

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 52

[EPA-R06-OAR-2020-0434; FRL-12215-01-R6]

**Determination of Attainment by the
Attainment Date for the 2010 1-Hour
Primary Sulfur Dioxide National
Ambient Air Quality Standard; Texas;
Freestone-Anderson and Titus
Counties**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to determine that the sulfur dioxide (SO₂) nonattainment area (NAA) in Freestone and Anderson Counties and the SO₂ NAA in Titus County have each attained the 2010 1-hour primary SO₂ national ambient air quality standard (NAAQS) by the applicable attainment date of January 12, 2022. This determination is based on primary source shutdowns, available ambient air quality monitoring data from the 2019–2021 monitoring period, relevant modeling analysis, and additional emissions inventory information. This action, if finalized, will address the EPA's obligation under CAA section 179(c) to determine whether the Freestone-Anderson and Titus SO₂ NAAs attained the 2010 1-hour primary SO₂ NAAQS by the statutory attainment date of January 12, 2022, for each area.

DATES: Written comments must be received on or before October 3, 2024.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2020-0434, at <https://www.regulations.gov> or via email to grady.james@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 James E. Grady, (214) 665–6745, grady.james@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. 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: James E. Grady, EPA Region 6 Office, Regional Haze and SO₂ Section, 1201 Elm Street, Suite 500, Dallas, TX 75270, 214–665–6745; grady.james@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 “we,” “us,” or “our” mean the EPA.

I. Background

A. The 2010 1-Hour Primary SO₂ NAAQS

Under section 109 of the CAA, the EPA has established primary and secondary NAAQS for certain pervasive 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. The primary NAAQS represent ambient air quality standards that the EPA has determined are requisite to protect the public health, while the secondary NAAQS represent ambient air quality standards that the EPA has determined are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such an air pollutant in the ambient air.

Under the CAA, the EPA must establish a NAAQS for SO₂, which is primarily released to the atmosphere through the burning of fossil fuels by power plants and other industrial facilities. SO₂ is also emitted from industrial processes including metal extraction from ore and heavy equipment that burns fuel with a high sulfur content. Short-term exposure to SO₂ can damage the human respiratory system and increase breathing difficulties. Small children and people with respiratory conditions, such as asthma, are more sensitive to the effects

of SO₂. Sulfur oxides at high concentrations in ambient air can also react with compounds to form small particulates (fine particulate matter or PM_{2.5}) that can penetrate deeply into the lungs and cause acute health problems and/or chronic diseases. The EPA first established primary SO₂ standards in 1971 at 140 parts per billion (ppb) over a 24-hour averaging period and at 30 ppb over an annual averaging period.¹

On June 22, 2010, the EPA published in the **Federal Register** a strengthened, primary 1-hour SO₂ NAAQS, establishing a new standard at a level of 75 ppb, based on the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations of SO₂.² The revised SO₂ NAAQS provides increased protection of public health. Along with revision of the SO₂ NAAQS, EPA revoked the 1971 primary annual and 24-hour SO₂ standards for most areas of the country following area designations under the new NAAQS.

B. Designations, Classifications, and Attainment Dates for the 2010 SO₂ NAAQS

Following promulgation of a new or revised NAAQS, the EPA is required to designate all areas of the country as either “attainment,” “nonattainment,” or “unclassifiable,” pursuant to CAA section 107(d)(1). On August 5, 2013, the EPA finalized its first round of designations for the 2010 1-hour primary SO₂ NAAQS.³ In that 2013 action, the EPA designated 29 areas in 16 states as nonattainment for the 2010 1-hour primary SO₂ NAAQS based on air quality monitoring data. Following the first round of designations, EPA entered into a March 2, 2015, Consent Decree⁴ which required the EPA to complete the remaining area designations by three specific deadlines according to a court-ordered schedule. On July 12, 2016, the EPA finalized its second round of initial designations under the 2010 1-hour primary SO₂ NAAQS, designating an additional four areas as nonattainment, effective September 12, 2016.⁵ On December 13, 2016 (effective January 12, 2017), EPA finalized a supplement to the July 12, 2016, second round final action, designating three more areas in Texas as nonattainment for the 2010 1-hour primary SO₂ NAAQS.⁶ Included in that

¹ 36 FR 8186 (April 30, 1971).

² 75 FR 35520.

³ 78 FR 47191 (August 5, 2013).

⁴ Mar. 02, 2015, Consent Decree; *Sierra Club and Natural Resources Defense Council v. EPA*, Case No. 3:13-cv-3953-SI (N.D. Cal.).

⁵ 81 FR 45039 (July 12, 2016).

⁶ 81 FR 89870 (December 13, 2016).

supplement to the second round of designations was one area in Freestone and Anderson Counties and one area in Titus County. These designations were based on consideration of the data available at the time of designations, including air quality modeling. Pursuant to section 192(a) of the CAA, the attainment dates for the Freestone-Anderson and Titus NAAs were both no later than 5 years after the effective date of initial designation, or January 12, 2022.

CAA section 191(a) requires states that contain an area designated nonattainment for the 2010 1-hour primary SO₂ NAAQS to develop and submit a nonattainment area (NAA) State Implementation Plan (SIP) to the EPA within 18 months of the effective date of an area's designation as nonattainment (*i.e.*, by July 12, 2018). For SO₂, a NAA SIP (also referred to as an attainment plan) must meet the requirements of CAA sections 110 and 172(c), and 191–192, and provide for attainment of the NAAQS by the applicable statutory attainment date, or no later than 5 years from the effective date of designation (*i.e.*, by January 12, 2022).

When a NAA is attaining the 2010 1-hour primary SO₂ NAAQS based on the most recent available data, the EPA may issue a Clean Data Determination (CDD), suspending certain NAA planning requirements. The EPA issued a CDD for the Freestone-Anderson and Titus NAAs based on available monitoring data, emissions data, and air quality modeling via a final rule published on May 14, 2021 (effective June 14, 2021).⁷ A CDD does not alter the nonattainment designations for these areas. For the EPA to redesignate these areas to attainment, the state must submit, and the EPA must approve, a redesignation request for these NAAs that meets the requirements of CAA section 107(d)(3). On March 3, 2022, Texas submitted a request to EPA to redesignate the Freestone-Anderson and Titus NAAs to attainment for the 2010 1-hour SO₂ NAAQS, and accompanying maintenance plans for the two areas. EPA is currently reviewing Texas' redesignation submission.

C. EPA Determination of Attainment by the Attainment Date

Section 179(c)(1) of the CAA requires the EPA to determine whether a NAA attained an applicable standard by the applicable statutory attainment date based on the area's air quality as of the attainment date. The EPA is to issue this determination within 6 months of the

attainment date. Thus, the EPA had a mandatory duty under CAA section 179(c) to determine by July 12, 2022, whether the NAAs attained the NAAQS by the statutory attainment date. With this action, the EPA proposes to determine, in accordance with CAA section 179(c), that the Freestone-Anderson and Titus NAAs attained the 2010 1-hour primary SO₂ NAAQS by the January 12, 2022, statutory attainment date.

A determination of whether an area's air quality meets applicable standards is generally based upon the most recent 3 years of complete, quality-assured data gathered at established state and local air monitoring stations (SLAMS) in a NAA and entered into the EPA's Air Quality System (AQS) database, along with other available information.⁸ Data from ambient air monitors operated by state and local agencies in compliance with the EPA monitoring requirements must be submitted to AQS. Monitoring agencies annually certify that these data are accurate to the best of their knowledge. All data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix T (for SO₂). In general, for SO₂ the EPA does not rely exclusively on monitoring data to determine whether the NAAQS is met unless it has been demonstrated that the monitors were appropriately sited to record expected maximum ambient concentrations of SO₂ in an area. As such, monitoring data can be supplemented with other relevant information, including dispersion modeling and emissions inventories, for determining attainment.⁹

The attainment date for the Freestone-Anderson and Titus NAAs was January

⁸ Under EPA regulations in 40 CFR 50.17 and in accordance with 40 CFR part 50, appendix T, the 2010 1-hour annual SO₂ standard is met at an ambient air quality monitoring site when the design value is less than or equal to 75 ppb. Design values are calculated by computing the 3-year average of the annual 99th percentile daily maximum 1-hour average concentrations. An SO₂ 1-hour primary standard design value is valid if it encompasses 3 consecutive calendar years of complete data. A year is considered complete when all four quarters are complete, and a quarter is complete when at least 75 percent of the sampling days are complete. A sampling day is considered complete if 75 percent of the hourly concentration values are reported; this includes data affected by exceptional events that have been approved for exclusion by the Administrator.

⁹ The memorandum dated April 23, 2014, from Steve Page, Director, EPA Office of Air Quality Planning and Standards to the EPA Air Division Directors and titled "Guidance for 1-hour SO₂ Nonattainment Area SIP Submissions" provides guidance for determining attainment for the 2010 1-hour primary SO₂ NAAQS. This document is available at https://www.epa.gov/sites/default/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.

12, 2022. For an area where monitoring data alone is used in the determination of attainment, the 3-year design value for the calendar years preceding the attainment date is typically used (*e.g.*, the design value for January 2019–December 2021 is the appropriate design value for an attainment date of January 12, 2022). In this case for the Freestone-Anderson and Titus NAAs, however, to demonstrate attainment EPA is relying on a combination of monitoring data, past modeling from the designation action and discussed in the May 2021 CDD,¹⁰ primary source shutdowns, and recent emissions data.

II. The EPA's Proposed Determination

A. Area Characterization

The Freestone-Anderson NAA in Texas is bound by the following Universal Traverse Mercator (UTM) coordinates encompassed by the following rectangular area vertices in UTM zone 14 with datum NAD83:

(1) vertices—UTM Easting (m)
766752.69, UTM Northing (m)

3536333.0,
(2) vertices—UTM Easting (m)

784752.69, UTM Northing (m)

3536333.0,
(3) vertices—UTM Easting (m)

784752.69, UTM Northing (m)

3512333.0,
(4) vertices—UTM Easting (m)

766752.69, UTM Northing (m)

3512333.0.

The Titus NAA in Texas is bound by the following UTM coordinates encompassed by the following rectangular area vertices in UTM zone 15 with datum NAD83:

(1) vertices—UTM Easting (m)
304329.030, UTM Northing (m)

3666971.0,
(2) vertices—UTM Easting (m)

311629.030, UTM Northing (m)

3666971.0,
(3) vertices—UTM Easting (m)

311629.03, UTM Northing (m)

3661870.5,
(4) vertices—UTM Easting (m)

304329.03, UTM Northing (m)

3661870.5.

At the time of these area designations, EPA relied on modeling that indicated that the Big Brown Steam Electric Station in Freestone County and the Monticello Steam Electric Station in Titus County were the key contributors to the modeled 2010 SO₂ NAAQS violations in these rural areas. These two coal-fired power plants were responsible for contributing almost, if not equal to, 100 percent of the SO₂

¹⁰ 86 FR 26401 (May 14, 2021). The background for this action is discussed in detail in our September 24, 2020, proposal (85 FR 60407).

⁷ 86 FR 26401 (May 14, 2021).

impacts on the maximum modeled concentrations in each respective area. Therefore, EPA only included these two principal sources within these area boundaries when designating these areas.¹¹

Shortly after EPA published these nonattainment designation boundaries, Luminant announced plans to retire the Monticello Steam Electric Station (October 6, 2017) and the Big Brown Steam Electric Station (October 13, 2017), and to close both facilities at the beginning of 2018. Luminant permanently retired the Big Brown electric generating units 1 and 2 on February 12, 2018, and the TCEQ voided the operating permit for these units on August 3, 2018. The TCEQ voided most individual NSR permits for Big Brown units 1 and 2 on March 28, 2018, and the remaining NSR authorizations were voided on June 30, 2020. On April 18, 2021, the Big Brown facility was permanently demolished. Luminant permanently retired the Monticello electric generating units 1, 2, and 3 on December 31, 2017, and the TCEQ voided the operating permit for these units on August 29, 2018. The TCEQ voided most individual NSR permits for Monticello units 1, 2, and 3 on February 14, 2018, and the remaining NSR authorizations were voided on July 14, 2020. On July 1, 2021, the Monticello facility was permanently demolished. Thus, a key factor in our determination that these two areas attained the 2010 SO₂ standard is the retirement of these two facilities since they were the only principal sources within these area boundaries when these areas were designated as nonattainment.

B. Evaluation of SO₂ Monitoring Data

On October 30, 2017, Texas deployed a special purpose SO₂ monitor in Freestone County, Texas near the Big Brown Steam Electric facility at the Fairfield Farm to Market (FM) 2570 Ward Ranch site. This special purpose monitor (Air Quality System (AQS) ID 48-161-1084) was specifically established to collect information about the SO₂ ambient air concentrations impacted by emissions from the Big Brown Electric Station. Though the Big Brown Steam Electric Station shut down in February 2018, Texas continues to operate the monitor. In review of the available data at the time of the CDD request, data from the Big Brown monitor demonstrated a marked

improvement in air quality in the NAA due to the permanent retirement of the source.¹² CAA section 179(c) requires EPA's determination of whether the area attained by the attainment date to be based on the area's air quality as of the attainment date. Therefore, for the attainment date of January 12, 2022, the 3-year period of 2019 through 2021 is the relevant time period for evaluation in fulfilling the Agency's obligation under CAA section 179(c). The 2019–2021 design value for the Big Brown monitor was 5 ppb (7 percent of the standard), compared to the standard of 75 ppb. The more recent 2020–2022 design value for the Big Brown monitor was 7 ppb (9 percent of the standard). The Freestone County monitor's 1-hour SO₂ design values have never violated the 2010 1-hour primary SO₂ NAAQS for the periods following the source shutdown. The EPA is proposing to find that this monitoring data supports the determination that the Freestone-Anderson NAA has been in attainment since the Big Brown Steam Electric Station retired in 2018.

For the Titus County NAA, Texas did not install a monitor that had been planned near the Monticello Steam Electric Station once the retirement of the facility was announced for 2017. However, monitoring data from the Welsh monitor (AQS ID 48-449-1078), (the Cookville FM 4855 monitor) also located in Titus County, Texas approximately 16 km to the east of the NAA surrounding the Monticello Steam Electric Station, was evaluated to provide corroborating evidence that the source shutdowns have resulted in attainment. The Welsh Monitor began operating in January 2017. The Welsh monitor was located at the Cookville FM 4855 site by Texas to characterize the SO₂ concentrations from the Welsh Power Plant. The Welsh plant was not included in the Titus NAA because it was not identified as a contributing source to the modeled SO₂ NAAQS violation in the Titus NAA. Although the Welsh plant was not identified as a contributing source to the Titus NAA, it is the only other major SO₂ producing plant in Titus County now that the Monticello Steam Electric Station has retired, and its SO₂ emissions and resulting SO₂ concentrations are

accounted for with this monitor. And, moreover, the Welsh monitor which was sited to capture the impacts of this lone remaining source is recording SO₂ concentrations well below the level of the NAAQS. The 2019–2021 design value at the Welsh monitor is 19 ppb, 25 percent of the 1-hour SO₂ NAAQS standard. The 2020–2022 design value is 14 ppb, 19 percent of the standard. As explained in the CDD final action, these values represent an upper limit for the estimated design value for the Titus County NAA since the Welsh monitor includes the impacts from the nearby Welsh Power Plant. Concentrations within the Titus NAA, farther from the Welsh plant, would be expected to be lower since there are no other large sources nearby. The EPA is proposing to find that the monitoring data from the Welsh monitor in Titus County support the conclusion that the Titus NAA attained the 2010 1-hour SO₂ NAAQS by the January 12, 2022, statutory attainment date.

C. Evaluation of SO₂ Modeling Data

In 2016, Sierra Club and Vistra Energy submitted modeling data for the most recent 3 years (2013–2015) at that time. This modeling provided the basis for the two nonattainment designations as discussed earlier. In our CDD,¹³ we evaluated this modeling to determine if there was any possibility these areas would still be in nonattainment after the plant shutdowns. Our analysis of the maximum impacts around Big Brown and around Monticello found that these plants were responsible for almost 100 percent of the impacts on the maximum ambient SO₂ concentration. EPA's boundaries for the NAAs encompassed the areas shown to be in violation of the standard based on the 2013–2015 emissions and the principal sources that contributed to the violation in each area (*i.e.*, Big Brown and Monticello). Both facilities no longer emit any SO₂ due to permanent shutdowns. Big Brown has emitted zero emissions since the second quarter of 2018 and Monticello has emitted zero emissions since the first quarter of 2018. The only emissions explicitly modeled were those from Big Brown and Monticello; the contributions from all other sources were represented in the model by an estimate of the background concentration. This is a technique in modeling to address smaller or more distant source contributions by examining monitoring data thought to be representative. In the modeling evaluated for designations, these contributions were estimated to be

¹¹ See final round two technical support document (TSD) titled "Final TSD for Supplemental SO₂ NAAQS Designations for Four Areas in Texas.pdf" (pages 16 and 38). Available in the docket for this action.

¹² During the initial 107-day period from the start of monitoring on October 31, 2017, to the shutdown of Big Brown on February 14, 2018, the 99th percentile concentration (the 1st high value for this shorter-than-1-year period) was 77.5 ppb, slightly above the standard. Post-shutdown, 321 days were measured during 2018; during this period the 99th percentile concentration (the 3rd high value) was 14 ppb, 19 percent of the standard. The 99th percentile concentration for 2019 (the 4th high value) was 5.8 ppb, 8 percent of the standard.

¹³ 85 FR 60407, 60411 (September 25, 2020).

small, 2 ppb for both areas (much less than the 75 ppb standard). Consistent with our analysis in the CDD, we do not believe that new modeling is required to determine attainment of the standard by the attainment date. Because the emissions from the Big Brown and Monticello facilities for the 2019–2021 period are zero and their modeled concentrations would also be zero, the total concentration within the nonattainment area would be modeled as equal to the contribution from all other sources, or background. In other words, the modeled design value, if remodeled, would be small and equal to the concentrations from all other

sources as represented by the background concentration.

D. Evaluation of SO₂ Emissions Data

Although the initial designation modeling showed that Big Brown and Monticello Steam Electric Stations contributed nearly 100 percent of the point source emissions in their nonattainment areas, and those sources have shutdown, the EPA also evaluated total County-wide emissions to consider any point sources that are within the Counties. The EPA evaluated annual SO₂ point source emission trends for sources within each County for 2012, and 2017 through 2022.¹⁴

Table 1 shows that Big Brown emitted nearly 100 percent of the total point source emissions within Freestone and Anderson Counties until after its retirement in 2018. The total SO₂ point source emissions have been 100 tons per year (tpy) or less each year from 2019 to 2022. A flare from Mosbacher Energy Company is responsible for the majority of those remaining annual SO₂ emissions (ranging from 28 to 86 tpy) with the rest coming from Freestone Energy Center (ranging from 12 to 16 tpy) and other various combined sources emitting less than 1 tpy each.

TABLE 1—FREESTONE AND ANDERSON COUNTIES COMBINED SO₂ POINT SOURCE EMISSIONS FROM TEXAS *

Facility	Description	SO ₂ emissions (tpy)						
		2012	2017	2018	2019	2020	2021	2022
Big Brown Steam Electric Station.	Boilers 10 and 11	60,681	47,632	6,659	0	0	0	0
Freestone Energy Center	Turbines 1 to 4	11.5	11.7	14	16	14.6	12.3	13.6
Mosbacher Energy Company	Flare 3	130	62.4	73	45.2	28	86	67
Teague Gas Plant	Incinerator 5 and unclassified unit 4.	243.8	0	0	0	0	0	0
Other	Various (1 tpy or less each) **.	3.4	3.1	2.5	2.5	2.5	2	1.8
Total		61,070	47,709	6,748	63.7	45.1	100.7	82.4

* Point source data obtained from the State of Texas Air Reporting System (STARS) reported on January 16, 2024.

** The Bethel Gas Plant Incinerator unit 32 was the only unit to exceed 1 tpy with 1.6 tpy in 2012.

In Table 2, EPA provided categorized County-wide emissions, including point, non-point and mobile source emissions from 2017 and 2020 National Emission Inventory (NEI)¹⁵ data to compare Big Brown’s impact against the rest of the emissions inventory in Freestone and Anderson Counties. The total SO₂ emissions in Freestone and Anderson Counties were significantly lower in 2020 after Big Brown’s retirement, with 171 tpy total. The non-point source category made up the majority of these County-wide emissions at 122 tpy (71 percent) with

fires (prescribed/agricultural burning, and wildfires) contributing the most at 108.5 tpy. Oil and gas, waste disposal, and combustion made up the remaining non-point emissions but were small at 5.4, 4.1, and 3.5 tpy, respectively. On-road sources also contributed lightly with 3.6 tpy. These categorized County-wide emissions show that other source categories in and outside of the Freestone-Anderson NAA are very low. The NAA makes up a very small portion of the total areas in Freestone and Anderson Counties, so these County-wide non-point and mobile emissions,

which are few, would make up an even smaller piece of the overall emissions in or near the Freestone-Anderson NAA. The retirement of the Big Brown Steam Electric Station in 2018 reduced the emissions in the Freestone-Anderson NAA by nearly 100 percent from 2012 to 2020 and there are no other significant emission sources present. Therefore, this information supports a determination that the Freestone-Anderson NAA has attained the 2010 1-hour SO₂ NAAQS by the statutory attainment date.

TABLE 2—FREESTONE AND ANDERSON COUNTIES COMBINED 2017 AND 2020 CATEGORIZED NEI SO₂ TOTAL EMISSIONS

Category	SO ₂ emissions (tpy)	
	2017	2020
Point	47,710	45.1
Non-Point	179	122
<i>Fires (prescribed/agricultural burning, and wildfires)</i>	171.1	108.5
<i>Oil and gas production</i>	3.03	5.4
<i>Waste Disposal</i>	2.9	4.1
<i>Combustion (residential and industrial)</i>	2.4	3.5
On-Road Mobile	12.2	3.6
Non-Road Mobile	1.5	0.1

¹⁴ See spreadsheet titled, “2010 to 2022 Texas Point Source Data.xlsx” included in the docket of this action.

¹⁵ See spreadsheets titled “NEI emissions by sector 2012, 2017, 2020.xlsx” and “NEI emissions

by unit 2012, 2017, 2020.xlsx” included in the docket of this action.

TABLE 2—FREESTONE AND ANDERSON COUNTIES COMBINED 2017 AND 2020 CATEGORIZED NEI SO₂ TOTAL EMISSIONS—Continued

Category	SO ₂ emissions (tpy)	
	2017	2020
Total	47,903	171

Table 3 shows the SO₂ total point source emissions within Titus County in 2012, and from 2017 to 2022. In 2018, after Monticello Steam Electric Station retired, the Welsh Power Plant emitted nearly 100 percent of the remaining SO₂ emissions within Titus County. These results show that up until 2017 the Monticello and Welsh plants were the

only primary SO₂ point sources emitting in Titus County. During designations, EPA’s nonattainment boundary did not include the Welsh Power Plant and was limited to the immediate area surrounding Monticello Steam Electric Station as the Welsh Power Plant was not identified as a contributing source to the modeled SO₂ NAAQS violation.

Therefore, since the Welsh Power Plant did not contribute to the NAAQS violation in the Titus NAA, and since there are no other point sources within Titus County, these County-wide emission results show that Monticello is the only point source that could contribute to nonattainment within the Titus NAA.

TABLE 3—TITUS COUNTY SO₂ POINT SOURCE EMISSIONS FROM TEXAS *

Facility	Description	SO ₂ emissions (tpy)						
		2012	2017	2018	2019	2020	2021	2022
Monticello Steam Electric Station.	Boilers 7, 9, 10, 11, 66	31,450	29,412	0	0	0	0	0
Welsh Power Plant	Boilers 10, 11, and 12	23,212	14,075	14,226	11,177	8,168.8	9,880	10,916
Other	Flares and Fugitive Emissions.	0	0.02	0.3	0.4	0.4	0.4	0.4
Total	54,662	43,487	14,226.3	11,177.4	8,169.2	9,880.4	10,916.4

* Point source data obtained from the State of Texas Air Reporting System (STARS) reported on January 16, 2024.

In Table 4, EPA provided categorized County-wide emissions from 2017 and 2020 NEI data to further compare Monticello’s impact against the rest of the emission inventory in Titus County. The 2017 and 2020 NEI data showed that the SO₂ emissions from other categories in Titus County were small when compared to the point source emissions showing 44 tpy (0.1 percent) in 2017 and 51.7 tpy (0.6 percent) in 2020. The non-point source category made up the majority of these low emissions with 38 tpy in 2017 and 50 tpy in 2020 coming mostly from fires

(19 and 16.3 tpy, respectively, in 2017 and 2020) and combustion (18 and 29.6 tpy, respectively, in 2017 and 2020). Oil and gas and waste disposal made up the remaining of these low emissions with oil and gas showing 2.6 tpy or less and waste disposal 1.5 tpy or less for both years. On-road mobile sources also contributed very lightly as well (5.5 and 1.9 tpy for both years). These categorized County-wide emissions show that other source categories in and outside of the Titus NAA are very low. The Titus NAA makes up a very small portion of the total area in Titus County,

so these County-wide non-point and mobile emissions, which are few, would make up an even smaller piece of those overall emissions in or near the Titus NAA. The retirement of Monticello Steam Electric Station reduced the emissions in the Titus NAA by nearly 100 percent from 2012 to 2020, and no other sources are contributing to that area from Titus County. This information supports a determination that the Titus NAA attained the 2010 1-hour SO₂ NAAQS by the statutory attainment date.

TABLE 4—TITUS COUNTY 2017 AND 2020 CATEGORIZED NEI SO₂ TOTAL EMISSIONS

Category	SO ₂ emissions (tpy)	
	2017	2020
Point (including the Welsh Power Plant)	43,487	8,169.3
Non-Point	38	50
<i>Fires (prescribed/agricultural burning, and wildfires)</i>	19	16.3
<i>Oil and gas production</i>	0.01	2.6
<i>Waste Disposal</i>	1.3	1.5
<i>Combustion (residential and industrial)</i>	18	29.6
On-Road Mobile	5.5	1.9
Non-Road Mobile	0.8	0.09
Total	43,531	8,221

E. Conclusion

We propose to determine that the Freestone-Anderson and Titus NAAs attained the 2010 1-hour SO₂ NAAQS by the statutory attainment date of January 12, 2022. The supporting justification for our proposed determination of attainment by the attainment date includes the following: EPA's previous CDD; the permanent and enforceable shutdowns of the primary sources of SO₂ emissions in these areas; the available modeling analysis demonstrating that the Big Brown Steam Electric Station in Freestone County and the Monticello Steam Electric Station in Titus County were responsible for almost 100 percent of the SO₂ impacts on the maximum modeled concentrations in each respective area; review of emissions data showing emissions within the Freestone-Anderson and Titus NAA's have been reduced by nearly 100 percent with the retirements of Big Brown and Monticello Steam Electric Stations in 2018 and that no other sources remain that are contributing to a violation of the SO₂ NAAQS in those NAAs; and the Freestone County and Welsh monitors' reported 2019–2021 design values of 5 ppb (7 percent of the standard) and 19 ppb (25 percent of the standard) providing additional evidence that these areas are in attainment. The EPA's proposed determination that the area attained the 2010 1-hour SO₂ NAAQS by the attainment date is supported by all of the available aforementioned evidence.

III. Proposed Action

Based on the EPA's review of all available evidence described in this notice, the EPA is proposing to determine that the Freestone-Anderson and Titus NAA's attained the 2010 1-hour primary SO₂ NAAQS by the statutory attainment date of January 12, 2022.

Finalizing this action would not constitute a redesignation of the Freestone-Anderson and Titus NAA's to attainment of the 2010 1-hour SO₂ NAAQS under section 107(d)(3) of the CAA. If this action is finalized, the Freestone-Anderson and Titus NAA's will remain designated nonattainment for the 2010 1-hour SO₂ NAAQS until EPA revises the area's designation under CAA section 107(d)(3).

If finalized, this action will address the EPA's obligation under CAA section 179(c) to determine if the Freestone-Anderson and Titus NAAs attained the 2010 1-hour SO₂ NAAQS by the statutory attainment date of January 12, 2022.

The EPA is soliciting public comments on this notice. These comments will be considered before taking final action.

IV. Environmental Justice Considerations

Information on Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) and how EPA defines environmental justice (EJ) can be found in the section, below, titled "V. Statutory and Executive Order Reviews." EPA is providing additional analysis of environmental justice associated with this action. We are doing so for the purpose of providing information to the public, not as a basis of our action.

The EPA conducted screening analyses utilizing EJSCREEN, an environmental justice mapping and screening tool that combines various environmental and demographic indicators within the area.¹⁶ The EJSCREEN tool presents these indicators at a Census block group (CBG) level or a larger user-specified "buffer" area that covers multiple CBGs.¹⁷ An individual CBG is a cluster of contiguous blocks within the same census tract and generally contains between 600 and 3,000 people. EJSCREEN is not a tool for performing in-depth risk analysis, but is instead a screening tool that provides an initial representation of indicators related to environmental justice and is subject to uncertainty in some underlying data (e.g., some environmental indicators are based on monitoring data which are not uniformly available; others are based on self-reported data).¹⁸ We present EJSCREEN environmental indicators to help screen for locations where residents may experience a higher overall pollution burden than would be expected for a block group with the same total population. These indicators of overall pollution burden include estimates of ambient PM_{2.5} and O₃

concentration, air toxics cancer risk, air toxics respiratory health index, a score for traffic proximity and volume, percentage of pre-1960 housing units (lead paint indicator), and scores for proximity to Superfund sites, risk management plan (RMP) sites, and hazardous waste facilities.¹⁹ We note that the cancer risk and respiratory health indexes are based on 2017 emissions data, when the sources in these areas were still operating. The EPA's EJSCREEN tool also provides information on demographic indicators for vulnerable populations in the area, including communities of color, percent low-income, linguistic isolation, and less than high school-level education. This action proposes a determination of NAAQS attainment by the attainment date for the Freestone-Anderson Counties and Titus County, Texas NAAs. The EPA prepared EJSCREEN reports covering buffer areas containing the designated boundaries for each nonattainment area. We selected a 15 km radius around the Big Brown Steam Electric Station in Freestone-Anderson Counties and a 10 km radius around the Monticello Steam Electric Station in Titus County. These sources were responsible for almost 100 percent of the SO₂ impacts on the maximum modeled concentrations in each respective area. Table 6 presents a summary of results from the EPA's screening-level analysis for the areas surrounding each nonattainment area compared to the U.S. as a whole (the detailed EJSCREEN reports are provided in the docket for this rulemaking).

This action is proposing our determination of attainment by the attainment date for the 2010 1-hour primary SO₂ NAAQS for the Freestone-Anderson and Titus County NAAs by January 12, 2022. Information on SO₂ and its relationship to negative health impacts can be found at final **Federal Register** notice titled "Primary National Ambient Air Quality Standard for Sulfur Dioxide" (75 FR 35520, June 22, 2010). We expect that this particular action will not have a detrimental effect on the populations in the NAAs, including people of color and low-income populations in the NAAs, as this action identifies that the areas attained the NAAQS by the attainment date.

¹⁶ The EJSCREEN tool is available at <https://www.epa.gov/ejscreen>.

¹⁷ See <https://www.census.gov/programs-surveys/geography/about/glossary.html>.

¹⁸ In addition, EJSCREEN relies on the 5-year block group estimates from the U.S. Census American Community Survey. The advantage of

using 5-year over 1-year estimates is increased statistical reliability of the data (i.e., lower sampling error), particularly for small geographic areas and population groups. For more information, see https://www.census.gov/content/dam/Census/library/publications/2020/acs/acs_general_handbook_2020.pdf.

¹⁹ For additional information on environmental indicators and proximity scores in EJSCREEN, see "EJSCREEN Environmental Justice Mapping and Screening Tool: EJSCREEN Technical Documentation," Chapter 3 and Appendix C (September 2019) at https://www.epa.gov/sites/default/files/2021-04/documents/ejscreen_technical_document.pdf.

TABLE 6—EJSCREEN ANALYSIS SUMMARY FOR FREESTONE-ANDERSON AND TITUS SO₂ NAAS

Selected variables	Values for buffer areas for each NAA and the U.S. (percentile within U.S. where indicated)		
	Big Brown Plant in Freestone-Anderson SO ₂ NAA (15 km radius)	Monticello Plant in Titus SO ₂ NAA (10 km radius)	U.S. (avg)
Pollution Burden Indicators			
Particulate matter (PM _{2.5}), annual average (µg/m ³)	9.12 (64th %ile)	9.34 (70th %ile)	8.74 (-)
Cancer Risk (lifetime risk per million)**	30 (80–90th %ile)	38 (95–100th %tile)	29 (-)
Respiratory Health Index**	0.31 (<50th %tile)	0.4 (80–90th %tile)	0.36 (-)
Ozone (O ₃), summer seasonal average of daily 8-hour max (ppb)	40.7 (36th %ile)	40.7 (36th %ile)	42.6 (-)
Traffic proximity and volume score*	11 (8th %ile)	190 (46th %ile)	710 (-)
Lead paint (percent pre-1960 housing)	0.11 (41st %ile)	0.14 (45th %ile)	0.28 (-)
Superfund proximity score*	0.009 (3rd %ile)	0.013 (9th %ile)	0.13 (-)
RMP proximity score*	0.065 (7th %ile)	2.8 (95th %ile)	0.75 (-)
Hazardous waste proximity score*	0.022 (1st %ile)	0.028 (3rd %ile)	2.2 (-)
Demographic Indicators			
People of color population	43% (60th %ile)	61% (72nd %ile)	40% (-)
Low-income population	30% (53rd %ile)	51% (81st %ile)	31% (-)
Linguistically isolated population	1% (50th %ile)	8% (80th %ile)	5% (-)
Population with less than high school education	23% (84th %ile)	22% (82nd %ile)	12% (-)
Population under 5 years of age	3% (23rd %ile)	7% (64th %ile)	6% (-)
Population over 64 years of age	12% (38th %ile)	14% (48th %ile)	16% (-)

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

** Air toxics cancer risk, and air toxics respiratory hazard index are from the EPA's 2017 Air Toxics Data Update, which is the Agency's ongoing, comprehensive evaluation of air toxics in the United States.

V. Statutory and Executive Order Reviews

This action proposes to find that areas attained the NAAQS by the relevant statutory attainment date and does not impose additional or modify existing requirements. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); 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.

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.” As noted in Section IV, the EPA performed an EJ analysis, but we did not consider EJ as a basis for this action. Due to the nature of the action being taken here, this action is expected to have no impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, which finds that NAAs attained the 2010 SO₂ NAAQS by the applicable attainment date, 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.

In addition, this proposed rulemaking, the finding of attainment by the attainment date for the Freestone-Anderson and Titus SO₂ NAAs, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because this action is not intended to apply in Indian country located in the State, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: August 27, 2024.

Earthea Nance,

Regional Administrator, Region 6.

[FR Doc. 2024–19599 Filed 8–30–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R06–OAR–2021–0029; FRL–12218–01–R6]

Air Plan Disapproval; Texas; Control of Air Pollution From Visible Emissions and Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA, the Act), the Environmental Protection Agency (EPA) is proposing to disapprove a revision to the Texas State Implementation Plan (SIP) submitted by the State of Texas through the Texas Commission on Environmental Quality (TCEQ) on August 20, 2020. The SIP submittal addresses emissions during planned Maintenance, Startup and Shutdown (MSS) activities for certain Electric Generating Units (EGUs) and includes requirements intended to address visible emissions (opacity) and Particulate Matter (PM) emissions during planned MSS activities. The requirements are included in eight Agreed Orders (AOs) issued by TCEQ to the affected EGUs and provided in the SIP revision. EPA is proposing to determine that the requirements contained in these AOs do not meet the CAA requirements that emission limitations must be practically enforceable and must apply on a continuous basis. We are taking this action in accordance with section 110 of the Act.

DATES: Comments must be received on or before October 3, 2024.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2021–0029 at <https://www.regulations.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 Mr. Michael Feldman, (214) 665–9793, Feldman.Michael@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 and in hard copy at the EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas 75270. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available at either location (*e.g.*, CBI).

FOR FURTHER INFORMATION CONTACT: Mr. Michael Feldman, Regional Haze and SO₂ Section, EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas 75270, (214) 665–9793, Feldman.Michael@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 “we,” “us,” and “our” means the EPA.

Table of Contents

- I. Background
 - A. Texas Chapter 111—Control of Air Pollution From Visible Emissions and Particulate Matter
 - B. August 20, 2020 SIP Submittal
- II. Applicability of Opacity and PM Limitations in 30 TAC 111
- III. Evaluation of Emission Limitations in the SIP Revision
 - A. SIP Requirements for Emissions Limitations
 - B. Environ. Comm. Fl. Elec. Power v. EPA, 94 F.4th 77 (D.C. Cir. 2024)
- IV. Evaluation of Alternative Emission Limits

- A. EPA Recommendations for Development of Alternative Emission Limitations
- B. EPA’s Evaluation
- V. Proposed Action
- VI. Environmental Justice Considerations
- VII. Statutory and Executive Order Reviews

I. Background**A. Texas Chapter 111—Control of Air Pollution From Visible Emissions and Particulate Matter**

Texas promulgated rules for the control of visible emissions (opacity) and particulate matter emissions for inclusion in its SIP on January 28, 1972, and EPA first approved those rules into the SIP on May 31, 1972 (37 FR 10895) at 40 CFR 52.2270(b). In the original codification, Texas’ rules concerning visible emissions and emission restrictions for particulate matter emissions were contained in TACB Regulation I—Control of Smoke, Visible Emissions and Particulate Matter, Rule 103.1 and 105.31. In developing these original rules, the state has noted that it relied in part on the findings of a study conducted by the Radian Corporation (Radian Report)¹ on behalf of the Texas Air Control Board (TACB),² a predecessor state agency to the TCEQ. The Radian Report provided information on the steady-state performance of electrostatic precipitator (ESPs) that the state used as part of establishing the Opacity and PM restrictions in TACB Regulation I. The control and performance efficiencies documented in the Radian Report for visible emissions and particulate matter for coal fired EGUs equipped with ESPs did not consider startup and shutdown periods when the EGU boiler exhaust gas is below the minimum temperature required to ensure the effective and safe operation of an ESP as a control device for particulate matter emissions and opacity.³

¹ Radian Corporation, Technical Basis for Texas Air Control Board Particulate Regulations, Delbert Max Ottmers, Jr and Ben R. Breed, August 20, 1971 (included in TCEQ’s SIP submittal in the Docket for this proposed rulemaking).

² The Texas Air Control Board, abolished by Texas S.B. 2, 72nd Leg., 1st C.S., effective September 1, 1993, duties transferred to the Texas Natural Resource Conservation Commission which was formed from a merger with other state agencies including the Texas Water Commission and which was later renamed the Texas Commission on Environmental Quality, Agency 582.

³ TCEQ’s SIP submittal identifies additional studies conducted by the EPA and predecessor agencies as early as 1970 on ESP design and operation (available in the docket for this action): An Electrostatic Precipitator Systems Study: Final Report to The National Air Pollution Control Administration, Southern Research Institute, Contract CPA 22–69–73, October 30, 1970; Effects of Transient Operating Conditions on Steam-