

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5-45-790	Standard for visible emissions	3/17/10	1/26/2012 [Insert page number where the document begins].	Added.
5-45-800	Standard for fugitive dust/emissions	3/17/10	1/26/2012 [Insert page number where the document begins].	Added.
5-45-820	Compliance	3/17/10	1/26/2012 [Insert page number where the document begins].	Added.
5-45-830	Test methods and procedures	3/17/10	1/26/2012 [Insert page number where the document begins].	Added.
5-45-840	Monitoring	3/17/10	1/26/2012 [Insert page number where the document begins].	Added.
5-45-850	Notification, records and reporting	3/17/10	1/26/2012 [Insert page number where the document begins].	Added.
*	*	*	*	*

(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Documents Incorporated by Reference (9 VAC 5-20-21, Sections E.1.a.(2), E.2.a.(3), E.2.b., E.4.a.(23)-(27), E.11.a.(4)-6, E.12.a.(3), (5) and (9)-(11)).	Northern Virginia and Fredericksburg VOC Emissions Control Areas.	3/17/10	1/26/2012 [Insert page number where the document begins].	Added section.

[FR Doc. 2012-1339 Filed 1-25-12; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R06-OAR-2008-0637; FRL-9622-5]

**Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Infrastructure Requirements for 1997 8-Hour Ozone and the 1997 and 2006 PM<sub>2.5</sub> NAAQS**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving submittals from the State of Oklahoma pursuant to the Clean Air Act (CAA or the Act) that address the infrastructure elements specified in the CAA, necessary to implement, maintain, and enforce the 1997 8-hour ozone and the 1997 and 2006 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS or standards). This action is being taken under the CAA.

**DATES:** This final rule is effective on February 27, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R06-OAR-2008-0637. All documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov). 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 and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act (FOIA) Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will

be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The state submittal is also available for public inspection during official business hours, by appointment, at the Oklahoma Department of Environmental Quality, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

**FOR FURTHER INFORMATION CONTACT:** Terry Johnson, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-2154; fax number (214) 665-7263; email address: [johnson.terry@epa.gov](mailto:johnson.terry@epa.gov).

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

- I. Background
- II. Final Action
- III. Statutory and Executive Order Reviews

**I. Background**

The background for today’s action is discussed in detail in our November 16, 2011, proposal (76 FR 70940). In that

notice, we proposed to approve submittals from the State of Oklahoma, pursuant to the CAA, that address the infrastructure elements specified in the CAA section 110(a)(2), necessary to implement, maintain, and enforce the 1997 8-hour ozone, the 1997 fine particulate matter (PM<sub>2.5</sub>), and 2006 PM<sub>2.5</sub> NAAQS. Those submittals are dated December 5, 2007, June 24, 2010, and April 5, 2011, respectively. We noted that those submittals did not include revisions to the SIP, but documented how the current Oklahoma SIP already included the required infrastructure elements. Therefore, we proposed to find that the following section 110(a)(2) elements were contained in the current Oklahoma SIP and provided the infrastructure for implementing the 1997 8-hour ozone and the 1997 and 2006 PM<sub>2.5</sub> standards: CAA sections 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). In addition, we proposed to find that the current Oklahoma SIP satisfies the section 110(a)(2)(D)(i)(II) infrastructure element pertaining to emissions from sources in Oklahoma not interfering with measures required in the SIP of any other state under part C of the Act to prevent significant deterioration of air quality, with regard to the 2006 PM<sub>2.5</sub> NAAQS.

Our November 16, 2011, proposal provides a detailed description of the submittals and the rationale for EPA's proposed actions, together with a discussion of the opportunity to comment. The public comment period for these actions closed on December 16, 2011, and we did not receive any comments.

## II. Final Action

We are approving the December 5, 2007, and June 24, 2010, submittals provided by the State of Oklahoma as they demonstrate that the Oklahoma SIP meets the requirements of section 110(a)(1) and (2) of the Act for the 1997 ozone and 1997 PM<sub>2.5</sub> NAAQS as set forth in the CAA sections 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). Likewise, we are approving the April 5, 2011, submittal provided by the State of Oklahoma as it demonstrates that the Oklahoma SIP meets the requirements of section 110(a)(1) and (2) of the Act for the 2006 PM<sub>2.5</sub> NAAQS as set forth in the CAA sections 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). This action is being taken under authority of section 110 of the CAA.

## III. 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 Clean Air Act and applicable Federal regulations. 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 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 Clean Air Act; 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not 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 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 March 26, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purpose 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, Nitrogen dioxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 13, 2012.

**Al Armendariz,**

*Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

### PART 52—[AMENDED]

- 1. The authority citation for part 52 continues to read as follows:

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

### Subpart LL—Oklahoma

- 2. The first table in § 52.1920(e) entitled "EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Oklahoma SIP" is amended by adding entries for "Infrastructure for the 1997 Ozone and 1997 and 2006 PM<sub>2.5</sub> NAAQS" and "Interstate transport for the 2006 PM<sub>2.5</sub> NAAQS" at the end to read as follows:

§ 52.1920 Identification of plan. (e) \* \* \*

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Infrastructure for the 1997 Ozone and the 1997 and 2006 PM <sub>2.5</sub> NAAQS.	Statewide .....	12/5/2007 6/24/2010 4/5/2011	1/26/2012 [Insert FR page number where document begins].	Approval for 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
Interstate transport for the 2006 PM <sub>2.5</sub> NAAQS (Noninterference with measures required to prevent significant deterioration of air quality in any other State).	Statewide .....	4/5/2011	1/26/2012 [Insert FR page number where document begins].	Approval for 110(a)(2)(D)(i)(II).

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 1, 17, 22, 24, 25, 27, 80, 87 and 90**

[WT Docket No. 08-61; WT Docket No. 03-187; FCC 11-181]

**National Environmental Policy Act Compliance for Proposed Tower Registrations; Effects of Communications Towers on Migratory Birds**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (FCC or Commission) adopts a rule that affects the process of tower construction by instituting a pre-application notification process so that members of the public will have a meaningful opportunity to comment on the environmental effects of proposed antenna structures that require registration with the Commission. As an interim measure pending completion of a programmatic environmental analysis and subsequent rulemaking proceeding, the Commission also requires that an EA be prepared for any proposed tower over 450 feet in height.

**DATES:** The rules in this document contain information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

**FOR FURTHER INFORMATION CONTACT:** Mania Baghdadi, Wireless Telecommunications Bureau, (202) 418-2133, email [Mania.Baghdadi@fcc.gov](mailto:Mania.Baghdadi@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order on Remand in WT Docket Nos. 08-61 and 03-187, adopted December 6, 2011, and released December 9, 2011. The full text of the Order on Remand is available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street SW., Room CY-B402, Washington, DC 20554; the contractor's Web site, <http://www.bcpweb.com> or by calling (800) 378-3160, facsimile (202) 488-5563, or email [FCC@BCPIWEB.com](mailto:FCC@BCPIWEB.com). Copies of the Order on Remand also may be obtained via the Commission's Electronic Comment Filing System (ECFS) by entering the docket numbers WT Docket No. 08-61 or WT Docket No. 03-187. Additionally, the complete item is available on the Federal Communications Commission's Web site at <http://www.fcc.gov>.

**I. Introduction**

1. In this Order, the Commission takes procedural measures to ensure, consistent with its obligations under Federal environmental statutes, that the environmental effects of proposed communications towers, including their effects on migratory birds, are fully considered prior to construction. The Commission institutes a pre-application notification process so that members of the public will have a meaningful opportunity to comment on the environmental effects of proposed antenna structures that require registration with the Commission. As an interim measure pending completion of a programmatic environmental analysis and subsequent rulemaking proceeding, the Commission also requires that an Environmental Assessment (EA) be

prepared for any proposed tower over 450 feet in height. Through these actions and the Commission's related ongoing initiatives, the Commission endeavors to minimize the impact of communications towers on migratory birds while preserving the ability of communications providers rapidly to offer innovative and valuable services to the public.

2. The Commission's actions in this Order respond to the decision of the Court of Appeals for the District of Columbia Circuit in *American Bird Conservancy v. FCC*, 516 F.3d 1027 (DC Cir. 2008) (*American Bird Conservancy*). In *American Bird Conservancy*, the court held that the Commission's current antenna structure registration (ASR) procedures impermissibly fail to offer members of the public a meaningful opportunity to request an EA for proposed towers that the Commission considers categorically excluded from review under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* The notification process that the Commission adopts today addresses that holding of the court. In addition, the court held that the Commission must perform a programmatic analysis of the impact on migratory birds of registered antenna structures in the Gulf of Mexico region. The Commission is already responding to this holding by conducting a nationwide environmental assessment of the ASR program. The Commission has also asked the U.S. Fish and Wildlife Service (FWS) to perform a conservation review of the ASR program under the Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.*

3. The Commission's action also occurs in the context of its ongoing rulemaking proceeding addressing the effects of communications towers on migratory birds. In 2006, the Commission sought comment on what