for state plan submittals in 40 CFR part 60, subpart B. State submittals under CAA sections 111(d) must be consistent with the relevant emission guidelines, in this instance 40 CFR part 60, subpart Cf, and the requirements of 40 CFR part 60, subpart B, and 40 CFR part 62, subpart A. If the state plan is complete and approvable with reference to these requirements, EPA notifies the public, promulgates the plan pursuant to 40 CFR part 62, and delegates implementation and enforcement of the standards and requirements of the emission guidelines to the state under