

*D. Unfunded Mandates Reform Act*

I certify that this action does not contain an unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The 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. 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. It would not have a substantial direct effect on one or more Indian Tribes. Furthermore, these proposed regulation revisions do not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the TAR establish the relationship of the Federal government and Tribes in characterizing air quality and developing plans to protect visibility in Class I areas. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, the EPA’s Policy on Children’s Health also does not apply.

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

This action 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*

This rulemaking does not involve technical standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation’s Commitment to Environmental Justice for All*

The EPA believes that it is not practicable to assess whether the human health or environmental conditions that exist prior to this action result in disproportionate and adverse effects on communities with environmental justice concerns. This action revises a procedural requirement—a deadline for submission of a SIP requirement, for all States, the District of Columbia, and the U.S. Virgin Islands. Neither the CAA nor the RHR require States to conduct an evaluation of environmental justice when preparing a Haze SIP, although the EPA encourages States to consider whether there may be equity and environmental justice considerations when developing a Haze SIP. This proposed rulemaking only proposes to extend the SIP deadline for the third implementation period. It does not revise or impose new requirements regarding the development of a Haze SIP. For these reasons, the EPA believes that it is not practicable to assess whether this action is likely to result in new disproportionate and adverse effects on communities with environmental justice concerns. As was explained in this action, the EPA provided for meaningful outreach and engagement through the opening of a nonregulatory docket and receipt of feedback, including feedback being considered as part of this proposed rulemaking.

**VIII. Statutory Authority**

The statutory authority for this action is provided by 42 U.S.C. 7403, 7407, 7410 and 7491(A)(b).

**List of Subjects in 40 CFR Part 51**

Environmental protection, administrative practice and procedure, air pollution control, nitrogen dioxide, particulate matter, sulfur oxides, transportation, volatile organic compounds.

**Michael S. Reagan,**  
Administrator.

For the reasons stated in the preamble, Title 40, Chapter I of the Code of Federal Regulations is proposed to be amended as follows:

**PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS**

■ 1. The authority citation for part 51 continues to read as follows:

**Authority:** 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

■ 2. Amend § 51.308 by revising paragraph (f) introductory text, to read as follows:

**§ 51.308 Regional haze program requirements.**

\* \* \* \* \*

(f) *Requirements for periodic comprehensive revisions of implementation plans for regional haze.* Each State identified in § 51.300(b) must revise and submit its regional haze implementation plan revision to EPA by July 31, 2021, July 31, 2031, July 31, 2038, and every 10 years thereafter. The plan revision due on or before July 31, 2021, must include a commitment by the State to meet the requirements of paragraph (g) of this section. In each plan revision, the State must address regional haze in each mandatory Class I Federal area located within the State and in each mandatory Class I Federal area located outside the State that may be affected by emissions from within the State. To meet the core requirements for regional haze for these areas, the State must submit an implementation plan containing the following plan elements and supporting documentation for all required analyses:

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA–R06–OAR–2020–0162; FRL–12488–01–R6]

**Air Plan Disapproval; Texas; Attainment Demonstrations for the Dallas-Fort Worth and Houston-Galveston-Brazoria Nonattainment Areas**

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to disapprove revisions to the Texas State Implementation Plan (SIP). The revisions were submitted by the Texas Commission on Environmental Quality

(TCEQ or State) on July 10, 2015, August 5, 2016, December 29, 2016, and May 13, 2020, and address certain CAA requirements for the Dallas-Fort Worth (DFW) and Houston-Galveston-Brazoria (HGB) nonattainment areas for the 2008 ozone National Ambient Air Quality Standards (NAAQS or standard). Specifically, the EPA is proposing to disapprove the attainment demonstrations and the associated reasonably available control measures (RACM) analyses and motor vehicle emission budgets (budgets) in the submitted revisions.

**DATES:** Written comments must be received on or before January 22, 2025.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2020-0162, at <https://www.regulations.gov> or via email to [tsui-bowen.alethea@epa.gov](mailto:tsui-bowen.alethea@epa.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.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 Alethea Tsui-Bowen, 214-665-7555, [tsui-bowen.alethea@epa.gov](mailto:tsui-bowen.alethea@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](https://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. Alethea Tsui-Bowen, EPA Region 6 Office, Infrastructure and Ozone Section, 214-665-7555, [tsui-bowen.alethea@epa.gov](mailto:tsui-bowen.alethea@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” or “our” is used, we mean the EPA.

#### I. What is the EPA proposing?

The EPA is proposing to disapprove attainment demonstrations for the DFW area submitted to EPA on July 10, 2015, August 5, 2016, and May 13, 2020. The July 2015 and August 2016 SIP revisions address the DFW Moderate nonattainment area for the 2008 ozone NAAQS and the May 2020 SIP revision addresses the DFW Serious nonattainment area for the 2008 ozone NAAQS. We are also proposing to disapprove attainment demonstrations for the HGB area submitted to EPA on December 29, 2016, and May 13, 2020. The December 2016 SIP revision addresses the HGB Moderate nonattainment area for the 2008 ozone NAAQS and the May 2020 SIP revision addresses the HGB Serious nonattainment area for the 2008 ozone NAAQS. We are also proposing to disapprove the RACM associated with these submitted attainment demonstrations as well as the NO<sub>x</sub> and VOC motor vehicle emissions budgets (or “budgets”) associated with these submitted attainment demonstrations and included as part of the SIP. We are proposing to disapprove these SIP submissions because the DFW and HGB areas failed to attain the 2008 ozone NAAQS by the July 20, 2018, Moderate attainment date and subsequently failed to attain the 2008 ozone NAAQS by the July 20, 2021, Serious attainment date.<sup>1</sup>

#### II. Background

##### A. The 2008 Ozone NAAQS and the DFW and HGB Areas

Ground-level ozone, or smog, which harms human health and the environment, is formed when volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) interact in the presence of sunlight. Motor vehicle exhaust and industrial emissions, gasoline vapors, chemical solvents and natural sources emit VOCs and NO<sub>x</sub>. Urban areas tend to have high levels of ground-level ozone, but areas without significant industrial activity and with relatively low vehicular traffic are also subject to increased ozone levels

<sup>1</sup> The EPA determined that the DFW and HGB Moderate areas failed to meet the 2008 ozone NAAQS by the applicable July 20, 2018, attainment date and these areas were reclassified as Serious by operation of law (84 FR 44238, August 23, 2019). Subsequently, EPA determined that the DFW and HGB Serious areas failed to meet the 2008 ozone NAAQS by the applicable July 20, 2021, attainment date and these areas were reclassified as Severe by operation of law (87 FR 60926, October 7, 2022).

because wind carries ozone and its precursors hundreds of miles from their sources.<sup>2</sup>

Repeated exposure to ozone pollution may cause lung damage. Even at very low concentrations, ground-level ozone triggers a variety of health problems including aggravated asthma, reduced lung capacity, and increased susceptibility to respiratory illnesses like pneumonia and bronchitis. It can also have detrimental effects on plants and ecosystems.

CAA section 109 requires the EPA to establish primary and secondary NAAQS for certain air pollutants and also establishes provisions for the review and revision of such NAAQS. Primary standards are designed to provide requisite protection of public health while secondary standards are designed to provide requisite protection of public welfare. The EPA has set NAAQS for six common air pollutants, including ozone.<sup>3</sup>

On March 27, 2008, the EPA published a rule in the **Federal Register** revising the levels of the primary and the secondary ozone NAAQS to 0.075 parts per million (ppm).<sup>4</sup> On May 21, 2012, the EPA designated and classified the 10-county DFW area (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant and Wise counties) as Moderate nonattainment and designated and classified the eight-county HGB area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties) as Marginal nonattainment for the 2008 ozone NAAQS (77 FR 30088). The HGB Marginal area was initially given an attainment date of no later than December 31, 2015, and the DFW Moderate area was initially given an attainment date of no later than December 31, 2018 (77 FR 30160, May 21, 2012).

On December 23, 2014, the U.S. Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”) issued a decision, among other things, that we did not have statutory authority under the CAA to extend attainment deadlines to the end of the calendar year. *NRDC v. EPA*, 777 F.3d 456, 464–69 (D.C. Cir. 2014). Consistent with the Court’s decision to vacate that portion of the rule, we modified the attainment deadlines for all nonattainment areas for the 2008 ozone NAAQS and set the attainment deadline for such areas to run from the effective date of

<sup>2</sup> More information on ground-level ozone is available at <https://www.epa.gov/ground-level-ozone-pollution/ground-level-ozone-basics>.

<sup>3</sup> For more about the NAAQS, please visit <https://www.epa.gov/naqs>.

<sup>4</sup> 73 FR 16436 (March 27, 2008).

designation, which was July 20, 2012 (80 FR 12264, March 6, 2015). Therefore, the HGB Marginal attainment date was modified to no later than July 20, 2015, and the DFW Moderate attainment date was modified to no later than July 20, 2018 (80 FR 12264).

For the HGB area, the TCEQ requested a one-year extension to the Marginal attainment date, which EPA approved (81 FR 26697, May 4, 2016). However, the HGB area did not attain the 2008 ozone NAAQS by the July 20, 2016, attainment date and was thus reclassified as Moderate (81 FR 90207, December 14, 2016). The DFW and HGB areas did not meet the Moderate attainment date and were accordingly reclassified as Serious with an attainment date of no later than July 20, 2021 (84 FR 44238, August 23, 2019). Subsequently, the DFW and HGB areas did not meet the Serious attainment date and were thus reclassified as Severe (87 FR 60926, October 7, 2022).<sup>5</sup>

#### *B. What is a State implementation plan?*

The SIP is a plan that specifies the manner in which the NAAQS will be achieved and maintained within each air quality control region in a State. States must develop and submit a SIP to EPA for approval as required by the CAA. A SIP includes air pollution regulations, control strategies, other means or techniques, and technical analyses developed by the State to help ensure that the State meets the NAAQS. When a State makes changes to the regulations and control strategies in its SIP, such revisions must be submitted to the EPA for approval and incorporation into the federally enforceable SIP.<sup>6</sup>

#### *C. What did the State submit?*

On July 10, 2015, the TCEQ submitted a SIP revision for the DFW Moderate area based on an attainment date of

<sup>5</sup> On October 26, 2015 (80 FR 65292), the EPA published a rule in the **Federal Register** revising the level of the ozone NAAQS to 0.070 ppm and retaining all the other elements of the NAAQS (“the 2015 ozone NAAQS”). On May 4, 2018, the EPA promulgated designations under the 2015 ozone NAAQS (83 FR 25776) and in that action, the EPA designated the nine-county DFW area (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Tarrant, and Wise counties) and the six-county HGB area (Brazoria, Chambers, Fort Bend, Galveston, Harris, and Montgomery counties) as Marginal with an attainment date of no later than August 3, 2021. The DFW and HGB nonattainment areas missed the Marginal attainment date and thus were reclassified as Moderate (87 FR 60897, October 7, 2022). The Governor of Texas requested a voluntary reclassification of the DFW and HGB areas from Moderate to Serious and the EPA approved the request (89 FR 51829, June 20, 2024). The EPA’s actions herein do not address the DFW and HGB nonattainment areas for the 2015 ozone NAAQS.

<sup>6</sup> For more about SIPs, please visit <https://www.epa.gov/air-quality-implementation-plans>.

December 31, 2018. Because that date was vacated by the Court, Texas revised the SIP to address an attainment date of July 20, 2018, which it submitted on August 5, 2016. The August 5, 2016, SIP submission included baseline and future emissions inventories for all source categories that account for the impacts of control strategies in the area; a photochemical modeling analysis and a weight-of-evidence analysis in which the State asserted that the DFW area would attain by the July 20, 2018, attainment date; a RACM analysis; budgets for VOC and NO<sub>x</sub> consistent with the emissions inventory for demonstrating attainment in the year 2017; a RACT analysis; certifications addressing enhanced monitoring, the motor vehicle Enhanced Inspection and Maintenance (I/M) program, and Nonattainment New Source Review (NNSR); and contingency measures for failure to attain. This action concerns the portions of the July 2015 and August 2016 SIP submissions related to the attainment demonstration, RACM analysis, and budgets for 2017.

On December 29, 2016, the TCEQ submitted a SIP revision for the HGB Moderate area, which included baseline and future emissions inventories for all source categories that account for the impacts of control strategies in the area; a photochemical modeling analysis and a weight-of-evidence analysis in which the State asserted that the HGB area would attain by the July 20, 2018, attainment date; a RACM analysis; budgets for VOC and NO<sub>x</sub> consistent with the emissions inventory for demonstrating attainment in the year 2017; a RACT analysis; certifications addressing enhanced monitoring, the motor vehicle Enhanced Inspection and Maintenance (I/M) program, and Nonattainment New Source Review (NNSR); and contingency measures for failure to attain. This action concerns the portions of the December 2016 SIP submission related to the attainment demonstration, RACM analysis, and budgets for 2017.

On May 13, 2020, the TCEQ submitted a SIP revision for the DFW Serious area and a SIP revision for the HGB Serious area. Each of these submissions included baseline and future emissions inventories for all source categories that account for the impacts of control strategies in these areas; a photochemical modeling analysis and weight-of-evidence analysis in which the State asserted that the area would attain by the July 20, 2021, attainment date; a RACM analysis; budgets for VOC and NO<sub>x</sub> consistent with the emissions inventory for demonstrating attainment in the year

2020; a RACT analysis; certifications addressing enhanced monitoring, the motor vehicle Enhanced Inspection and Maintenance (I/M) program, and Nonattainment New Source Review (NNSR); and contingency measures for failure to attain. On October 3, 2022, the EPA determined that the State fulfilled the CAA requirements for NNSR for the DFW and HGB Serious nonattainment areas for the 2008 ozone NAAQS (87 FR 59697). On September 8, 2023, the EPA determined that the State fulfilled the CAA requirements for the motor vehicle Enhanced I/M program for the DFW and HGB Serious nonattainment areas for the 2008 ozone NAAQS (88 FR 61971). On October 3, 2023, the EPA disapproved the submitted contingency measures for the DFW and HGB Serious areas for the 2008 ozone NAAQS (88 FR 67957).<sup>7</sup> We will address the enhanced monitoring and RACT analyses for the DFW and HGB Serious nonattainment areas for the 2008 ozone NAAQS in a separate rulemaking action. This action concerns the portions of the May 2020 SIP submissions for the DFW and HGB areas related to the attainment demonstration, RACM analysis, and budgets for 2020.

#### *D. What is the EPA proposing to disapprove and what is EPA’s rationale for disapproval?*

We are proposing to disapprove the DFW Moderate area attainment demonstrations submitted on July 10, 2015, and August 5, 2016, and we are proposing to disapprove the HGB Moderate area attainment demonstration submitted on December 29, 2016. We are also proposing to disapprove the DFW and HGB Serious area attainment demonstrations submitted on May 13, 2020. We are also proposing to disapprove the associated RACM analyses and NO<sub>x</sub> and VOC budgets that are included within each of these SIP submissions. CAA section 110(k) requires that EPA act on any submitted SIP revisions that have not been formally withdrawn by the State.

Ozone nonattainment areas classified as Moderate and above are required to submit SIPs demonstrating that the nonattainment area will attain the ozone NAAQS as expeditiously as practicable, but no later than the applicable attainment date.<sup>8</sup> As explained in detail in section II. Background, the DFW and

<sup>7</sup> On December 5, 2023, the State of Texas and the TCEQ filed a petition for judicial review of EPA’s final action at 88 FR 67957, and on August 22, 2024, the U.S. Court of Appeals for the 5th District vacated the action and remanded it to EPA. We will address the remanded action in a separate rulemaking.

<sup>8</sup> CAA section 172 and 182; 40 CFR 51.1108.

HGB nonattainment areas did not attain by the various applicable attainment dates for the classification levels at issue in this action. Therefore, the attainment demonstrations at issue in this action do not, and cannot, show that the DFW and HGB nonattainment areas will attain by the attainment dates. The EPA is therefore proposing to disapprove the submitted attainment demonstrations identified in this action.

As noted earlier, we are also proposing to disapprove the RACM analyses and budgets that are associated with the attainment demonstrations submitted in the SIPs for the DFW and HGB nonattainment areas on July 10, 2015, August 5, 2016, December 29, 2016, and May 13, 2020. For ozone NAAQS implementation under subpart 2 of the CAA, the EPA's rules require the RACM element to be submitted with the attainment demonstration.<sup>9</sup> The RACM demonstration must show that an area has adopted all reasonably available control measures necessary to demonstrate attainment as expeditiously as practicable and meet the required showing of Reasonable Further Progress (RFP).<sup>10</sup> The EPA has long evaluated RACM in terms of whether, beyond the control strategy associated with the accompanying attainment demonstration, there are any reasonably available control measures that could advance an area's attainment date.<sup>11</sup> The determination of whether a SIP contains all RACM requires an area-specific analysis showing that there are no additional economically and technologically feasible control measures (alone or cumulatively) that will advance the attainment date.<sup>12</sup> The EPA's RACM policy, as outlined in the April 16, 1992, General Preamble, indicates that States should consider all candidate measures that are potentially available for the particular nonattainment area that could advance the attainment date by 1 year.<sup>13</sup> Thus, the basis for our proposal to disapprove the attainment demonstrations identified herein is applicable to the

associated RACM analyses as well. The former classification's attainment date is in the past and was not met. Thus, the RACM SIP submittal currently pending before the Agency does not and cannot show that attainment will be achieved by the attainment date or advanced.

Regarding the motor vehicle emissions budgets, to be approvable, budgets must be consistent with an approvable attainment plan. In relevant part, as defined in 40 CFR 93.101, a budget is "that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision . . . for a certain date for the purpose of . . . demonstrating attainment . . . of the NAAQS, . . . allocated to highway and transit vehicle use and emissions." A budget in a SIP provides the allowable on-road mobile emissions of a pollutant or precursor that an area can produce and continue to demonstrate attainment. The Federal transportation conformity rule, 40 CFR part 93 subpart A, requires that transportation plans, transportation improvement programs (TIPs), and projects conform to air quality SIPs and establishes the criteria and procedures for determining whether they do or do not conform. The regulation requires that budgets must be found adequate or approved before they can be used for transportation conformity purposes (40 CFR 93.109(c)(1)).

The criteria by which we determine whether budgets in a SIP submittal are adequate for conformity purposes are specified in 40 CFR 93.118(e)(4). These criteria also serve to determine whether budgets could be approved as part of a SIP submission. One of these criteria is that the budgets, when considered with other emission sources, are consistent with the submitted SIP's purpose, in this case, attainment (see 40 CFR 93.118(e)(4)(iv)). As noted earlier, the DFW and HGB areas did not attain the 2008 ozone standard by the July 20, 2018, Moderate attainment date, or by the July 20, 2021, Serious attainment date and accordingly, the DFW and HGB areas were reclassified by operation of law. Because these Moderate and Serious SIP submissions did not demonstrate attainment by the attainment dates, the budgets associated with them are not adequate or approvable, and accordingly, we are proposing to disapprove the budgets.

#### *E. What are the consequences of a disapproved SIP?*

Pursuant to CAA section 179(a), final disapproval of a SIP submittal or SIP revision required under part D, title I of the CAA triggers the imposition of sanctions under CAA section 179(b).

See also 40 CFR 52.31. Additionally, final disapproval of a required SIP submission triggers the EPA's obligation to promulgate a Federal Implementation Plan (FIP) under CAA section 110(c)(1)(B). The State submitted the July 2015, August 2016, December 2016, and May 2020 attainment demonstration SIP submissions for the DFW and HGB areas to address ozone nonattainment area requirements under part D with respect to the Moderate and Serious classifications.

Following mandatory reclassification upon failure to attain, the former, superseded classifications' attainment dates are in the past and are no longer applicable, and it is no longer meaningful to evaluate whether the submitted plans for the prior classification demonstrate that the areas would attain by the superseded dates. Moreover, it is impossible for plans, including FIPs promulgated by EPA, to demonstrate that an area that has not attained would attain by the superseded dates—once the applicable attainment date has passed, an area cannot show that it will attain by the attainment date unless it has already attained. No changes could be made that would change facts that have already come to pass (*i.e.*, that the areas failed to attain by their applicable attainment dates). There can only be one attainment date that applies at any given time, and the CAA does not require attainment demonstrations for attainment dates that are not applicable to the area. Because the former classifications' attainment dates are no longer applicable, it is therefore no longer relevant for the areas to demonstrate attainment with respect to such dates (just as it is not relevant for an area initially classified as Serious to provide an attainment demonstration for a Moderate attainment date).

The EPA reclassified the DFW and HGB areas as Severe ozone nonattainment areas effective November 7, 2022, after the DFW and HGB areas failed to attain the 2008 ozone NAAQS by the date associated with the Serious classification, which was July 20, 2021.<sup>14</sup> As a result, the State's new attainment date for the 2008 ozone NAAQS is July 20, 2027. The State therefore no longer has an applicable attainment date associated with the Serious classification for the DFW and HGB areas for the 2008 ozone NAAQS.

Thus, the attainment demonstrations and the associated RACM analyses for the DFW and HGB areas that the State submitted with respect to the Moderate and Serious classifications for the 2008 ozone NAAQS are no longer considered

<sup>9</sup> 40 CFR 51.1312(c).

<sup>10</sup> *Id.*

<sup>11</sup> See 83 FR 62998, 63008 (December 6, 2018).

<sup>12</sup> Memorandum of December 14, 2000, from John S. Seitz, Director, Office of Air Quality Planning and Standards, re: "Additional Submission on RACM from States with Severe One-Hour Ozone Nonattainment Area SIPs." This document is posted in the docket for this action and on the internet at [https://www3.epa.gov/ttn/naaqs/aqmguidance/collection/cp2/20001214\\_seitz\\_additional\\_racm\\_submissions.pdf](https://www3.epa.gov/ttn/naaqs/aqmguidance/collection/cp2/20001214_seitz_additional_racm_submissions.pdf).

<sup>13</sup> "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Proposed Rule." 57 FR 13507 (April 16, 1992). The discussion of RACM contains other relevant history concerning the RACM requirement.

<sup>14</sup> 87 FR 60926.

to be required submissions under the CAA.<sup>15</sup> Because the State no longer has a legal obligation to submit the SIP submissions that the EPA is proposing to disapprove, the EPA finds that this disapproval action, if finalized as proposed, would not trigger imposition of mandatory sanctions under CAA section 179 and 40 CFR 52.31, or a FIP obligation under CAA 110(c).

In addition, the State submitted attainment demonstrations for the DFW and HGB Severe nonattainment areas for the 2008 ozone NAAQS on May 7, 2024, and we will evaluate these Severe area submissions in a separate rulemaking.

Similarly, if finalized as proposed, our final disapproval action on the DFW and HGB attainment demonstrations for the Moderate and Serious classifications for the 2008 ozone NAAQS would not result in the consequences for disapprovals of control strategy implementation plans under 40 CFR 93.120(a). As described elsewhere in this document, the submitted attainment demonstrations for the Moderate and Serious classifications for the DFW and HGB areas are no longer considered to be required submissions under the CAA, in light of the reclassification of these nonattainment areas as Severe for the 2008 ozone NAAQS. The Moderate and Serious area ozone attainment demonstrations are no longer required to satisfy CAA requirements for demonstrations of attainment, and therefore are not considered “control strategy implementation plan revisions” under the definition of that term found in the transportation conformity regulation at 40 CFR 93.101. Therefore, the transportation conformity consequences in 40 CFR 93.120(a) would not occur, if finalized as proposed.

### III. Proposed Action

The EPA is proposing to disapprove attainment demonstrations for the DFW area submitted to EPA on July 10, 2015, August 5, 2016, and May 13, 2020. The July 2015 and August 2016 SIP submissions address the attainment demonstrations for the DFW Moderate nonattainment area for the 2008 ozone NAAQS and the May 2020 SIP submission addresses the attainment demonstration for the DFW Serious nonattainment area for the 2008 ozone NAAQS. We are also proposing to disapprove the RACM and budgets associated with these attainment demonstrations for the DFW area. We are also proposing to disapprove

attainment demonstrations for the HGB area, submitted to EPA on December 29, 2016, and May 13, 2020. The December 2016 SIP submission addresses the attainment demonstration for the HGB Moderate nonattainment area for the 2008 ozone NAAQS and the May 2020 SIP submission addresses the attainment demonstration for the HGB Serious nonattainment area for the 2008 ozone NAAQS. We are also proposing to disapprove the RACM and budgets associated with these attainment demonstrations for the HGB area.

### IV. Environmental Justice Considerations

Executive Order (E.O.) 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 State 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.

### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 review State choices,

and approve those choices if they meet the minimum criteria of the CAA. Accordingly, this proposed action to disapprove the attainment demonstrations and associated RACM and budgets for the DFW and HGB areas submitted to EPA on July 10, 2015, August 5, 2016, December 29, 2016, and May 13, 2020, disapproves State law as not meeting Federal requirements and does not impose additional requirements beyond those imposed by State law.

*A. Executive Order 12866: Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory 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 E.O. 14094 (88 FR 21879, April 11, 2023), and was therefore 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 PRA (44 U.S.C. 3501 *et seq.*) because it does not contain any information collection activities.

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will 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 not impose any requirements on 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 E.O. 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 proposed action has no Tribal implications as specified in E.O. 13175

<sup>15</sup> As noted earlier however, CAA section 110(c) requires that EPA act on any submitted SIP revision that has not been formally withdrawn by the state.

(65 FR 67249, November 9, 2000). 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 it does not have applicable or related Tribal laws.

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

The EPA interprets E.O. 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it merely proposes to disapprove SIP revisions. Furthermore, the EPA’s Policy on Children’s Health does not apply to this action.

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

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

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

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. This action is not subject to the requirements of section 12(d) of the NTTAA (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation’s Commitment to Environmental Justice for All*

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 EJ considerations as part of the SIP submittals addressed in this proposed action; the CAA and applicable implementing regulations neither prohibit nor require such evaluation. The EPA did not perform an EJ analysis, as is described earlier in section IV titled, “Environmental Justice Considerations” of this document. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goals of E.O.s 12898 or 14096.

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: December 12, 2024.

**Earthea Nance,**

*Regional Administrator, Region 6.*

[FR Doc. 2024–29971 Filed 12–20–24; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 61 and 63**

**[EPA–R06–OAR–2020–0086; FRL–12482–01–R6]**

**National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Oklahoma**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Oklahoma Department of Environmental Quality (ODEQ) has submitted updated regulations for receiving delegation and approval of its program for the implementation and

enforcement of certain National Emission Standards for Hazardous Air Pollutants (NESHAP) for all sources as provided for under previously approved delegation mechanisms. The updated State regulations incorporate by reference certain NESHAP promulgated by the Environmental Protection Agency (EPA) as they existed through June 30, 2022. The EPA is proposing to approve ODEQ’s requested delegation update. The proposed delegation of authority under this action applies to sources located in certain areas of Indian country as discussed herein.

**DATES:** Written comments must be received on or before January 22, 2025.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2020–0086, at <https://www.regulations.gov> or via email to [barrett.richard@epa.gov](mailto:barrett.richard@epa.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.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 Rick Barrett, 214–665–7227, [barrett.richard@epa.gov](mailto:barrett.richard@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](https://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:** Rick Barrett, EPA Region 6 Office, Air Permits Section (ARPE), 214–665–7227, [barrett.richard@epa.gov](mailto:barrett.richard@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.