

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.” The air agency did not evaluate environmental justice 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. 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 environmental justice for people of color, low-income populations, and Indigenous peoples.

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

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: July 15, 2024.

**David Cash,**

*Regional Administrator, Region 1.*

[FR Doc. 2024–15857 Filed 7–18–24; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA–R06–OAR–2020–0610; FRL–11996–01–R6]

#### Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Oklahoma; Control of Emissions From Existing Commercial and Industrial Solid Waste Incineration Units

**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 the CAA section 111(d)/129 state plan revision submitted

by the State of Oklahoma for sources subject to the Commercial and Industrial Solid Waste Incineration units (CISWI) Emission Guidelines (EG). The Oklahoma CISWI plan was submitted to fulfill state obligations under CAA section 111(d)/129 to implement and enforce the requirements under the CISWI EG. The EPA is proposing to approve the state plan and amend the agency regulations in accordance with the requirements of the CAA.

**DATES:** Written comments must be received on or before August 19, 2024.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2020–0610, at <https://www.regulations.gov> or via email to [ruan-lei.karolina@epa.gov](mailto:ruan-lei.karolina@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 Karolina Ruan Lei, (214) 665–7346, [ruan-lei.karolina@epa.gov](mailto:ruan-lei.karolina@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:** Karolina Ruan Lei, EPA Region 6 Office, Air and Radiation Division—State Planning and Implementation Branch (R6–ARSH), (214) 665–7346, [ruan-lei.karolina@epa.gov](mailto:ruan-lei.karolina@epa.gov). We encourage the public to submit comments via <https://www.regulations.gov>. 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

##### *A. Clean Air Act Section 111(d)/129 Requirements*

Sections 111(d) and 129 of the CAA require states to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and the EPA has established emission guidelines for such existing sources. CAA section 129 directs the EPA to establish standards of performance for new sources (NSPS) and emissions guidelines (EG) for existing<sup>1</sup> sources for each category of solid waste incinerator specified in CAA section 129. Under CAA section 129, NSPS and EG must contain numerical emissions limitations for particulate matter, opacity (as appropriate), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. While NSPS are directly applicable to new sources, EG for existing sources (designated facilities) are intended for states to use to develop a state plan to submit to the EPA. When designated facilities are located in a state, the state must then develop and submit a plan for the control of the designated pollutants.

State plan submittals and revisions under CAA section 111(d) must be consistent with the applicable EG and the requirements of 40 CFR part 60, subpart B, and part 62, subpart A. The regulations at 40 CFR part 60, subpart B, contain general provisions applicable to the adoption and submittal of state plans and plan revisions under CAA section 111(d). Additionally, 40 CFR part 62, subpart A, provides the procedural framework by which the EPA will approve or disapprove such plans and plan revisions submitted by a state. Once approved by the EPA, the state plan becomes federally enforceable. If a state does not submit an approvable state plan to the EPA, the EPA is responsible for developing, implementing, and enforcing a federal plan. However, 40 CFR 60.23(b) and 40 CFR 62.06 provide that if there are no

<sup>1</sup> In this context and for purposes under CAA section 111(d)/129, the term “existing” source is synonymous with designated facility. These are sources that were constructed, reconstructed, or modified on or before the date specified in the emission guideline the source applies to.

designated facilities of the designated pollutant(s) in the state, the state may submit a letter of certification to that effect (*i.e.*, negative declaration) in lieu of a plan. The negative declaration exempts the state from the requirements of subpart B that require the submittal of a CAA section 111(d)/129 plan.

### B. Commercial and Industrial Solid Waste Incineration Rules

On December 1, 2000, EPA promulgated the CISWI NSPS at 40 CFR part 60, subpart CCCC, and the CISWI EG at 40 CFR part 60, subpart DDDD (65 FR 75338). On March 21, 2011, after voluntarily remanding the 2000 CISWI NSPS and EG, the EPA promulgated revised CISWI NSPS and EG in a final rule (76 FR 15704). Correspondingly, on the same date, EPA promulgated a final rule under the Resource Conservation and Recovery Act (RCRA) to identify which non-hazardous secondary materials, when used as fuels or ingredients in combustion units, are “solid wastes” (76 FR 15456).<sup>2</sup> EPA subsequently promulgated amendments to both March 21, 2011 rules on February 7, 2013, to clarify several provisions in order to implement the non-hazardous secondary materials rule as EPA originally intended (78 FR 9112). Reconsideration of certain aspects of the final CISWI rule resulted in minor amendments (81 FR 40956, June 23, 2016).<sup>3</sup> On April 16, 2019, EPA finalized further amendments to the CISWI NSPS and EG in order to provide clarity and address implementation issues (84 FR 15846).<sup>4</sup>

The CISWI NSPS and EG were significantly revised in the March 21, 2011, and February 7, 2013, rulemakings, and the subsequent final rulemakings on June 23, 2016, and April 16, 2019, contained minor amendments

<sup>2</sup> See 40 CFR part 241, Solid Wastes Used as Fuels or Ingredients in Combustion Units, also known as the “Non-Hazardous Secondary Material Rule.” The identification of solid waste in the Non-Hazardous Secondary Material Rule is used to determine whether a combustion unit is required to meet the emissions standards for solid waste incineration units issued under sections 111 and 129 of the Act, or meet the emissions standards for commercial, industrial, and institutional boilers issued under section 112 of the Act.

<sup>3</sup> In the June 23, 2016, final action, the EPA finalized amendments on these four topics: Definition of “continuous emission monitoring system (CEMS) data during startup and shutdown periods;” particulate matter (PM) limit for the waste-burning kiln subcategory; fuel variability factor (FVF) for coal-burning energy recovery units (ERUs); and the definition of “kiln.”

<sup>4</sup> In the April 16, 2019, final action, the EPA made technical amendments to correct and clarify various parts of the June 23, 2016, final rule; this includes issues with implementation of the standards, testing and monitoring issues and inconsistencies, and other regulatory provisions.

to the CISWI rules that did not make any changes to the applicability of the designated facilities, including 40 CFR 60.2505, “Am I affected by this subpart?”. As provided by 40 CFR 60.2505, the designated facilities to which the CISWI EG apply are CISWI and air curtain incinerators (ACI)<sup>5</sup> that commenced construction on or before June 4, 2010, or for which modification or reconstruction was commenced on or before August 7, 2013, with limited exceptions as provided under 40 CFR 60.2555.

### C. Oklahoma CAA Section 111(d)/129 CISWI Plan Approval History

On June 29, 2005, the Oklahoma Department of Environmental Quality (ODEQ) submitted a CISWI state plan to address the 2000 CISWI EG requirements and fulfill obligations under CAA sections 111(d) and 129. Oklahoma’s 2005 CISWI plan controlled emissions from sources subject to the 2000 CISWI EG, found at 40 CFR part 60, subpart DDDD, within the State of Oklahoma. Oklahoma’s 2005 CISWI plan was approved by EPA on October 4, 2005 (70 FR 57764).

### D. Oklahoma’s CAA Section 111(d)/129 CISWI Plan Submittal for This Rulemaking

In order to address the most recent CISWI EG requirements and fulfill obligations under CAA sections 111(d) and 129, ODEQ submitted a state plan revision for the control of emissions from sources subject to the CISWI EG for the State of Oklahoma on November 16, 2020. The Oklahoma 2020 CISWI plan implements and enforces the applicable provisions under the CISWI EG at 40 CFR part 60, subpart DDDD, most recently amended on April 16, 2019, and additionally meets the relevant requirements of the CAA section 111(d) implementing regulations at 40 CFR part 60, subpart B. A copy of the Oklahoma submittal is included in the docket for this rulemaking.

### E. 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

<sup>5</sup> These air curtain incinerators (ACI) that are subject to the CISWI EG at 40 CFR part 60, subpart DDDD, are those ACI that may not fit the definition of a “CISWI” under the CISWI EG. See 40 CFR 60.2875.

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>6</sup>

On October 1, 2020, the EPA approved Oklahoma’s SAFETEA request to administer all the State’s EPA-approved environmental regulatory programs, including Plans for Designated Facilities and Pollutants under sections 111(d) and 129, 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>7</sup> The approval also provided that future revisions or amendments to Oklahoma’s approved environmental

<sup>6</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.

<sup>7</sup> EPA’s prior approvals relating to Oklahoma’s CAA section 111(d)/129 plans did not apply in areas of Indian country located in the state. See, e.g., 70 FR 57764 (October 4, 2005). Such prior expressed limitations are superseded by the EPA’s approval of Oklahoma’s SAFETEA request.

regulatory programs would extend to the covered areas of Indian country (without any further need for additional requests under SAFETEA).<sup>8</sup>

As explained earlier in this action, the EPA is proposing to approve the Oklahoma CAA section 111(d)/129 CISWI state plan that was submitted by the State of Oklahoma on November 16, 2020. More specifically, we are proposing to approve Oklahoma's CISWI plan addressing CAA section 111(d)/129 requirements for CISWI under the CISWI EG codified at 40 CFR part 60, subpart DDDD. Consistent with the EPA's October 1, 2020, SAFETEA approval, if this approval is finalized as proposed, this Oklahoma CISWI plan will apply to all Indian country within Oklahoma, other than the excluded Indian country lands, as described earlier. The Oklahoma CISWI plan applies statewide, but only affects specific types of facilities, as discussed earlier in this notice. ODEQ has only identified one existing facility, located within the Muscogee Nation reservation, that is affected by the Oklahoma CISWI plan we are proposing to approve. Any newly constructed incinerators subject to the CISWI EG would be subject to the CISWI NSPS, not the CISWI plan implementing the CISWI EG requirements.

## II. The EPA's Evaluation

The EPA has evaluated the Oklahoma CISWI plan to determine whether the plan meets applicable requirements from the CISWI EG at 40 CFR part 60, subpart DDDD, and the CAA section 111(d) implementing regulations at 40 CFR part 60, subpart B.

Section 60.2515 of the CISWI EG addresses what must be included in state plan submittals. These requirements include:

(1) Inventory of affected CISWI, including those that have ceased operation but have not been dismantled.

(2) Inventory of emissions from affected CISWI in the State.

(3) Compliance schedules for each affected CISWI.

(4) Emission limitations, operator training and qualification requirements, a waste management plan, and operating limits for affected CISWIs that are at least as protective as the emission guidelines contained in this subpart.

(5) Performance testing, recordkeeping, and reporting requirements.

(6) Certification that the hearing on the state plan was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission.

(7) Provision for State progress reports to EPA.

(8) Identification of enforceable State mechanisms that the State selected for implementing the emission guidelines of this subpart.

(9) Demonstration of the state's legal authority to carry out the sections 111(d) and 129 in the state plan.

Section 60.2515 of the CISWI EG also requires the state plan to demonstrate that it is at least as protective as the CISWI EG if it deviates from the format and content of the EG in 40 CFR part 60, subpart DDDD. The state plan must also follow the requirements of 40 CFR part 60, subpart B.

The EPA's detailed rationale and discussion on the Oklahoma CISWI plan and how the plan meets these requirements can be found in the Technical Support Document (TSD), located in the docket for this rulemaking.

## III. Proposed Action

The EPA is proposing to approve the Oklahoma CISWI plan, submitted by ODEQ on November 16, 2020, and amend 40 CFR part 62 in accordance with the requirements under sections 111(d) and 129 of the CAA. The EPA is proposing to find that the Oklahoma CISWI plan is at least as protective as the Federal requirements provided under the CISWI EG, codified at 40 CFR part 60, subpart DDDD. Once approved by the EPA, the Oklahoma CISWI plan will become federally enforceable.

## IV. Environmental Justice Considerations

Information on Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income

Populations, 59 FR 7629, February 16, 1994) and how EPA defines environmental justice can be found in the section titled "Statutory and Executive Order Reviews" in this proposed rule. EPA is providing additional analysis of environmental justice associated with this action. The results of this analysis are being provided for informational and transparency purposes, not as a basis of our proposed action.

EPA conducted screening analyses using EJSCREEN, an environmental justice mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining various environmental and demographic indicators.<sup>9</sup> The EJSCREEN tool presents these indicators at a Census block group (CBG) level or a larger user-specified "buffer" area that covers multiple CBGs.<sup>10</sup> An individual CBG is a cluster of contiguous blocks within the same census tract and generally contains between 600 and 3,000 people. EJSCREEN is not a tool for performing in-depth risk analysis, but is instead a screening tool that provides an initial representation of indicators related to environmental justice and is subject to uncertainty in some underlying data (e.g., some environmental indicators are based on monitoring data which are not uniformly available; others are based on self-reported data).<sup>11</sup> To help mitigate this uncertainty, we have summarized EJSCREEN data within larger "buffer" areas covering multiple block groups and representing the average resident within the buffer areas surrounding the sources. We present EJSCREEN environmental indicators to help screen for locations where residents may experience a higher overall pollution burden than would be expected for a block group with the same total population. These indicators of overall pollution burden include estimates of ambient particulate matter (PM<sub>2.5</sub>) and ozone concentration, a score for traffic proximity and volume, percentage of pre-1960 housing units (lead paint indicator), and scores for proximity to Superfund sites, risk management plan

<sup>9</sup> The EJSCREEN tool is available at <https://www.epa.gov/ejscreen>.

<sup>10</sup> See <https://www.census.gov/programs-surveys/geography/about/glossary.html>.

<sup>11</sup> In addition, EJSCREEN relies on the five-year block group estimates from the U.S. Census American Community Survey. The advantage of using five-year over single-year estimates is increased statistical reliability of the data (i.e., lower sampling error), particularly for small geographic areas and population groups. For more information, see [https://www.census.gov/content/dam/Census/library/publications/2020/acs/acs\\_general\\_handbook\\_2020.pdf](https://www.census.gov/content/dam/Census/library/publications/2020/acs/acs_general_handbook_2020.pdf).

<sup>8</sup> In accordance with Executive Order 13990, EPA is currently reviewing our October 1, 2020, SAFETEA approval. On December 22, 2021, EPA proposed to withdraw and reconsider the October 1, 2020, SAFETEA approval. See <https://www.epa.gov/ok/proposed-withdrawal-and-reconsideration-and-supporting-information>. EPA expects to have further discussions with tribal governments and State of Oklahoma as part of this reconsideration. EPA also notes that the October 1, 2020, approval is the subject of a pending challenge in federal court. *Pawnee Nation of Oklahoma 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 may make further changes to the approval of Oklahoma's plan to reflect the outcome of the proposed withdrawal and reconsideration of the October 1, 2020 SAFETEA approval. To the extent any change occurs in the scope of Oklahoma's CAA 111(d)/129 authority in Indian country before the finalization of this proposed rule, such a change may affect the scope of the EPA's final action on the proposed rule.

(RMP) sites, and hazardous waste facilities.<sup>12</sup> EJSCREEN also provides information on demographic indicators, including percent low-income, communities of color, linguistic isolation, and education.

The EPA prepared EJSCREEN reports covering a buffer area of approximately 3-mile radius around the incinerator identified by ODEQ as subject to the CAA section 111(d)/129 CISWI plan. Table 1 presents a summary of results

from the EPA’s screening-level analysis for the areas surrounding the affected incinerator in Oklahoma compared to the U.S. as a whole. The full, detailed EJSCREEN report is provided in the docket for this rulemaking.

TABLE 1—EJSCREEN ANALYSIS SUMMARY FOR THE EXISTING INCINERATOR IN OKLAHOMA SUBJECT TO THE CISWI EG

Variables	Values for buffer areas (radius) for each affected incinerator and the U.S. (percentile within U.S. where indicated)	
	Henryetta Pallet Company (Henryetta, 3 miles)	U.S.
<b>Pollution Burden Indicators</b>		
Particulate matter (PM <sub>2.5</sub> ), annual average .....	8.63 µg/m <sup>3</sup> (62nd %ile) .....	8.08 µg/m <sup>3</sup> (—).
Ozone, summer seasonal average of daily 8-hour max .....	61.2 ppb (50th %ile) .....	61.6 ppb (—).
Traffic proximity and volume score * .....	43 (37th %ile) .....	210 (—).
Lead paint (percentage pre-1960 housing) .....	0.42% (68th %ile) .....	0.3% (—).
Superfund proximity score * .....	0.81 (97th %ile) .....	0.13 (—).
RMP proximity score * .....	0.051 (10th %ile) .....	0.43 (—).
Hazardous waste proximity score * .....	0.055 (10th %ile) .....	1.9 (—).
<b>Demographic Indicators</b>		
People of color population .....	34% (53rd %ile) .....	39% (—).
Low-income population .....	48% (79th %ile) .....	31% (—).
Linguistically isolated population .....	0% (0th %ile) .....	5% (—).
Population with less than high school education .....	18% (77th %ile) .....	12% (—).
Population under 5 years of age .....	7% (66th %ile) .....	6% (—).
Population over 64 years of age .....	22% (74th %ile) .....	17% (—).

\* The traffic proximity and volume indicator is a score calculated by daily traffic count divided by distance in meters to the road. The Superfund proximity, RMP proximity, and hazardous waste proximity indicators are all scores calculated by site or facility counts divided by distance in kilometers.

A discussion on how Oklahoma’s CISWI plan meets Federal requirements, including CISWI EG requirements, is provided under the section titled “The EPA’s Evaluation” in this proposed rule. CISWI EG requirements result in emission reductions for nine specified pollutants: particulate matter (PM), sulfur dioxide (SO<sub>2</sub>), hydrogen chloride (HCl), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), lead (Pb), cadmium (Cd), mercury (Hg), and dioxins/furans, and they additionally provide for opacity limits. Information on emissions controlled by the CISWI EG, its relationship to negative health impacts, and the estimated benefits from the CISWI EG, can be found at the **Federal Register** document titled “Commercial and Industrial Solid Waste Incineration Units: Reconsideration and Final Amendments; Non-Hazardous Secondary Materials That Are Solid Waste” (78 FR 9112, February 7, 2013) and its associated Regulatory Impact Analysis.<sup>13</sup> We expect that this action will generally have positive environmental and health impacts on all

populations, including people of color and low-income populations, in Oklahoma that are located near an existing incinerator subject to the CISWI EG. At a minimum, this action would not worsen any existing air quality and is expected to ensure the area is meeting requirements to attain air quality standards. Further, there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

**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 section titled “Proposed Action” in this proposed rule. The Oklahoma regulations at OAC 252:100–17, Part 9, *Commercial and Industrial Solid Waste Incinerators*,

contains Oklahoma’s CAA section 111(d)/129 plan provisions for sources subject to the Commercial and Industrial Solid Waste Incineration Units Emission Guidelines at 40 CFR part 60, subpart DDDD. 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 CAA section 111(d)/129 submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7411(d); 42 U.S.C. 7429; 40 CFR part 60, subparts B and Cf; and 40 CFR part 62, subpart A. Thus, in reviewing CAA section 111(d)/129 state plan submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Act and implementing

<sup>12</sup> For additional information on environmental indicators and proximity scores in EJSCREEN, see “EJSCREEN Environmental Justice Mapping and Screening Tool: EJSCREEN Technical Documentation,” Chapter 3 (October 2022) at

[https://www.epa.gov/sites/default/files/2021-04/documents/ejscreen\\_technical\\_document.pdf](https://www.epa.gov/sites/default/files/2021-04/documents/ejscreen_technical_document.pdf).

<sup>13</sup> See <https://www.regulations.gov/document/EPA-HQ-OAR-2003-0119-2493>. See also <https://>

[www.epa.gov/air-quality-management-process/managing-air-quality-human-health-environmental-and-economic#what](http://www.epa.gov/air-quality-management-process/managing-air-quality-human-health-environmental-and-economic#what).

regulations. 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:

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review*

This action is not a significant regulatory action as defined in Executive Order 12866 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023), and was therefore not subject to a requirement for Executive Order 12866 review.

*B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA (44 U.S.C. 3501 *et seq.*) because it does not contain any information collection activities.

*C. Regulatory Flexibility Act (RFA)*

This action is certified to not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This action will approve a state plan pursuant to CAA section 111(d)/129 and will therefore have no net regulatory burden for all directly regulated small entities.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any State, local, or tribal governments or the private sector.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). 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 proposal to approve the Oklahoma CISWI plan will apply, if finalized as proposed, to certain areas of Indian country throughout Oklahoma 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.

*G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) 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 definitions of “covered regulatory action” in section 2–202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it approves a state program.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution and Use*

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

This rulemaking does not involve technical standards. This action 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.

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

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.”

The air agency did not evaluate environmental justice considerations as part of its submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA performed an environmental justice analysis, as described in the section titled “Environmental Justice Considerations” in this proposed rule. The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a neutral impact on the air quality of the affected area. In addition, there is no information in the record upon which this action is based inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

**List of Subjects in 40 CFR Part 62**

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

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

Dated: July 9, 2024.

**Earthea Nance,**

*Regional Administrator, Region 6.*

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