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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2026-0661; FRL-10281-01-R3]

Air Plan Approval; Virginia; Interstate Transport Requirements for the 2010 SO_2 NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or Act), the U.S. Environmental Protection Agency (EPA) is proposing to approve a State implementation plan (SIP) revision submitted by the Commonwealth of Virginia demonstrating that Virginia satisfies the interstate transport requirements of the CAA, for the 2010 1-hour sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS). Specifically, the EPA proposes to find that the Virginia SIP contains adequate provisions prohibiting emissions from Commonwealth sources from contributing significantly to nonattainment or interfering with maintenance of the 2010 SO_2 NAAQS in any other State, consistent with the good neighbor provision of the CAA.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2026-0661 at *www.regulations.gov*, or via email to *gordon.mike@epa.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, 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 the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5787. Ms. Schmitt can also be reached via electronic mail at *schmitt.ellen@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA – Clean Air Act

CBI – confidential business information

CEDS – Virginia's Comprehensive Environmental Data system

CFR – Code of Federal Regulations

DRR – Data Requirements Rule

DV – design value

EIS – Emissions Inventory System

EPA – U.S. Environmental Protection Agency

km – kilometer

NAAQS – national ambient air quality standards

NEI – National Emissions Inventory

NPRM – notice of proposed rulemaking

NSR – new source review

Pb – lead

$PM_{2.5}$ – fine particulate matter

ppb – parts per billion

PSD – prevention of significant deterioration

SIP – State implementation plan

SO_2 – sulfur dioxide

tpy – tons per year

TSD – technical support document

U.S.C – United States Code

WOE – weight of evidence

Table of Contents

I. Background
A. Infrastructure SIPs
B. 2010 1-Hour SO_2 NAAQS Designations Background
II. Relevant Factors Used to Evaluate 2010 1-Hour SO_2 Interstate Transport SIPs
III. Summary of SIP Revision and the EPA's Analysis
A. State Submission
B. The EPA's Evaluation Methodology
IV. Proposed Action
V. General Information Pertaining to SIP Submittals from the Commonwealth of Virginia
VI. Statutory and Executive Order Reviews

I. Background

A. Infrastructure SIPs

On June 2, 2010, the EPA established a revised primary 1-hour SO_2 NAAQS with a level of 75 parts per billion (ppb), based on a 3-year average of the annual 99th

percentile of daily maximum 1-hour average concentrations.[1] CAA section 110(a)(1) requires all States to submit, within three years after promulgation of a new or revised NAAQS, SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS.[2] The EPA has historically referred to these SIPs as "infrastructure SIPs." Specifically, CAA section 110(a)(1) provides the procedural and timing requirements for SIP submissions. CAA section 110(a)(2) lists specific elements that all States must meet related to a newly established or revised NAAQS, such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS.

Section 110(a)(2)(D)(i) of the CAA requires SIPs to contain provisions to prohibit emissions that have certain adverse air quality effects on other States due to interstate transport of pollution. Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as "prongs," that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), require SIPs to contain adequate provisions that prohibit any source or other type of emissions activity in one State from contributing significantly to nonattainment of the NAAQS in any other State (Prong 1) and from interfering with maintenance of the NAAQS in any other State (Prong 2). These first two prongs are often referred to as the good neighbor provision. The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), require SIPs to contain adequate provisions that prohibit emissions activity in one State from interfering with measures required to prevent significant deterioration of air quality in another State (Prong 3) and from interfering with measures to protect visibility in another State (Prong 4). This submittal and action only address

[1] *See* 75 FR 35520 (June 22, 2010).
[2] In 2012, the EPA retained the current secondary NAAQS for SO_2. Thus, the CAA section 110(a)(1) requirement to submit an infrastructure SIP for this secondary standard was not triggered. *See* 77 FR 20218 (Apr. 3, 2012).

CAA section 110(a)(2)(D)(i)(I). The EPA has long interpreted this language to enact a "functional prohibition" on certain emissions from upwind States, necessitating the EPA's independent assessment whether those emissions will occur or have been adequately controlled in the State where they originate.[3]

B. 2010 1-Hour SO_2 NAAQS Designations Background

In this proposed action, the EPA has considered information from the 2010 1-hour SO_2 NAAQS designations process, as discussed in more detail in section III.C of this publication. For this reason, a brief summary of the EPA's designations process for the 2010 1-hour SO_2 NAAQS is included here.[4]

After the promulgation of a new or revised NAAQS, the EPA is required to designate areas as "nonattainment," "attainment," or "unclassifiable" pursuant to CAA section 107(d)(1) and (2). The process for designating areas following promulgation of a new or revised NAAQS is contained in CAA section 107(d). The EPA promulgated the 2010 1-hour SO_2 NAAQS on June 22, 2010.[5] The EPA Administrator promulgated the first round of designations for the 2010 1-hour SO_2 NAAQS on July 25, 2013, designating 29 areas in 16 States as nonattainment for the 2010 1-hour SO_2 NAAQS.[6] The *Federal Register* publications for Round 2 designations published on July 12, 2016

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[3] *See Genon Rema LLC v. EPA*, 722 F.3d 513, 520–24 (3d Cir. 2013); *Appalachian Power Co. v. EPA*, 249 F.2d 1032, 1045–47 (D.C. Cir. 2001); *see also* 71 FR 25328, 25335 (Apr. 28, 2006) (explaining that the SIP/FIP process under CAA section 110 and the petitioning process for direct Federal regulation CAA under section 126 provide independent means of effectuating the same "functional prohibition" found in CAA section 110(a)(2)(D)(i)(I)).

[4] While designations may provide useful information for purposes of analyzing transport, the EPA notes that designations themselves are not dispositive of whether or not upwind emissions are impacting areas in downwind states. The EPA has consistently taken the position that CAA section 110(a)(2)(D)(i)(I) requires elimination of significant contribution and interference with maintenance in other states, and this analysis is not limited to designated nonattainment areas. Nor must designations for nonattainment areas have first occurred before states or the EPA can act under section 110(a)(2)(D)(i)(I). *See, e.g.,* Clean Air Interstate Rule, 70 FR 25162, 25265 (May 12, 2005); Cross State Air Pollution Rule, 76 FR 48208, 48211 (Aug. 8, 2011); Final Response to Petition from New Jersey Regarding SO_2 Emissions From the Portland Generating Station, 76 FR 69052 (Nov. 7, 2011) (finding facility in violation of the prohibitions of CAA section 110(a)(2)(D)(i)(I) with respect to the 2010 1-hour SO_2 NAAQS prior to issuance of designations for that standard).

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

[6] *See* 78 FR 47191 (Aug. 5, 2013). The term "round" in this instance refers to which "round of designations."

and on December 13, 2016.[7] Round 3 designations were published on January 9, 2018 and April 5, 2018.[8] Round 4 designations were published on March 26, 2021 and April 14, 2021.[9,10,11]

On August 21, 2015, the EPA separately promulgated air quality characterization requirements for the 2010 1-hour SO_2 NAAQS in the Data Requirements Rule (DRR).[12] The DRR required 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 had otherwise been listed under the DRR by the EPA or state air agencies. In lieu of modeling or monitoring, state air agencies, by specified dates, could elect to impose Federally enforceable emissions limitations on those sources restricting their annual SO_2 emissions to less than 2,000 tpy, or provide documentation that the sources had been shut down. The EPA used the information generated by implementation of the DRR to help inform Round 4 designations for the 2010 1-hour SO_2 NAAQS.

For Virginia, under the DRR, the EPA identified 11 sources for which the Commonwealth was required to characterize air quality through modeling or monitoring or impose Federally enforceable controls. The EPA designated part of Giles County as nonattainment and the remainder of the County as attainment/unclassifiable in Round

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[7] *See* 81 FR 45039 (Jul. 12, 2016) and 81 FR 89870 (Dec. 13, 2016).
[8] *See* 83 FR 1098 (Jan. 9, 2018) and 83 FR 14597 (Apr. 5, 2018).
[9] *See* 86 FR 16055 (Mar. 26, 2021) and 86 FR 19576 (Apr. 14, 2021).
[10] The Round 4 2010 1-hour SO_2 NAAQS designations action was signed by former EPA Administrator Andrew Wheeler on December 21, 2020, pursuant to a court-ordered deadline of December 31, 2020. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, former Acting Administrator Jane Nishida re-signed the same action on March 10, 2021, for publication in the *Federal Register*.
[11] On August 21, 2015 (80 FR 51052), the EPA separately promulgated air quality characterization requirements for the 2010 1-hour SO_2 NAAQS in the Data Requirements Rule (DRR). The DRR required 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 had otherwise been listed under the DRR by the EPA or state air agencies. In lieu of modeling or monitoring, state air agencies, by specified dates, could elect to impose Federally enforceable emissions limitations on those sources restricting their annual SO_2 emissions to less than 2,000 tpy, or provide documentation that the sources had been shut down. The EPA used the information generated by implementation of the DRR to help inform Round 4 designations for the 2010 1-hour SO_2 NAAQS.
[12] *See* 80 FR 51052.

4.[13,14] For the "Giles County (part)" nonattainment area, 40 Code of Federal Regulations (CFR) 81.347 sets forth the geographic coordinates, specifying the nonattainment area boundary. This is the only nonattainment area in Virginia for the 2010 1-hour SO_2 NAAQS following the EPA's fourth and final round of the designations process. All other areas in the Commonwealth were designated as attainment/unclassifiable or unclassifiable (Buchanan County) during Round 3 or Round 4.[15] While in-state designations themselves are not sufficient on their own for the EPA to draw conclusions about potential out-of-state impacts, the EPA draws upon information generated under the DRR and as part of the SO_2 designations process, as well as other available relevant information, that is useful in assessing whether Virginia's SIP meets the requirements of CAA section 110(a)(2)(D)(i)(I).

II. Relevant Factors Used to Evaluate 2010 1-Hour SO_2 Interstate Transport SIPs

Although SO_2 is emitted from a similar universe of point and nonpoint sources as is directly emitted fine particulate matter ($PM_{2.5}$) and the precursors to ozone and $PM_{2.5}$, interstate transport of SO_2 is unlike the transport of $PM_{2.5}$ or ozone, which disperse over a wide area and can contribute to nonattainment or maintenance issues hundreds of miles from precursor-emitting sources or activities. SO_2 emissions usually do not undergo long-range transport in the atmosphere. The transport of SO_2, relative to the 2010 1-hour SO_2 NAAQS, is more analogous to the transport of lead (Pb) relative to the Pb NAAQS in that emissions of SO_2 typically result in 1-hour pollutant impacts of greatest concern near the source of emissions. However, ambient 1-hour concentrations of SO_2 do not decrease as quickly with distance from the source as do 3-month average concentrations of Pb, because SO_2 gas is not removed by deposition as rapidly as are Pb particles. Emitted SO_2

[13] *See* 80 FR 51052 (Aug. 21, 2015).
[14] Round 4 designations became effective on April 30, 2021.
[15] Allegheny County, Botetourt County and Giles County (both part and remainder) were the only areas designated under Round 4. All other areas in Virginia were designated under Round 3 for the 2010 SO_2 NAAQS. Round 3 designations became effective on April 9, 2018.

has wider-ranging impacts than emitted Pb, but it does not have such wide-ranging (far downwind) impacts that treatment in a manner similar to ozone or $PM_{2.5}$ would be appropriate. Accordingly, the approaches that the EPA has adopted for ozone or $PM_{2.5}$ transport are too regionally focused, and the approach for Pb transport is too tightly circumscribed to the source, to be appropriate for assessing SO_2 transport. SO_2 transport is therefore a unique case and necessitates an approach that lies between these other approaches to assessing pollutant transport.

In this proposed rulemaking, and consistent with prior SO_2 transport analyses, the EPA focused on a 50 kilometer (km)-wide zone around sources of interest because the physical properties of SO_2 result in relatively localized pollutant impacts near an emission source that drop off with distance. Given the properties of SO_2, the EPA believes that significant impacts in a downwind State are unlikely at distances greater than 50 km from a source and thus, we are focusing our review on areas within 50 km of the State lines. This scale of analysis is consistent with the "urban scale" which is the largest appropriate spatial scale for SO_2 monitors and is useful for assessing SO_2 transport and trends in area-wide air quality.[16]

The EPA reviewed Virginia's interstate transport SIP revision pertaining to the 2010 SO_2 NAAQS, submitted on September 13, 2022. The Agency discusses the submission in section III of this document, and in further detail in the technical support document (TSD) for this action. We also have elected to review and assess other available information regarding SO_2 emissions and air quality for sources in the Commonwealth to assist in our own evaluation, including more recent air quality, emissions, and wind rose data, when available. We independently analyzed all

[16] For the definition of spatial scales for SO_2, see 40 CFR part 58, appendix D, section 4.4 ("Sulfur Dioxide (SO_2) Design Criteria"). For further discussion on how the EPA applies these definitions with respect to interstate transport of SO_2, see the EPA's proposed rulemaking on Connecticut's SO_2 transport SIP. *See* 82 FR 21351, 21352, 21354 (May 8, 2017).

information to determine whether the Commonwealth meets the interstate transport requirements described in the CAA.[17]

Consistent with our prior evaluations of other State's SO_2 interstate transport obligations, the EPA conducted a weight of evidence (WOE) analysis evaluating several sources of information, including current air quality data from monitors and available emissions and/or source modeling for sources in Virginia and in neighboring States within 50 km of the Commonwealth's border. A WOE approach can be appropriate in instances, such as here, to determine whether or not SO_2 emissions from Viriginia contribute to nonattainment or maintenance issues in adjoining States. A WOE analysis that is based strictly on available data may not be sufficient in all instances for evaluating interstate SO_2 transport, and additional analysis may be necessary. Further, the term "WOE" does not establish the legal or technical meaning for what constitutes significant contribution to nonattainment or interference with maintenance for the 2010 SO_2 NAAQS. Rather, the term refers to the gathering and consideration of a wide range of information, on a case-by-case basis, to make a determination regarding whether a statutory or regulatory standard is met.

In other SO_2 interstate transport SIP actions, the EPA has generally been able to use a WOE analysis of available information to reach a conclusion that there are no SO_2 nonattainment or maintenance issues in the relevant areas of other States, or that no sources in the upwind State are contributing to those issues. If the available evidence indicated, however, that an upwind source, sources, or emissions activities were contributing to an out-of-state SO_2 nonattainment or maintenance problem, then further analysis and a regulatory determination would be necessary concerning what amount of

[17] This proposed action is based on the information contained in the administrative record for this action and does not prejudge any future EPA action that may make other determinations regarding the air quality status in Virginia and downwind states. Any such future action, such as area designations under any NAAQS, would be based on separate administrative records and the EPA's analyses of information that become available at that time. Future available information may include monitoring data and modeling analyses conducted by states, air agencies, and third-party stakeholders.

those emissions, if any, constituted "significant contribution" under Prong 1 or Prong 2 of the good neighbor provision.

We find that there is sufficient information to allow the EPA to make a determination that under baseline conditions and likely future emissions scenarios no Virginia sources are contributing or will contribute to any out-of-state SO_2 nonattainment or maintenance problems. Accordingly, it is not necessary here to render a determination concerning what amount of emissions would be "significant" and therefore subject to prohibition under the good neighbor provision.[18]

III. Summary of SIP Revision and the EPA's Analysis

A. State Submission

On September 13, 2022, the Commonwealth of Virginia submitted to the EPA a SIP revision concerning the interstate pollution transport requirements under CAA section 110(a)(2)(D)(i)(I) for the 2010 SO_2 NAAQS. The September 2022 SIP submittal and this action only address CAA section 110(a)(2)(D)(i)(I), or Prongs 1 and 2, of the good neighbor provision. The Commonwealth of Virginia separately submitted, and the EPA took separate action on all the infrastructure elements outlined in CAA sections 110(a)(1) and 110(a)(2) except for the interstate transport provisions of CAA section 110(a)(2)(D)(i)(I) for the 2010 SO_2 NAAQS.[19]

In Virginia's September 13, 2022 interstate transport SIP submittal, the Virginia Department of Environmental Quality (VADEQ) includes a source evaluation for Virginia SO_2 emissions to demonstrate that the majority of SO_2 emissions in Virginia originate from point source fuel combustion and certain specific industrial facilities. Virginia's analysis also identifies in-state sources (emitting 50 tons per year (tpy) or more

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[18] *Cf. Genon Rema v. EPA*, 722 F.3d 513 (3d Cir. 2013) (upholding the EPA grant of CAA section 126(b) petition and establishment of direct Federal emissions control requirements on SO_2 source in Pennsylvania found to be significantly contributing to nonattainment and interfering with maintenance of the 2010 SO_2 NAAQS in New Jersey).

[19] *See* 80 FR 11557 (Mar. 4, 2015), 80 FR 17695 (Apr. 2, 2015), and 83 FR 42219 (Aug. 21, 2018).

of SO_2) within 50 kilometers of any State boundary to determine if emissions from that point source may impact nonattainment and maintenance areas in other States. Large sources (emitting 100 tpy or more of SO_2) within 50 km of Virginia's boundaries and located in other States, or "cross-state sources," were also identified. These individual cross-state sources were evaluated to determine if their SO_2 emissions may combine with SO_2 emissions from Virginia sources in a manner that could create attainment or maintenance issues for the 2010 SO_2 standard. Virginia's SIP revision also included monitoring data within the Commonwealth and in other States within 50 km of the Virginia border, as well as emissions trends in Virginia and nearby States.

B. The EPA's Evaluation Methodology

For this CAA section 110(a)(2)(D)(i)(I) evaluation of the 2010 SO_2 NAAQS, the EPA conducted a WOE analysis for Prong 1 and Prong 2 separately, evaluating available information such as air quality, emission sources, modeling and emission trends in Virginia, and the States that border the Commonwealth.[20] To identify which sources and emissions activities in Virginia could potentially impact downwind air quality in other States with respect to the 2010 1-hour SO_2 NAAQS, the EPA used information from the EPA's National Emissions Inventory (NEI) and Emissions Inventory System (EIS).[21,22] The NEI is a comprehensive and detailed estimate of air emissions for criteria pollutants, criteria pollutant precursors, and hazardous air pollutants from air emissions sources, updated every three years using information provided by the States and other information available to the EPA. For the EPA's analyses, we largely relied on data from the 2020

[20] In *North Carolina v. EPA*, 531 F.3d at 910–911 (D.C. Cir. 2008), the D.C. Circuit explained that the regulating authority must give Prong 2 "independent significance" from Prong 1 by evaluating the impact of upwind state emissions on downwind areas that, while currently in attainment, are at risk of future nonattainment.

[21] EPA's NEI is available and accessible to the public at *www.epa.gov/ air-emissions-inventories/ national-emissions-inventory*.

[22] The EIS is the EPA database used to receive and store emissions data and generate emissions inventories. The EIS Gateway is a web-based tool developed to provide only registered EPA, State, local and Tribal users with access to emission inventory data for sources in their jurisdiction.

NEI, because it is the most recently available, complete, and quality assured dataset.[23] However, in evaluating emissions trends, both State-wide and at the facility level, the EPA also considered data from prior NEI reports and more recent EIS queries, as part of the overall WOE analysis.

As shown in table 1, in this document, in 2020 the majority of SO_2 emissions in Virginia originate from point sources. This was also noted by VADEQ in their September 2022 SIP revision, after reviewing the 2014 and 2017 NEIs. In 2020, total SO_2 emissions from point sources in Virginia comprised approximately 78 percent of the total SO_2 emissions in the Commonwealth. Non-point sources, on road and non-road emissions sources are individually much smaller and more dispersed throughout Virginia and are therefore unlikely to contribute to high ambient concentrations when compared to point source contributions. Further analysis shows that facilities with reported emissions greater than 100 tpy represent approximately seven percent of the total number of Virginia SO_2 point sources but are responsible for 89 percent (12,312 tons of SO_2) of the total 2020 SO_2 point source emissions in the Commonwealth.[24,25] Accordingly, the EPA focused our WOE analysis on SO_2 emissions from Virginia's larger point sources (*i.e.*, point sources emitting over 100 tpy of SO_2) that are located within 50 km of one or more of Virginia's borders.

Table 1 – Summary of 2020 SO_2 Emissions in Virginia by Source Category

Category	2020 Emissions (tpy)	Percent of Total SO_2 Emissions
Point	13,803	78
Nonpoint	3,653	21
On road	238	1
Nonroad	20	<1
SO_2 Emissions Total	**17,696**	**100%**

[23] For the September 13, 2022, SIP revision, VADEQ reviewed both the 2014 and 2017 NEI. The 2020 NEI was not yet available. VADEQ also reviewed the Virginia's Comprehensive Environmental Data system (CEDS) from 2010–2020.
[24] *See* The EPA's TSD in the docket for this rulemaking for a more detailed discussion.
[25] *See* Table 9 in the EPA's TSD.

The EPA proposes that an assessment of Virginia's fulfilment of the Prong 1 and 2 requirements of CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO_2 NAAQS may be reasonably based upon several factors. These factors include the evaluation of the predicted downwind impacts in previous relevant modeling studies for a source and nearby areas, assessment of Virginia's SO_2 point source emissions from facilities that emit more than 100 tpy of SO_2 and are located within approximately 50 km of another State, assessment of other States' point sources emitting more than 100 tpy of SO_2 located within approximately 50 km of Virginia, and assessment of Federal regulations and permits affecting Virginia's SO_2 sources.[26] The EPA's evaluation is informed by all available data at the time of this rulemaking.[27]

The EPA notes that if this information were insufficient to draw a reasonable conclusion concerning whether Virginia is "significantly contributing" or not, then it would not be possible to propose approval based only on this information. In other words, the absence of information concerning whether interstate transport is occurring is generally not in itself sufficient justification for approving a good neighbor SIP submission. For example, if there were inadequate monitoring or modeling information to characterize the effects of a large, near-border source of SO_2 emissions, it may be appropriate to conduct, or ask the State to conduct, further analysis to better characterize that source and its effects, in order to reach a determination concerning whether the good neighbor provision is being met.[28] In this case, the information available to the EPA, as analyzed in the accompanying TSD and summarized below, is fully sufficient to

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[26] While VADEQ assessed point source emissions of SO_2 greater than 50 tpy, the EPA narrowed its analysis to only those point sources emitting 100 tpy or more of SO_2 per facility.

[27] The EPA notes that the evaluation of other States' satisfaction of CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO_2 NAAQS can be informed by similar factors found in this proposed rulemaking but may not be identical to the approach taken in this or any future rulemaking for Virginia, depending on available information and State-specific circumstances.

[28] *See*, *e.g.*, 88 FR 41344 (June 26, 2023) (proposing approval of Tennessee's SO_2 transport SIP submission based on updated modeling conducted to better characterize emissions from the Eastman Chemical facility).

conclude that Virginia is not and will not emit SO_2 pollution in violation of the good neighbor provision for the 2010 SO_2 NAAQS.

1. The EPA's Prong 1 Evaluation— Contribute Significantly to Nonattainment

Prong 1 of the good neighbor provision requires States' plans to prohibit emissions that will contribute significantly to nonattainment of the NAAQS in another State. The EPA's evaluation of whether Virginia has met its Prong 1 transport obligations was completed by considering all available information, including the following: SO_2 ambient air quality in Virginia and neighboring States; SO_2 emissions trends for Virginia; potential ambient impacts of SO_2 emissions from certain facilities in Virginia on neighboring States; potential interaction with emissions from cross-state sources; and permit requirements which may reduce SO_2 emissions either directly or indirectly.[29,30] Based on the EPA's analysis, we propose to determine that Virginia's SIP satisfies the requirements of Prong 1 of CAA section 110(a)(2)(D)(i)(I). This proposed determination is based on the following considerations:

- No SO_2 monitors located in Virginia, or within 50 km of its border, recorded above the 2010 SO_2 NAAQS of 75 ppb for the 2023 or 2024 design values (DVs).[31] With the exception of the source-specific monitor in Giles County, the DVs at Virginia's SO_2 monitors have remained below the 2010 1-hour SO_2 NAAQS from 2015-2024;[32]
- Downward SO_2 emissions trends in Virginia, its surrounding States (Kentucky, Maryland, North Carolina, Tennessee, and West Virginia) and the District of Columbia, when considered together with the other factors discussed as part of

[29] The physical properties of SO_2 result in relatively localized pollutant impacts near the emissions source. Therefore, the EPA selected a spatial scale with dimensions up to 50 km from point sources.
[30] A detailed review of the EPA's evaluation of emissions, air monitoring data, other technical information, and rationale for proposed approval of this SIP revision as meeting CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO_2 NAAQS may be found in the TSD.
[31] The design value is the 3-year average of the 99th percentile 1-hour daily maximums at a monitor.
[32] The Giles County monitor was sited for the Lhoist North America – Kimballton facility under the DRR and has attained the 3-year design values for 2023 and 2024.

the EPA's WOE analysis, further support that the Commonwealth's sources will not significantly contribute to any other States' nonattainment of the 2010 1-hour SO_2 NAAQS;

- Source-specific analyses of every Virginia SO_2 source emitting over 100 tpy and located within 50 km of the Commonwealth's border indicate that the sources do not contribute to nonattainment in other States. These analyses draw upon available emissions data, monitoring data, air quality modeling, controls, wind rose data, and other relevant information to assess the likelihood of air quality impacts from these sources on areas in surrounding States. A detailed discussion of each source-specific analysis is contained in section IV.B.1 of the TSD accompanying this action. Below we cover some of the principal evidence that confirms that emissions from Virginia do not contribute to nonattainment in other States.
    - Jewell Coke Company, Virginia's one applicable southwest facility, has stacks of relatively short heights and sits at an elevation well below surrounding significant terrain features, which act as barriers to emissions reaching to and beyond neighboring State lines.
    - Several facilities have closed (Wheelabrator Portsmouth) or have been emitting less than 100 tpy of SO_2 in more recent years (King George Landfill Inc and Perdue Foods LLC – Accomac Complex).
    - There are generally very few cross-State facilities emitting more than 100 tpy of SO_2 within 50 km of the individual large point sources in Virginia.
    - Modeling projections indicated that it was unlikely that certain

Virginia facilities (Lhoist North American – Kimballton Plant, Roanoke Cement Company, WestRock – Covington, and Dominion/ODEC Clover Power Station) would impact another State through interstate transport of the 2010 SO_2 NAAQS.

- Certain Virgina facilities (Lhoist North American – Kimballton Plant and WestRock – Covington) took facility-wide SO_2 emission limits to ensure compliance with the 2010 SO_2 NAAQS.
- Two Virginia facilities (Roanoke Cement Company in Botetourt County and WestRock in the City of Covington) were able to remove their DRR source-specific monitors as they were measuring less than 50% of the 2010 SO_2 NAAQS.
- Further, Virginia's SIP-approved permit programs will continue to ensure that SO_2 emissions in the Commonwealth will be effectively controlled for existing and new sources or modifications.

Based on this evaluation, and as more thoroughly discussed in our TSD for this action, the EPA proposes to find that sources within Virginia will not significantly contribute to nonattainment of the 2010 1-hour SO_2 NAAQS in any other State.

2. The EPA's Prong 2 Evaluation—Interference with Maintenance

Prong 2 of the good neighbor provision requires State plans to prohibit emissions that will interfere with maintenance of a NAAQS in another State. The EPA's evaluation of whether Virginia has met its Prong 2 transport obligations was accomplished by considering all available information, with a focus on current regional air quality data (including Virginia and its neighboring States), SO_2 emissions trends for the Commonwealth and neighboring States, and how existing and future sources of SO_2 are addressed through existing regulations and permits. This evaluation builds upon the

analysis conducted for significant contribution to nonattainment (Prong 1), which evaluated SO_2 ambient air quality in Virginia and neighboring States and potential ambient impacts of SO_2 emissions from certain facilities in the Commonwealth on neighboring States.

Based on the EPA's analysis, we propose to find that SO_2 levels in neighboring States near the Virginia border indicate an ability to maintain the SO_2 NAAQS, and as such the EPA proposes to determine that Virginia's SIP satisfies the requirements of Prong 2 of CAA section 110(a)(2)(D)(i)(I). This determination is based on the following considerations:

- 2023 and 2024 DVs for SO_2 monitors in Virginia within 50 km of another State's border and in neighboring States (Kentucky, Maryland, North Carolina, Tennessee, and West Virginia) and the District of Columbia within 50 km of Virginia's border are well below the standard, indicating that these areas are all currently in attainment of the 2010 1-hour SO_2 NAAQS;
- State-wide emissions trends in Virginia and surrounding States indicate generally declining SO_2 emissions and consequently declining ambient air concentrations in the relevant areas;
- Source-specific analyses show that facility-level emissions are decreasing as a result of emissions unit shutdowns (Wheelabrator Portsmouth) and fuel changes (International Paper Company – Franklin Mill), indicating that emissions are not anticipated to increase relative to baseline emissions;
- Current emissions control programs and permits control SO_2 emissions from certain sources within Virginia (Lhoist North American – Kimballton Plant, Roanoke Cement Company, WestRock – Covington, Covanta Fairfax, King George Landfill, Dominion/ODEC Clover Power Station, and Owens-Brockway Glass Container Inc. – Ringgold).

- Virginia's prevention of significant deterioration (PSD), major new source review (NSR) regulations and minor source NSR permit programs address future new and modified SO_2 sources above major and minor permitting thresholds with the intent of ensuring that the SO_2 NAAQS will not be exceeded as a result of new facility construction or existing facility modification within the State or in surrounding States.[33]

Based on this evaluation, as more thoroughly discussed in our TSD for this action, the EPA proposes to find that sources within Virginia will not interfere with maintenance of the 2010 1-hour SO_2 NAAQS in any other State.

IV. Proposed Action

The EPA is proposing to approve the interstate transport SIP revision submitted by the Commonwealth of Virginia on September 13, 2022, addressing the Prong 1 and Prong 2 requirements of CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO_2 NAAQS. Based on VADEQ's interstate transport analysis and the EPA's WOE analysis, as more thoroughly discussed in the TSD, the EPA proposes to determine that emissions from Virginia will not contribute significantly to nonattainment in, or interfere with maintenance of, any other State with respect to the 2010 SO_2 NAAQS. We therefore propose to find that Virginia's SIP contains adequate provisions consistent with CAA section 110(a)(2)(D)(i)(I).

The EPA is soliciting public comments on the issues discussed in this document.

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[33] EPA notes that in the context of evaluating transport for other NAAQS pollutants, such as ozone, the effects of existing emissions control measures are taken into account in Step 1 and Step 2 of its 4-step framework through its nationwide analytical methodology that relies on photochemical grid modeling and source attribution techniques. Thus, in that context, once a state is identified as "linked" at Step 2, reliance on existing control measures is considered insufficient, since such measures have already been taken into account in the modeling. Here, without the benefit of such modeling, a state's existing control programs that have been approved into its SIP can have some relevance insofar as they provide confidence that sources subject to such requirements are not authorized to emit in excess of such requirements. However, without further, more detailed information concerning how these requirements function to constrain emissions at the particular existing (or potential new) sources of relevance to an SO_2 transport analysis, the EPA considers general information concerning a state's approved programs to be of only minimal relevance or utility.

These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 United States Code (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 action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, Oct. 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, Feb. 6, 2025) because SIP actions are exempt from review 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, Aug. 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, Apr. 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 CAA.

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 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, Reporting and recordkeeping requirements, Sulfur oxides.

Amy Van Blarcom-Lackey,
Regional Administrator,
Region III.

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