substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175.[14]

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements.

Amy Van Blarcom-Lackey,

Regional Administrator, Region III.

[FR Doc. 2026–24043 Filed 11–25–26; 8:45 am]

BILLING CODE 6569–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2024–0069; FRL–13714–01–R6]

Air Plan Approval; Texas; Attainment Plan for the Navarro County 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State Implementation Plan (SIP) revision that Texas submitted to the EPA on October 24, 2022, for the 2010 1-hour sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS) in the Navarro County SO_2 nonattainment area. This SIP (or ''attainment plan'') includes Texas' attainment demonstration provisions and emissions inventory for the nonattainment area, demonstration of reasonable further progress (RFP), implementation of reasonably available control measures (RACM) (including reasonably available control technology (RACT)), an approved nonattainment new source review (NNSR) program, enforceable emissions limitations and control measures, and adequate contingency measures for the affected area. The EPA is proposing to approve Texas' attainment plan for Navarro County and accompanying provisions for the enforceable control strategy for the Navarro area.

DATES: Comments must be received on or before December 28, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2024–0069 at *http://www.regulations.gov,* or via email to *lee.andrew.c@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 Andrew Lee via telephone at 214–665–6750, or via email at *lee.andrew.c@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 proposed action is available electronically at *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: Andrew Lee, EPA Region 6 Office, Ozone and Infrastructure Section, telephone number: 214–665–6750, email address: *lee.andrew.c@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 whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. List of Terms and Acronyms frequently used in this document:

AQS Air Quality System
CAA Clean Air Act
CBI Confidential Business Information
CFR Code of Federal Regulations
DRR Data Requirements Rule
EPA Environmental Protection Agency
lbs/hr Pounds per hour
NAA Nonattainment Area
NAAQS National Ambient Air Quality Standards
NEI National Emission Inventory
NNSR Nonattainment New Source Review
NSR New Source Review
ppb Parts per billion
PSD Prevention of Significant Deterioration
RACM Reasonably Available Control Measures
RACT Reasonably Available Control Technology
RFP Reasonable Further Progress
SIP State Implementation Plan
SO2 Sulfur Dioxide
STARS State of Texas Air Reporting System
TAC Texas Administrative Code
TCEQ Texas Commission on Environmental Quality
THSC Texas Health and Safety Code
tpy Tons per year
TWC Texas Water Code

Table of Contents

I. Executive Summary
A. What action is the EPA taking?
B. What is the legal authority and what are the requirements?
II. Background
III. Requirements for SO_2 Attainment Plans
IV. Summary of Texas' Sip Submission
V. Review of Modeled Attainment Plan
A. Model Selection and General Model Inputs
B. Meteorological Data
C. Emissions Data
D. Receptor Grid
E. Emission Limits
F. Background Concentrations
G. Summary of Modeling Results
VI. Review of Other Plan Requirements
A. Emissions Inventory
B. Reasonably Available Control Measures and Reasonably Available Control Technology (RACM/RACT)
C. Nonattainment New Source Review (NSR)
D. Reasonable Further Progress (RFP)
E. Contingency Measures
F. Conformity
VII. Proposed Action
VIII. Incorporation by Reference
IX. Statutory and Executive Order Reviews

I. Executive Summary

A. What action is the EPA taking?

The Environmental Protection Agency (EPA) is proposing to approve Texas' October 24, 2022, State Implementation Plan (SIP) submittal demonstrating the plan for attainment of the 2010 1-hour sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS) for the Navarro County nonattainment area (Navarro NAA). As part of this proposed action, the EPA is also proposing to approve and incorporate by reference into the State's SIP, a portion of the October 24, 2022, Texas rulemaking SIP revision containing Texas' recently adopted provisions at Texas Administrative Code Title 30, Chapter 112: Control of Air Pollution from Sulfur Compounds, Subchapter G: Requirements in the Navarro County Nonattainment Area (30 TAC 112, subchapter G), that provide the enforceable control strategy for the Navarro NAA.

[14] 65 FR 67249 (November 9, 2000).

B. What is the legal authority and what are the requirements?

The EPA's regulations governing nonattainment area SIPs are set forth at 40 CFR part 51, with specific procedural requirements and control strategy requirements at subparts F and G, respectively. State attainment plans are approved by the EPA as meeting the minimum requirements of the Clean Air Act (CAA or Act) if they fully address the requirements of CAA sections 110, 172, 191 and 192, and the EPA's regulations at 40 CFR part 51. The EPA is proposing to find that Texas' attainment plan for the Navarro NAA meets these requirements.

II. Background

Under CAA section 109, the EPA has established primary and secondary NAAQS for certain air pollutants (referred to as ''criteria pollutants'') and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. On June 22, 2010, the EPA promulgated a new 1-hour primary SO_2 NAAQS of 75 parts per billion (ppb) at 40 CFR 50.17(a), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb, as determined in accordance with Appendix T of 40 CFR part 50.[1] Under CAA section 107(d)(1), the EPA is required to designate areas as ''nonattainment,'' ''attainment,'' or ''unclassifiable'' within two years of establishing a new or revised standard. The Navarro NAA for the 2010 SO_2 NAAQS was established effective April 30, 2021.[2] [3] This final designation triggered a requirement for Texas to submit, by October 30, 2022 (within 18 months per CAA section 191(a)), a SIP revision with a plan for how the Navarro NAA would attain the 2010 SO_2 NAAQS as expeditiously as practicable, but no later than April 30, 2026.

Texas submitted an attainment plan for the Navarro NAA on October 24, 2022. This notice describes the requirements that the attainment plan must meet under the CAA in order for the EPA to approve the provisions into the federally enforceable SIP, provides a review of the State's plan for attainment with respect to these requirements, and describes the EPA's proposed action on the attainment plan.

III. Requirements for SO_2 Attainment Plans

The nonattainment area SIP for SO_2 must meet the applicable requirements of CAA sections 110, 172, 191 and 192. The EPA's regulations governing nonattainment area SIPs are set forth at 40 CFR part 51, with specific procedural requirements and control strategy requirements at subparts F and G, respectively. Soon after Congress enacted the 1990 amendments to the CAA, the EPA issued guidance on SIPs in the document ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' (General Preamble).[4] Among other things, the General Preamble addressed requirements for SO_2 SIPs and fundamental principles for SIP control strategies.[5] On April 23, 2014, the EPA issued guidance and recommendations for meeting the statutory requirements in SIPs addressing the 2010 1-hour primary SO_2 NAAQS, in a document entitled ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions'' (hereafter referred to as ''2014 SO_2 Nonattainment Guidance'').[6] In this guidance, the EPA described the statutory requirements for the elements of a nonattainment area SIP as listed at CAA section 172(c), which include: an accurate emissions inventory of current emissions for all sources of SO_2 within the nonattainment area; an attainment demonstration; demonstration of RFP; RACM including RACT; enforceable emission limitations and control measures necessary to provide for attainment; nonattainment new source review (NNSR); and adequate contingency measures.

In general, the EPA's duties for reviewing State attainment plans are described in CAA sections 110(k) and 110(l). Pursuant to CAA section 110(k)(1), the EPA must first determine if a SIP submission meets certain minimum criteria for administrative completeness. Once a SIP submission has been determined to be complete, the EPA shall approve the submission as a whole if it meets all applicable requirements of the CAA. State attainment plans must satisfy the relevant statutory and regulatory criteria found in CAA sections 110, 172, 191 and 192, and the EPA's regulations at 40 CFR part 51 in order to be approved by the EPA.

Also, under CAA section 110(l), the EPA may not approve a SIP revision that would interfere with any applicable requirement concerning NAAQS attainment and RFP, or any other applicable requirement of the CAA. Further, under CAA section 193, no control requirement in effect before November 15, 1990 (or required to be adopted by an order, settlement, agreement, or plan in effect before November 15, 1990), in any area which is a nonattainment area for any air pollutant, may be modified in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.

CAA sections 172(c)(1) and 172(c)(6) direct States with areas designated as nonattainment to demonstrate that the submitted attainment plan and its emission limitations and control measures provide for attainment of the NAAQS. 40 CFR part 51, subpart G further delineates the control strategy requirements that SIPs must meet, and that all SIPs and control strategies reflect the four fundamental principles of quantification, enforceability, replicability, and accountability.[7] SO_2 attainment plans must consist of two components: (1) enforceable emission limits and other control measures that assure implementation of permanent, enforceable and necessary emission controls, and (2) a modeling analysis which meets the requirements of 40 CFR part 51, Appendix W (Appendix W) and demonstrates that necessary emission limits and control measures provide for timely attainment of the primary SO_2 NAAQS as expeditiously as practicable, but by no later than the attainment date for the affected area. In all cases, these emission limits and control measures must be accompanied by appropriate methods and conditions to determine compliance with the respective emission limits and control measures, and must be quantifiable (*i.e.,* a specific amount of emission reduction can be ascribed to the measures), fully enforceable (specifying clear,

[1] *See* 75 FR 35520 (June 22, 2010).

[2] *See* 86 FR 16055 (March 26, 2021). *See also* 40 CFR part 81, subpart C.

[3] On August 21, 2015 (80 FR 51052), EPA promulgated air quality characterization requirements for the 2010 1-hour SO_2 NAAQS in the Data Requirements Rule (DRR). The DRR requires State air agencies to characterize air quality, through air dispersion modeling or monitoring, in areas associated with sources that emitted in 2014 2,000 tons per year (tpy) or more of SO_2, or that have otherwise been listed under the DRR by EPA or state air agencies. EPA used the information generated by implementation of the DRR to help inform the 2021 designations (*See* 86 FR 16055, March 26, 2021) for the 2010 1-hour SO_2 NAAQS. The 2021 designations were based primarily on ambient monitoring data, including data from existing and new EPA-approved monitors that have collected data at least from January 2017 forward, pursuant to the DRR.

[4] *See* 57 FR 13498 (April 16, 1992)

[5] *Id.* at 57 FR 13545 through 13549; 57 FR 13567 through 13568.

[6] Available in the docket for this proposed action and at *https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.*

[7] *See* General Preamble; 57 FR 13498, April 16, 1992 at 57 FR 13567 through 13568.

unambiguous and measurable requirements for which compliance can be practicably determined), replicable (the procedures for determining compliance are sufficiently specific and non-subjective so that two independent entities applying the procedures would obtain the same result), and accountable (source-specific limits must be permanent and must reflect the assumptions used in the SIP demonstrations).

Preferred air quality models for use in regulatory applications are described in Addendum A of the EPA's Guideline on Air Quality Models (40 CFR part 51, Appendix W). In 2005, the EPA promulgated the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) [8] as the Agency's preferred near-field dispersion modeling for a wide range of regulatory applications addressing stationary sources (for example in estimating SO_2 concentrations) in all types of terrain based on extensive developmental and performance evaluations.[9] Supplemental guidance on modeling for purposes of demonstrating attainment of the SO_2 standard is provided in Appendix A to the 2014 SO_2 Nonattainment Guidance. Appendix A of the 2014 SO_2 Nonattainment Guidance provides extensive guidance on the modeling domain, the source inputs, assorted types of meteorological data, and background concentrations.

Attainment demonstrations for the 2010 1-hour primary SO_2 NAAQS must demonstrate future attainment of the NAAQS in the entire area designated as nonattainment (*i.e.,* not just at the violating monitor) by using air quality dispersion modeling (*see* Appendix W to 40 CFR part 51) to show that the mix of sources and enforceable control measures and emission rates in an identified area will not lead to a violation of the SO_2 NAAQS. For a short-term (*i.e.,* 1-hour) standard, the EPA finds that dispersion modeling, using allowable emissions and addressing stationary sources in the affected area (and sources located outside the nonattainment area which may affect attainment in the area, if applicable) is technically appropriate, efficient, and effective in demonstrating attainment in nonattainment areas, because it takes into consideration combinations of meteorological and emission source operating conditions that may contribute to peak ground-level concentrations of SO_2.

Resultant model-predicted concentrations for NAAQS demonstrations should always include ambient background concentrations added to explicitly modeled concentrations, should follow the form of the standard, and should be calculated as described in section 2.6.1.2 of the August 23, 2010, clarification memo on ''Applicability of Appendix W Modeling Guidance for the 1-hour SO_2 National Ambient Air Quality Standard'' (Modeling Guideline).[10]

IV. Summary of Texas' SIP Submission

On March 26, 2021, the EPA designated a portion of Navarro County, Texas as nonattainment for the 2010 1-hour primary SO_2 NAAQS, effective April 30, 2021.[11] During the 2017–2019 design value period, the nearby Richland Southeast 1220 Road monitor (AQS ID# 48–349–1081) violated the NAAQS with a monitored design value of 165 ppb. The primary major source of emissions in the area is the Arcosa Lightweight Streetman Plant (Streetman Plant) which manufactures lightweight aggregate for use in various industrial applications such as concrete and asphalt.

CAA section 191 directs States to submit SIPs for nonattainment areas to the EPA within 18 months of the effective date of the designation, *i.e.,* by no later than October 30, 2022, for the Navarro NAA. Under CAA section 192, these SIPs are required to demonstrate that their respective nonattainment areas will attain the NAAQS as expeditiously as practicable, but no later than 5 years from the effective date of designation, *i.e.,* April 30, 2026.

Texas held a public hearing concerning the Navarro County attainment demonstration on May 23, 2022. No members of the public attended the public hearing. Texas adopted the attainment demonstration on October 5, 2022. On October 24, 2022, Texas submitted the attainment plan for the Navarro NAA to the EPA. In addition to the attainment demonstration, Texas submitted the newly adopted sections of State regulations in 30 TAC 112, subchapter G. These regulations contain the enforceable control strategy which is incorporated into the attainment plan for the Navarro NAA.

V. Review of Modeled Attainment Plan

This section discusses the EPA's review and analysis of the modeled attainment plan, including model selection, meteorological data, emissions data, receptor grid, emissions limits, and background concentrations. A more detailed discussion is presented in a technical support document (TSD) contained in the public docket for this proposed approval of the Texas SIP revision.

A. Model Selection and General Model Inputs

As part of its SIP development process, Texas used the EPA's regulatory dispersion model, AERMOD, to determine the SO_2 emission reductions and stack modifications needed to bring the Navarro NAA into attainment. Texas relied upon AERMOD Version 21112 and the companion AERMOD User Guide documentation in developing the attainment demonstration for the Navarro NAA. Regulatory default options were specified in developing the attainment demonstration that are consistent with established practices for use of AERMOD in determining NAAQS compliance for SIP revisions. Included among those default options are stack tip downwash, buoyancy induced dispersion, default wind profile coefficients, default vertical potential temperature gradients, and final plume rise. The EPA finds these selections appropriate.

This attainment demonstration uses a modeling domain that reflects the geographic extent of the Navarro NAA. The most significant source, and only point source, addressed in the modeling for the area is the Streetman Plant facility. A review of industrial SO_2 sources within and near the nonattainment area indicates that this facility is the primary contributor to the monitored violations. At the highest concentrations modeled in the area by the attainment demonstration modeling submitted by TCEQ, the Streetman Plant contributed more than 99% in total to the modeled SO_2 concentrations. The way this source was modeled is discussed later in this section.

The Texas Commission on Environmental Quality (TCEQ) followed 40 CFR part 51 Appendix W, Guideline on Air Quality Models, and the EPA's 2014 SO_2 Attainment Demonstration Guidance in utilizing the AERMOD modeling system pre-processors to generate AERMOD-ready files for meteorology (via AERMET and AERMINUTE), and terrain and elevation (via AERMAP and AERSURFACE).

[8] American Meteorological Society (AMS)/EPA Regulatory Model. The modeling system includes the AERMOD model itself, along with the required preprocessors and their components.

[9] *See* 70 FR 68218 (Nov. 9, 2005).

[10] *See* Clarification Memo Appendix W Hourly SO_2 (August 23, 2010) in the docket for this proposed action.

[11] *See* 86 FR 16055 *See also* 40 CFR part 81, subpart C.

The Streetman Plant was required by TCEQ's chapter 112 Rule to construct a new stack to replace the existing kiln stack no later than January 1, 2025. The chapter 112 Rule specifies that the stack was to be built at a height at least 120 feet (36.6 meters), specifies the location of the stack and identifies the emission limit, minimum stack temperature and minimum stack exit gas velocity.

The EPA's Appendix W guidance indicates that States should evaluate whether physical structures may affect the dispersion of emissions from stack sources. Stacks that are constructed to heights lower than specified Good Engineering Practice (GEP) height [12] and within the ''zone of influence'' of a nearby structure have plumes that are potentially subject to the effects of downwash which would affect dispersion and modeled concentrations in the building wake, near to the source. TCEQ used site-specific building and stack data and modeled the stack at the Streetman Plant to comply with GEP stack height requirements. TCEQ used the EPA's Building Profile Input Program with PRIME algorithm (BPIPPRM) to generate direction-specific building parameters for modeling building wake effects. The location and height of the new stack, and the locations and heights of nearby structures, were processed in BPIPPRM (version 04274) to produce the building downwash parameters required by AERMOD. The actual release height of the stack was less than the GEP value. Therefore, the new stack at the Streetman plant was modeled at the actual release height and was analyzed for downwash effects of the plumes within AERMOD. The EPA is proposing to determine that TCEQ's application of the modeling guideline is appropriate for addressing stacks subject to downwash effects and that the new stack built at the Streetman Plant complies with GEP stack height requirements.

In the accompanying TSD, the EPA provides further explanation and review of Texas' meteorological fields, receptor grid, building downwash, model settings and other model inputs, as well as other details used to develop the modeling demonstration. The EPA finds that TCEQ's model selection, development of modeling input files and selection of general inputs for its model conform with the EPA's modeling requirements and guidance.

[12] 40 CFR 51.100(ii) defines GEP stack height limits.

B. Meteorological Data

The State's modeling utilized surface meteorological data obtained from then-most recent five years (2015 through2020) [13] of available surface meteorological data from Corsicana, Texas (Weather Bureau Army Navy (WBAN) No. 53912, 14 kilometers to the north-northwest of the Streetman Plant) and coincident upper air data from Shreveport, Louisiana (WBAN No. 13957, 247 km to the east-northeast of the Streetman Plant). The Corsicana, Texas station is the closest National Weather Service (NWS) site to the Streetman Plant, and the Shreveport, Louisiana station was chosen by Texas as best representative of meteorological conditions within the area of analysis due to proximity, similar terrain, and availability of recently collected data. The EPA recommends using the closest NWS sites for surface and upper air data if they are considered representative of the area being modeled. In this situation, the EPA concurs with the use of these two sites for this modeling as meeting the EPA's criteria as being nearby and representative. The EPA also finds that TCEQ adequately processed the data in accordance with the Modeling Guideline and the EPA's guidance to generate the necessary modeling data to be used in the AERMOD model runs. In the accompanying TSD, the EPA provides further details and analysis of our review of Texas' meteorological data and AERMET and AERMINUTE settings that were used for processing the meteorological data for use in AERMOD. The EPA is proposing to find the selection and processing of this data to be appropriate and in accordance with Appendix W and the 2014 SO_2 Nonattainment Guidance.

C. Emissions Data

As detailed in the SIP submission, Texas identified the Streetman Plant as the most significant source affecting the Navarro NAA, the sole major point source of SO_2. There are no other minor or major SO_2 point sources in the nonattainment area contributing to the monitored violations. Other impacts of SO_2 emissions from non-point sources, for example mobile source emissions, incineration, agricultural field burning, etc., were not explicitly modeled in AERMOD but instead represented via monitored background data.

[13] At the surface station, the fourth quarter of meteorological data did not meet EPA's data completeness requirements in 2018 and thus 2018 was excluded from the meteorological processing. As such, the next available year, 2015, was subsitituted.

Texas' SIP submittal describes an exploratory modeling run that the State conducted to identify the cause of the violations in the area and determine the most appropriate remedy. This modeling pointed to a single emissions source of SO_2 at the Streetman Plant: a kiln stack for a lightweight aggregate kiln, Emission Point Number (EPN) E3–1 (kiln stack). The State also evaluated the Guardian Industries' (located seven kilometers beyond the northern boundary of the nonattainment area with annual reported SO_2 emissions of 243 through 298 tpy) impact within the nonattainment area, and provided modeling results showing a small impact, and proposed to not explicitly model Guardian Industries' emissions. To address these violations, Texas chose to use modeling as a guide tool to arrive at the combination of emissions and stack parameters for a new stack and scrubber system that provided for attainment of the NAAQS. TCEQ ultimately decided on enforceable rules for these as discussed in the following paragraphs.

The SIP and attainment demonstration modeling, submitted by the State, incorporate the new scrubber stack and operating conditions as necessary to attain the NAAQS according to the specific parameters and limitations of the new subchapter G of TCEQ's 30 TAC 112. The new scrubber stack must have vertical unobstructed stack release and be operated at all times with minimum values for temperature (117 degrees Fahrenheit), exit velocity (42.5 meters/second), and exhaust release height (at least 36.576 meters tall). Texas' AERMOD modeling estimated concentrations based on application of the TCEQ rule-required parameters and scrubber stack SO_2 emissions limit of 222 pounds per hour (lbs/hour), which is substantially lower than the kiln stack's previous permitted limit of 1,000 lbs/hour. A continuous emissions monitoring system (CEMS) is also required on this kiln stack to verify emissions compliance. The State also considered potential emissions during periods of startup, shutdown, and malfunction (SSM) when developing its attainment demonstration. Due to the source only utilizing natural gas as a fuel during periods of SSM, the estimated potential to emit during these periods is estimated to always be less than the hourly emissions under normal operating conditions; therefore, SSM scenarios will not result in higher modeled values than routine conditions, and are required to also be monitored by CEMS at these times.

Additional details and evaluation of the other model inputs of Texas'

attainment demonstration modeling, *e.g.,* list of modeled sources and modeling parameters, are provided in the accompanying TSD.

D. Receptor Grid

Within AERMOD, air quality concentration results are calculated at discrete locations identified by the user; these locations are called receptors. TCEQ's modeling domain for this demonstration consisted of three nested receptor grids with high density receptor grids nearest the source and lesser density receptor grids further away from the Streetman Plant. The inner-most grid consists of a 7.0 km by 7.0 km square centered upon the Streetman Plant with a gridded receptor array at approximately 50-meter intervals. The middle grid extends from the 7.0 km nested, inner-most grid square to form a 14.4 km square with a gridded receptor array of 100-meter interval spacings. The outer-most grid extends from the 14.4 km middle grid square to the outermost edge of the nonattainment area with receptors spaced 500 meters apart. The EPA's 2014 SO_2 Nonattainment Guidance states that modeling for SO_2 attainment demonstrations must evaluate SO_2 concentrations across all areas within the nonattainment area ''that are considered ambient air (where the public generally has access).'' Receptors were excluded over the internal boundary of the Streetman Plant which is considered non-ambient air relative to its own emissions. Receptors were also added along the Streetman Plant property fence line at 25 meters spacing intervals, plus one additional receptor placed at the location of the Richland Southeast 1220 Road monitor. The EPA concurs that the receptor grid was adequate and also reviewed the documentation regarding areas determined to be non-ambient (not needing receptors). The TSD includes additional discussion of identification of receptors and areas considered non-ambient (restricted access), along with the EPA's related review and conclusions.

E. Emission Limits

As required by the Texas regulations found at 30 TAC 112, subchapter G, the SO_2 emissions of the scrubber stack shall not exceed 222 lbs/hr, the temperature of the exhaust gas exiting the stack may not fall below 117 degrees Fahrenheit, and the velocity of the exhaust gas exiting the stack may not drop below 42.5 feet/second. Additionally, the facility must install a CEMS on the Kiln Scrubber Stack to ensure that the scrubber stack is complying with the lbs/hr emission rate limit of the point source. The emission limits and source configuration requirements of 30 TAC 112, subchapter G, will become federally enforceable as a source-specific revision to the Texas SIP upon the EPA's final approval.

CAA section 172(c)(6) requires that the State's attainment plan include enforceable emission limitations, and such other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of the standard in the area by the applicable attainment date.[14] The revised SO_2 emission limit at the Streetman Plant is expressed as an hourly limit.

This SIP revision includes 30 TAC 112, subchapter G, which requires the Streetman Plant facility to monitor its release of SO_2 via CEMS to measure compliance at the source and ensure that the facility does not exceed its 222 lbs/hr emission limit. The CEMS will continuously monitor the SO_2 emissions in accordance with the requirements in 40 CFR 60.13, 40 CFR 60, Appendix B, Performance Specification 2 and 6, for SO_2, and Appendix F Quality Assurance Procedures. To demonstrate compliance, emissions data will be collected at least four times per hour, and then those four data points will be averaged to produce that hour's measured concentration. Hours when the unit is experiencing SSM conditions will also be monitored by CEMS to ensure compliance.

As discussed in the 2014 SO_2 Nonattainment Guidance, in general, the EPA expects the approvable compliance dates for control measures in the attainment demonstration to be as expeditious as practicable. Consistent with its approach for other pollutants, the EPA generally expects attainment plans to require sources to comply with the requirements of the attainment strategy at least one calendar year before the attainment date. By this means, the plans would be able to provide at least one calendar year of air quality monitoring data (and at least one calendar year of compliance information which, when modeled, would show attainment) before the applicable attainment deadline, indicating that the plan is in fact providing for attainment of the standard. The facility was required to implement all the requirements of the 30 TAC 112, subchapter G by no later than January 1, 2025, ahead of the April 30, 2026, attainment date.

The owner or operator of the facility must maintain records of the CEMS data for the exhaust gas sulfur content, temperature, and velocity from the scrubber stack for a minimum of five years and must demonstrate compliance with all applicable recordkeeping requirements of 30 TAC 112, subchapter G. Additionally, records documenting any hourly period that exceeds the emission limits or standards mandated by this rule must be maintained. Finally, copies of each performance test and relative accuracy audit and all associated records must be maintained.

As required in the Rule, all exceedances of the applicable emission limits and any failure of the required stacked parameters must be reported to TCEQ no later than March 31 of the subsequent year after violation. The report must include an explanation of the exceedance or failure, if the violation was due to an SSM event, and a description of any action taken to rectify the issue.

30 TAC 112, subchapter G also contains provisions describing how the owner or operator of the Streetman Plant may request (and the State may approve) an alternate means of control (AMOC) plan.[15] Such an AMOC plan could include revisions to SIP requirements applicable to the source, such as stack height, stack diameter, flue gas temperature, and flue gas velocity, that in combination are necessary to assure that the SO_2 emissions from the source are consistent with attainment and maintenance of the 2010 1-hour SO_2 primary NAAQS in the Navarro County SO_2 NAA. If approved, an AMOC plan would supersede any control requirements in 30 TAC 112, subchapter G that conflict with the AMOC plan.

If the requested AMOC plan includes an increase in the emission limit for a source subject to the control requirements in 30 TAC 112, subchapter G, then the AMOC plan must also include an equivalent decrease in the emission limit for one or more sources subject to the control requirements of this subchapter.[16] The Kiln Scrubber Stack (EPN E3–1) at the Streetman Plant is the only emission point with control requirements in the Navarro NAA at this time. The EPA notes it is highly unlikely that an increase in emissions will be requested under the AMOC provision since there are currently no other emissions points or sources

[14] *See* General Preamble; 57 FR 13498, April 16, 1992 at 57 FR 13567 through 13568.

[15] *See* 30 TAC 112.302(c)

[16] See 30 TAC 112.302(c)(3)(B)

subject to additional control to provide the necessary equivalent decrease.

As a required component of an AMOC application, the source must include a modeling demonstration that the proposed changes to the facility requirements result in no net off-property ground-level concentration increases at any of the modeled receptors that the EPA approved in the State's attainment plan modeling in excess of the lesser of a predefined equation, outlined in 30 TAC 112(c)(3)(C), or an applicable significant impact level for the 2010 1-hour SO_2 NAAQS. The AMOC provision requires that this modeling demonstration must satisfy the EPA's modeling requirements, including the air quality models, databases, other requirements specified in Appendix W to 40 CFR 51.1, and consistent with the modeling that the State provided to support approval of the attainment plan. The AMOC plan must establish control requirements, as well as monitoring, testing, recordkeeping, and reporting requirements, consistent with and no less stringent than the applicable requirements in 30 TAC112, subchapter G, as approved in this proposed action. These requirements must apply to all sources in the plan and make the proposed control requirements enforceable. These requirements of the AMOC provision are to ensure that any modifications are binding and enforceable and result in predictable outcomes should the State approve an AMOC plan for the facility.

In addition to the safeguards above to ensure equivalent emission reductions, the AMOC provision provides for public review and an opportunity for the EPA to review and disapprove the final decision on the plan by the TCEQ Executive Director. The AMOC provision states that a facility must continue to abide by its previous SIP approved limits until formal approval of an AMOC plan. The process for formal approval of an AMOC plan involves notice to the public and notice to the EPA of the AMOC application and an opportunity for public comment on the submitted AMOC plan at the State level. The Executive Director is required to respond to any significant comments and may modify, deny, or approve the AMOC plan. Within 45 days of final approval of the AMOC plan by the Executive Director or the Commission on appeal, the EPA may notify the commission of the EPA's disapproval of the final decision on the AMOC plan. Upon receipt of a timely EPA disapproval, the TCEQ shall void or revise and reissue the AMOC plan. In such a circumstance in which TCEQ would need to reissue an AMOC plan, the revised plan is subject to renewed EPA review and public comment. If the EPA does not disapprove within 45 days of the Executive Director's approval, it is treated as an acceptance by the EPA and the AMOC plan becomes effective. If an AMOC plan is approved, the owner or operator must comply with the emission limits, control requirements, monitoring, testing, reporting, or recordkeeping requirements of the approved AMOC plan.

The EPA is proposing to approve the AMOC provisions of 30 TAC 112, subchapter G. Potential future modifications to the current approved control strategy for the source through an AMOC are adequately bounded by the requirements described in the provision. For example, such a modification could affect specific requirements such as the stack height, flue gas velocity, or the specified numerical emission limitation at the source, but any such changes would be limited to those that would only result in specified amounts of increase in SO_2 emissions. In other words, the range of potential changes is adequately bounded. The requirement that the source provide modeling to establish that any future, potential modification to the current SIP control strategy subject to this action through an AMOC would not result in significant increases above those amounts also allows the EPA to evaluate the potential impacts of any such changes now, at the time that the Agency is proposing to approve the AMOC provision. In approving the AMOC provision, the EPA is authorizing revisions to the current control strategy within specified bounds that are consistent with continued attainment and maintenance of the 2010 1-hour SO_2 NAAQS in the area.

F. Background Concentrations

To satisfy EPA modeling requirements, the SIP's attainment demonstration must also incorporate ambient background concentrations into its modeling to account for SO_2 concentration levels that exist from other sources not specifically modeled, such that the overall attainment demonstration includes the combined impacts of facility-specific emission rates and monitored background concentrations that are selected to represent local airshed ambient concentrations without impacts of the modeled sources. Other sources not explicitly modeled in AERMOD, including those outside the nonattainment area that are contributors to ambient SO_2 loadings within the nonattainment area, are represented via background monitoring data. The 2014 SO_2 Nonattainment Guidance recommends developing a uniform monitored background concentration based on monitored design values for the latest three-year period, regardless of the years of meteorological data used in the modeling. The guidance further states that in cases of nonattainment areas designated based on a monitor's data showing a NAAQS violation, it may be necessary to use a different representative monitor outside of the nonattainment area, particularly where the monitor has a high number of observations impacted by modeled sources. Texas stated that the two closest monitors to the Streetman Plant are both impacted by the facility's emissions, thus, it is appropriate to identify a separate regional site monitor that is representative of the area's SO_2 concentrations. Texas identified the Midlothian OFW monitor as representative of background concentrations due to its similar local emissions characteristics and the stability of SO_2 concentrations measured at this monitor.

Once a suitable monitor is selected, Appendix W prescribes tiered approaches for incorporating that data as background concentration. Texas selected the ''first tier'' approach recommended by the August 23, 2010, clarification memo on ''Applicability of Appendix W Modeling Guidance for the 1-hour SO_2 National Ambient Air Quality Standard'' based on monitored design values. The First-Tier approach selects the highest yearly monitored design value period and adds that value to all model-predicted results. The highest design value for the Midlothian OFW monitored ranged from 5 to 6 ppb during the 2016–2020 time period. Texas, therefore, incorporated a background concentration of 6 ppb into the State's modeling; the EPA is proposing to find that this is an appropriate monitor and representative background values to represent background concentrations in the Navarro County modeling.

G. Summary of Modeling Results

The attainment demonstration, submitted by the State, indicated that the prior emissions limit for the Streetman Plant needed to be revised to achieve attainment. Texas determined that the impact of a new reduced maximum allowable emissions limit and new scrubber stack for the kiln at the Streetman Plant yielded a maximum predicted 5-year design value concentration of 73.8 ppb.

The EPA concludes that Texas' modeling is a suitable demonstration

and that its requirements in the 30 TAC 112, subchapter G for the Streetman Plant were properly addressed in the attainment plan. Texas' modeling demonstrated that the updated emissions limit for the Streetman Plant of 222 lbs/hr and the construction of a new scrubber stack with minimum stack parameters, as provided by 30 TAC 112, subchapter G, provide for attainment in the area. Furthermore, preliminary monitoring data for 2025 [17] supports the conclusion that the emission limits provided for by the attainment plan are effective for bringing the area into attainment. In 2025, the 99th percentile monitored value in the Navarro area is 16 ppb. This marks a significant drop in monitored concentrations, coinciding with the implementation of controls that were mandated to occur no later than January 1, 2025. EPA is proposing to determine that the attainment modeling demonstration comports with the technical guidance found in Appendix W and the 2014 SO_2 Nonattainment Guidance.

VI. Review of Other Plan Requirements

A. Emissions Inventory

CAA section 172(c)(3) requires that the State's attainment plan include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in the area, including such periodic revisions as the Administrator may determine necessary to assure that the requirements of the CAA are met. CAA section 172(c)(4) requires that the State's attainment plan expressly identify and quantify the emissions, if any, of any pollutant or pollutants which will be allowed, in accordance with CAA section 703(a)(1)(B), from the construction and operation of major new or modified stationary sources in the area. CAA section 172(c)(4) also requires the plan demonstrate that the quantified emissions are consistent with the achievement of reasonable further progress and will not interfere with attainment of the NAAQS by the attainment date.

The emissions inventory and source emission rate data for an area serve as the foundation for air quality modeling and other analyses that enable States to: (1) estimate the degree to which different sources within a nonattainment area contribute to violations within the affected area; and (2) assess the expected improvement in air quality within the nonattainment area due to the adoption and implementation of control measures. A nonattainment SIP must include a comprehensive, accurate, and current inventory of actual emissions from all sources of SO_2 in the nonattainment area as well as any sources located outside the nonattainment area which may affect attainment in the area.[18]

In its submittal, Texas included a current emissions inventory for the Navarro NAA for 2017 and forecasted future year projections, which can be found below in Table 1 of this document.

The State of Texas compiled a statewide emissions inventory for stationary sources in accordance with Texas regulations at 30 TAC § 101.10, CAA requirements, and EPA guidance. The submitted data is then reviewed for quality assurance purposes and stored in the State of Texas Air Reporting System (STARS) database. In its submittal, Texas confirmed that stationary point sources (*i.e.,* Streetman Plant) comprised over 99% of the SO_2 emissions in the Navarro NAA. Texas determined the forecasted 2026 emissions for the Streetman Plant through historical point source heat input and a future year emissions limit that accounts for the implementation of the enforceable emissions reductions as required by 30 TAC112, subchapter G, and consistent with the attainment demonstration for the area. The State determined that the nearby Guardian Industries facility, located 7 kilometers from the border of the nonattainment area, did not impact the concentration gradient created by the Streetman Plant.

A summary of the State's submitted emissions inventory is provided in Table 1:

TABLE 1—NAVARRO COUNTY NONATTAINMENT AREA EMISSION INVENTORY—SO_2 POINT SOURCE EMISSIONS, AREA, MOBILE, AND TOTAL SO_2 EMISSIONS

Category	2017 Actual emissions (tons/year)	2026 Projected emissions (tons/year)
Point—Streetman Plant	3493.10	972.36
Area—Non-Oil and Gas	0.46	0.79
Area—Oil and Gas	<0.01	<0.01
On-Road Mobile	0.24	0.23
Off-Road Mobile	0.05	0.05
Total	3493.85	973.43

The EPA agrees that the State's emissions inventories for point, nonpoint, and mobile sources are appropriate because they have been accumulated and reported in accordance with established methods and criteria. The EPA proposes to find that the base year emissions inventory is representative and satisfies the EI requirement.

B. Reasonably Available Control Measures and Reasonably Available Control Technology (RACM/RACT)

CAA section 172(c)(1) requires States to adopt and submit all RACM, including RACT, as needed to attain the standards as expeditiously as practicable. CAA section 172(c)(6) requires the SIP to contain enforceable emission limits and control measures necessary to provide for timely attainment of the standard. The plan relies on ambient SO_2 concentration reductions achieved by implementation of the limits adopted in 30 TAC 112, subchapter G for the Streetman Plant. The Streetman Plant is required to implement all the requirements of the chapter 112 Rule by no later than January 1, 2025, ahead of the area's attainment date of April 30, 2026.

Texas has provided modeling which demonstrates that these measures for the

[17] Preliminary monitoring data is data that has not been quality assured/quality controlled (QA/QC'd) by the State yet and is subject to the State's review and submittal to the EPA for review and finalization. This process is expected to be completed in 2026 for the 2025 preliminary data.

[18] *See* CAA section 172(c)(3) and EPA's 2014 SO_2 Nonattainment Guidance.

Streetman Plant provide for timely attainment of the NAAQS and thus meets the RACM and RACT requirements. The EPA proposes to find that the State satisfied the requirements in CAA section 172(c)(1) to adopt and submit all RACM, including RACT, as needed to attain the standard as expeditiously as practicable and in CAA section 172(c)(6) to include emission limits as necessary to attain.

C. Nonattainment New Source Review (NNSR)

CAA section 172(c)(5) requires that the State's attainment plan provisions shall require permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area, in accordance with CAA section 173. In its submittal, TCEQ provided a certification statement that Texas already has EPA-approved rules that address NNSR requirements. The EPA initially approved Texas' NNSR regulations for SO_2, effective on November 27, 1995.[19] TCEQ determined that because previously approved revisions to the Texas SIP already includes 30 TAC116.12 (Nonattainment and Prevention of Significant Deterioration Review Definitions) and 30 TAC 116.151 (New Major Source or Major Modification in Nonattainment Area Other Than Ozone), Texas has satisfied the NNSR SIP requirements for the Navarro nonattainment area. Further, TCEQ already certified that Texas has EPA-approved rules that cover NNSR requirements with the timely-submitted 2010 1-hour SO_2 NAAQS Infrastructure and Transport SIP Revision. Therefore, the EPA is proposing to conclude that the requirements of CAA section 172(c)(5) have been met and therefore proposes to approve this element of the State's SO_2 attainment plan.

D. Reasonable Further Progress (RFP)

CAA section 172 requires that attainment plans include provisions to address reasonable further progress (RFP). As discussed in EPA's 2014 SO_2 Nonattainment Guidance, this requirement is more practically relevant and important for NAAQS pollutants impacted by emissions from numerous and diverse sources, where the relationship between any individual source and overall air quality is not easily discernable, and where NAAQS attainment may require inventory-wide emissions reductions. The relationship between ambient SO_2 concentrations and SO_2 emission sources is more directly quantifiable as compared to other NAAQS pollutants, and there is frequently only one (or few) primary source of SO_2 emissions responsible for poor air quality in a nonattainment area. Consequently, full progress to attainment is achieved as soon as the one (or few) emission source is subject to an enforceable emission limitation. Therefore, for SO_2 SIPs, which address a small number of affected sources, requiring expeditious compliance with attainment emission limits is sufficient to address the RFP requirement. CAA section 192(a) requires that SO_2 attainment plans provide for future attainment of the NAAQS as expeditiously as practicable, but no later than 5 years from the effective date of the area's designation as nonattainment.

In its submittal, TCEQ provided its rationale for concluding that the plan met the requirement for RFP in accordance with EPA's 2014 SO_2 Nonattainment Guidance. According to TCEQ, the Navarro NAA contains a single source with well-defined emissions, such that emissions controls for this source should result in a ''swift and dramatic improvement in air quality.'' TCEQ further explained that enforceable emission limitations would be implemented for the source (Streetman Plant) in this area and, therefore, this compliance schedule fulfills the RFP requirement for the Navarro NAA. In its submittal, TCEQ set the compliance deadlines for the Streetman Plant to meet its emissions limits by January 1, 2025. Texas indicated that this plan requires that affected sources implement appropriate control measures as expeditiously as practicable in order to ensure attainment of the standard by the applicable attainment date. The State concluded that its plan provides for RFP in accordance with the approach to RFP described in EPA's 2014 SO_2 Nonattainment Guidance. Therefore, the EPA proposes to find that Texas' attainment plan meets the requirements for RFP as contained in CAA section 172(c)(2).

E. Contingency Measures

CAA section 172(c)(9) requires that the State's attainment plan include additional measures, called contingency measures, which will take effect if an area fails to meet RFP or fails to attain the NAAQS by the attainment date. The EPA's 2014 SO_2 Nonattainment Guidance describes special features of SO_2 attainment planning that influence the suitability of alternative means of addressing the requirement in CAA section 172(c)(9) for contingency measures for SO_2. That is, SO_2 control measures are based on what is directly and quantifiably necessary to attain the SO_2 NAAQS, and consequently, an area that implements such control measures would be unlikely to fail to attain the NAAQS. Therefore, EPA's longstanding approach is that an appropriate means of satisfying the contingency measures requirement for SO_2 NAAQS is for the State to have a comprehensive enforcement program that identifies sources of violations of the SO_2 NAAQS and for the State to undertake aggressive follow-up for compliance and enforcement.

For its contingency plan, Texas stated that the TCEQ's comprehensive program to: (1) identify sources of violations of the 2010 SO_2 NAAQS is satisfied through its monitoring network; and (2) follow-up for compliance and enforcement is satisfied through the TCEQ's enforcement programs authorized under the Texas Water Code and Texas Health and Safety Code. Additionally, Texas has the authority to issue orders pursuant to the Texas Clean Air Act and Texas Health and Safety Code for the purpose of supporting attainment and maintenance of the 2010 SO_2 NAAQS.

TCEQ additionally stated that upon the effective date of a determination by the EPA that the Navarro NAA failed to attain the 2010 SO_2 NAAQS or failed to meet RFP, that Streetman Plant would be required to conduct a full system audit of all SO_2 emissions units at the facility; the full system audit will also include a root cause analysis of the circumstances causing the failure to attain or failure to meet RFP. TCEQ staff would then analyze the full system audit report and recommend provisional SO_2 control strategies from Streetman Plant. TCEQ stated that any additional or adopted revised control strategy would be submitted as a SIP revision to the EPA.

As noted above, the EPA's 2014 SO_2 Nonattainment Guidance describes special features of SO_2 planning that influence the suitability of alternative means of addressing the requirement in CAA section 172(c)(9) for contingency measures for SO_2, such that in particular an appropriate means of satisfying this requirement is for the State to have a comprehensive enforcement program that identifies sources of violations of the SO_2 NAAQS and to undertake an aggressive follow-up for compliance and enforcement. Consistent with the 2014 SO_2 Nonattainment Guidance, Texas' attainment plan provides for satisfying the contingency measure requirement in this manner for the NAA. Consequently, the EPA is proposing to find that Texas' comprehensive enforcement program is an appropriate contingency measure for

[19] *See* 60 FR 49781 (Sept. 27, 1995).

this area and meets the requirement of CAA section 172(c)(9).

F. Conformity

Generally, as set forth in CAA section 176(c), conformity requires that actions by Federal agencies do not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant NAAQS. General conformity applies to Federal actions, other than certain highway and transportation projects, if the action takes place in a NAA or maintenance area (*i.e.,* an area that submitted a maintenance plan that meets the requirements of CAA section 175A and has been redesignated to attainment) for ozone, particulate matter, nitrogen dioxide, carbon monoxide, lead, or SO_2. The EPA's General Conformity Rule (40 CFR 93.150 to 93.165) establishes the criteria and procedures for determining if a Federal action conforms to the SIP. With respect to the 2010 SO_2 NAAQS, Federal agencies are expected to continue to estimate emissions for conformity analyses in the same manner as they estimated emissions for conformity analyses under the previous NAAQS for SO_2. The EPA's General Conformity Rule includes the basic requirement that a Federal agency's general conformity analysis be based on the latest and most accurate emission estimation techniques available (40 CFR 93.159(b)). When updated and improved emissions estimation techniques become available, the EPA expects the Federal agency to use these techniques. The EPA is proposing to find that the Navarro County SO_2 Attainment Plan SIP Revision meets these conformity requirements.

Transportation conformity determinations are not required in SO_2 nonattainment and maintenance areas. The EPA concluded in its 1993 transportation conformity rule that highway and transit vehicles are not significant sources of SO_2. Therefore, transportation plans, transportation improvement programs and projects are presumed to conform to applicable implementation plans for SO_2.[20]

VII. Proposed Action

The EPA is proposing to approve Texas' October 24, 2022, SIP revision for attaining the 2010 1-hour SO_2 NAAQS for the Navarro NAA. As part of this proposed action, the EPA is also proposing to approve and incorporate by reference into the State's SIP, a portion of the October 24, 2022, Texas rulemaking SIP revision containing Texas' recently adopted provisions at 30 TAC 112, subchapter G, that provide the enforceable control strategy for the Navarro area.

The SO_2 attainment plan includes Texas' attainment demonstration for the Navarro NAA. Texas explicitly modeled air quality based on the Streetman Plant's updated limit; through that modeling, Texas provided sufficient information that the revised limit at the Streetman Plant would allow the area to meet the standard. Therefore, the EPA is proposing to conclude that the modeling in Texas' plan adequately demonstrates that the control requirements that apply to relevant sources in and near the area, namely the revised 1-hour SO_2 limit for the Streetman Plant, provide for attainment in the area. In addition, available monitoring data also supports that implementation of these requirements is providing for attainment in the area.

The October 24, 2022 attainment plan also addresses requirements for emission inventories, RACT/RACM, RFP, and contingency measures. Texas has previously addressed requirements regarding NNSR. The EPA is proposing to determine that Texas' SO_2 attainment plan meets the applicable requirements of CAA sections 172, 191, and 192. The EPA is taking public comments for thirty days following the publication of this proposed action in the **Federal Register**. The EPA will take these comments into consideration in our final action.

VIII. Incorporation by Reference

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

IX. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations (42 U.S.C. 7410(k); 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

[20] *See* 58 FR 3776, (Jan. 11, 1993).

Dated: November 19, 2026.

Walter Mason,

Regional Administrator, Region 6.

[FR Doc. 2026–24033 Filed 11–25–26; 8:45 am]

BILLING CODE 6569–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–HQ–OLEM–2026–2773; FRL–13316–01–OLEM]

RIN 2050–AH51

Reducing Complexity in Management of Leather Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revise the regulations defining solid wastes that are not hazardous wastes by adding a new exclusion. The proposed revision specifies that leather articles used as personal protective equipment are not hazardous wastes when discarded, if they meet the same standards applicable to the currently excluded waste scrap leather from various leather product manufacturing industries.

DATES: Comments must be received on or before January 26, 2027.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OLEM–2026–2773, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Land and Emergency Management, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. to 4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: William Nicholas, Office of Land and Emergency Management, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, telephone number: (202) 566–0445, email address: *nicholas.william@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2026–2773, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments. As required by the Administrative Procedure Act at 5 U.S.C. 553(b)(4), a plain language summary of the proposed rule is available on the docket at *https://www.regulations.gov.*

II. General Information

A. Does this action apply to me?

This action may affect industries that generate waste leather articles used as personal protective equipment. The personal protective equipment can be described to include gloves, boots, aprons, jackets, pants and coveralls, headwear, and related articles.

B. What action is the Agency taking?

EPA is proposing to revise its regulations in 40 CFR 261.4(b)(6) defining solid wastes that are not hazardous wastes. The proposed revision specifies that leather articles used as personal protective equipment are not hazardous waste when discarded, if they meet the same standards applicable to the currently excluded wastes from various leather product manufacturing industries (40 CFR 261.4(b)(6)). Specifically, EPA is proposing to exclude leather articles used as personal protective equipment, including gloves, boots, aprons, jackets, pants and coveralls, headwear, and other related articles at new paragraph § 261.4(b)(6)(I).

Section 261.4(b) identifies solid waste that the EPA has determined are not hazardous waste and therefore are excluded from regulation. Section 261.4(b)(6) addresses waste generated during the production of leather goods using trivalent chromium. EPA previously excluded wastes from leather tanning and finishing production activities from the definition of hazardous waste despite the presence of chromium, based on such wastes containing trivalent chromium exclusively (or nearly exclusively), having been generated from processes which use trivalent chromium exclusively (or nearly exclusively), and being typically and frequently managed in non-oxidizing environments. Given the relatively low toxicity of trivalent chromium, its low migratory potential, and the lack of indication of potential for oxidation under usual land disposal conditions, the Agency concluded that land disposal of these trivalent chromium-containing wastes in common landfill or impoundment situations would not pose a present or potential hazard to human health or the environment via soil migration to groundwater. (45 FR 72030). The EPA made this determination because the Agency determined it was necessary to recognize a distinction between tri- and hexavalent chromium-containing wastes when land disposed. (45 FR 72030)

To support the original exclusion, the EPA relied on data demonstrating these wastes contain nearly exclusively trivalent chromium, and the fact that the leather production industrial process generating the waste utilizes trivalent chromium because hides cannot be tanned successfully with hexavalent chromium. The tanning process either uses trivalent chromium as a tanning agent or, should trivalent chromium be unavailable, uses hexavalent chromium and reduces it to trivalent chromium so that the tanning process can be completed. In either case, the EPA concluded that there is a compelling commercial incentive to keep hexavalent chromium out of the process and hence out of the process wastes. EPA also concluded that the wastes