

LIBRARY OF CONGRESS**U.S. Copyright Office****37 CFR Part 202**

[Docket No. 2016–6]

Reconsideration Procedure for Refusals To Register: Revised Deadlines**AGENCY:** U.S. Copyright Office, Library of Congress.**ACTION:** Final rule.

SUMMARY: The U.S. Copyright Office is altering the deadline for submitting requests to reconsider refusals to register a copyright claim. Previously, a reconsideration request had to be *received* by the Office, via mail, no later than three months after the Office issued its decision to refuse registration. This rule has led to confusion, as it can be difficult to predict when a request will physically be received by the Office, particularly given security-screening-related delays in the processing of mail. Accordingly, to provide greater certainty to applicants, the amended rule provides that reconsideration requests only need to be *postmarked* or *dispatched* no later than three months after a refusal is issued.

DATES: Effective September 9, 2016.**FOR FURTHER INFORMATION CONTACT:**

Regan A. Smith, Associate General Counsel, resm@loc.gov; John R. Riley, Attorney-Advisor, jril@loc.gov. Each person can be reached by telephone at 202–707–8040.

SUPPLEMENTARY INFORMATION: Congress tasked the Register of Copyrights with the responsibility to assess the validity of copyright claims submitted for registration. 17 U.S.C. 408(a); 410(b). While the Office registers the majority of copyright claims, in some cases the applications do not meet statutory or regulatory requirements and, after examination, the Office refuses to register the claimed works. If an applicant disagrees with the Office's determination, he or she may appeal the decision within the Office. This administrative procedure is known as a "request for reconsideration." A first request for reconsideration is reviewed within the Registration Program. *See* 37 CFR 202.5(b)(1)–(3). If the Registration Program again refuses to register the work, it will send the applicant a written notification stating the reasons for refusal. 37 CFR 202.5(b)(4). An applicant can appeal that refusal via a second request for reconsideration to the Copyright Office Review Board. *See* 37 CFR 202.5(c)(1)–(3).

The current regulation requires both first and second requests for reconsideration to be mailed to the Copyright Office. 37 CFR 202.5(d).¹ Prior to the amendment made here, both first and second requests for reconsideration would be considered untimely if they were received by the Copyright Office more than three months after the date of the preceding refusal to register. *See* 37 CFR 202.5(b)(3), (c)(3). This regulation permits the Register of Copyrights to suspend or waive, in whole or in part, the time requirements for submitting a request for reconsideration, though only upon a showing of good cause. 37 CFR 202.5(e).

The Office recognizes that applicants requesting reconsideration of a refusal to register a copyright claim may benefit from a rule that requires an appeal to be postmarked within the prescribed time period, rather than a deadline based upon when the appeal is received by the Office. In particular, the Office understands that it can be difficult to predict how long it will take for a reconsideration request to actually be received by the Office, particularly given security screening related delays. Accordingly, the Office has decided to adopt a "mailbox" or "postal" rule for requests for reconsideration delivered by the United States Postal Service or dispatched by a commercial carrier, courier, or messenger, which will offer applicants greater certainty while continuing to ensure that appeals are considered in a timely fashion. This rule will apply to any appeals that are postmarked or dispatched after the rule's effective date; for appeals postmarked or dispatched prior to that date, the previous regulation will apply.

The Copyright Office is publishing this amendment as a final rule without first publishing a notice of proposed rulemaking, as it constitutes a change to a "rule[]" of agency . . . procedure, or practice." 5 U.S.C. 553(b)(A). The rule does not "alter the rights or interests of parties," but merely "alter[s] the manner in which the parties present themselves or their viewpoints to the agency." *JEM Broad. Co. v. F.C.C.*, 22 F.3d 320, 326 (D.C. Cir. 1994). Other provisions that relate to submissions of reconsideration requests remain unaffected.

List of Subjects in 37 CFR Part 202

Copyright, Legal process.

¹ The Office at this time is not allowing for electronic submission of requests for reconsideration, although it will consider implementing such a procedure as part of future information technology modernization efforts.

Final Regulations

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR part 202 as follows:

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

■ 2. Amend § 202.5 as follows:

■ a. In paragraph (b)(3), remove the phrase "received by the Copyright Office" and add in its place the phrase "postmarked or dispatched by a commercial carrier, courier, or messenger".

■ b. In paragraph (c)(3), remove the phrase "received in the Copyright Office" and add in its place the phrase "postmarked or dispatched by a commercial carrier, courier, or messenger".

Dated: September 2, 2016.

Maria A. Pallante,

Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

David S. Mao,

Acting Librarian of Congress.

[FR Doc. 2016–21671 Filed 9–8–16; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R07–OAR–2016–0313; FRL–9951–87–Region 7]

Approval and Promulgation of Implementation Plans; State of Kansas; Infrastructure SIP Requirements for the 2012 Annual Fine Particulate Matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of a State Implementation Plan (SIP) submission from the State of Kansas addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2012 annual PM_{2.5} NAAQS. Section 110 requires that each state adopt and submit a SIP to support the implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by the EPA. These

SIPs are commonly referred to as “infrastructure” SIPs. The infrastructure requirements are designed to ensure that the structural components of each state’s air quality management program are adequate to meet the state’s responsibilities under the CAA.

DATES: This final rule is effective on October 11, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2016–0313. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, *i.e.*, CBI 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 electronically at www.regulations.gov and at EPA Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219. Please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7039, or by email at Hamilton.heather@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” or “our” refer to EPA. This section provides additional information by addressing the following:

- I. What is being addressed in this document?
- II. What action is EPA taking?
- III. Statutory and Executive Order Reviews

I. What is being addressed in this document?

EPA is approving the infrastructure SIP submission received from the State of Kansas on November 25, 2015. The infrastructure SIP submission addressed the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2012 annual PM_{2.5} NAAQS. A Technical Support Document (TSD) is included as part of the docket to discuss the details of this rulemaking.

The proposal to approve the infrastructure SIP submission was published on July 11, 2016, in the **Federal Register**. 81 FR 44830. The comment period ended August 10, 2016. There were no comments on the proposal.

II. What action is EPA taking?

EPA is approving the November 25, 2015, infrastructure SIP submission from the State of Kansas which addresses the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2012 annual PM_{2.5} NAAQS.

Based upon review of the state’s infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in those submissions or referenced in Kansas’ SIP, EPA believes that Kansas’ SIP meets all applicable required elements of sections 110(a)(1) and (2) with respect to the 2012 annual PM_{2.5} NAAQS.

The EPA’s analysis of the submission is addressed in a TSD as part of the docket.

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. 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. 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) 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).

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).

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 November 8, 2016. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 24, 2016.

Mark Hague,

Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA is amending 40 CFR part 52 as set forth below:

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 R—Kansas

- 2. In § 52.870(e) the table is amended by adding entry (44) in numerical order to read as follows:

§ 52.870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KANSAS NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
(44) Section 110(a)(2) Infrastructure Requirements for the 2012 PM _{2.5} NAAQS.	Statewide	11/16/15	9/9/16, [Insert Federal Register citation].	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). 110(a)(2)(I) is not applicable. [EPA-R07-OAR-2016-0313; FRL-]

[FR Doc. 2016-21474 Filed 9-8-16; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2012-0953; FRL-9950-77-Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Infrastructure or Requirements for the 2008 Ozone and 2010 Nitrogen Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of State Implementation Plan (SIP) submissions from the State of Texas for Ozone (O₃) and Nitrogen Dioxide (NO₂) National Ambient Air Quality Standards (NAAQS). These submittals address how the existing SIP provides for implementation, maintenance, and enforcement of the 2008 O₃ and 2010 NO₂ NAAQS (infrastructure SIPs or i-SIPs). These i-SIPs ensure that the State's SIP is adequate to meet the State's responsibilities under the Federal Clean Air Act (CAA).

DATES: This rule is effective on October 11, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2012-0953. All documents in the docket are listed on the <http://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 and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT:

Sherry Fuerst, telephone (214) 665-6454, fuerst.sherry@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our February 8, 2016, proposal (81 FR 6483). In that document we proposed to approve elements of SIP submittals from the State of Texas for the 2008 O₃ and 2010 NO₂ NAAQS. These submittals address how the existing SIP provides for implementation, maintenance, and enforcement of the 2008 O₃ and 2010 NO₂ i-SIPs.

We received comments on the proposal submitted jointly from two organizations. Our response to the comments are below.

II. Response to Comments

Comment: We received one set of comments—submitted jointly by the Sierra Club and Downwinders at Risk—on the February 8, 2016 proposal to approve certain elements of Texas's SIP

submissions for the 2008 ozone and 2010 NO₂ NAAQS. These comments are provided in the docket for today's rulemaking action. The commenters contend that EPA cannot approve the section 110(a)(2)(A) portion of Texas's 2008 ozone infrastructure SIP submission because of Fifth Circuit “binding precedent” purportedly holding this portion of the submission must “prohibit upwind sources in Texas from significantly contributing to nonattainment in downwind areas” in Texas. Specifically, the commenters contend that there are five coal-fired power plants in East Texas that “significantly contribute” to Dallas-Fort Worth's ozone nonattainment problem and that the Texas i-SIP fails to address those emissions.

Response: We disagree with the commenters that infrastructure SIPs must include detailed attainment and maintenance plans for all areas of the state and must be disapproved if air quality data and modeling show current and future nonattainment. We believe that section 110(a)(2)(A) is reasonably interpreted to require states to submit SIPs that reflect the first step in their planning for attaining and maintaining a new or revised NAAQS and that they contain enforceable control measures and demonstration that the state has the available tools and authority to develop and implement plans to attain and maintain the NAAQS.

The commenters suggest that EPA must disapprove the Texas ozone infrastructure SIP because of the fact that areas in Texas have air quality data and modeling projections above or forecasting above the standard, which proves that the infrastructure SIP is