

42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not 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);

- 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; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where 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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 17, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

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

Dated: May 26, 2020.

**Cheryl Newton,**

*Deputy Regional Administrator, Region 5.*

Accordingly, 40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

■ 2. Section 52.2585 is amended by adding paragraph (kk) to read as follows:

##### **§ 52.2585 Control strategy: Ozone.**

\* \* \* \* \*

(kk) *Second maintenance plan.*  
Approval—On December 13, 2019 Wisconsin submitted 1997 Ozone NAAQS second maintenance plans for the Kewaunee County, Door County,

Manitowoc County, and Milwaukee-Racine areas. These second maintenance plans are designed to keep the Kewaunee County area in attainment of the 1997 ozone NAAQS through 2028, Door County and Manitowoc County in attainment of the 1997 ozone NAAQS through 2030, and the Milwaukee-Racine area in attainment of the 1997 ozone NAAQS through 2032.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R03-OAR-2018-0042; FRL-10009-54-Region 3]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Infrastructure Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standard

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving portions of a state implementation plan (SIP) submittal from the State of Maryland. The submittal pertains to the basic program elements referred to as infrastructure requirements for the 2010 sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS or standard). EPA is approving certain elements of the infrastructure SIP submittal in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on July 16, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2018-0042. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:**

Marilyn Powers, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2308. Ms. Powers can also be reached via electronic mail at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

On May 8, 2019 (84 FR 20070), EPA published a notice of proposed rulemaking (NPRM) for the State of Maryland. In the NPRM, EPA proposed approval of portions of Maryland's infrastructure SIP submittal for the 2010 SO<sub>2</sub> NAAQS. The formal SIP revision (16-11) was submitted by Maryland on August 17, 2016.

**II. Summary of SIP Revision and EPA Analysis**

On August 17, 2016, Maryland, through the Maryland Department of the Environment (MDE) formally submitted a SIP revision to satisfy certain infrastructure requirements of section 110(a) of the CAA for the 2010 SO<sub>2</sub> NAAQS. The SIP submittal addressed the following infrastructure elements for the 2010 SO<sub>2</sub> NAAQS: CAA section 110(a)(2)(A), (B), (C), (D)(i)(I), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). As explained in the NPRM, EPA is not taking action in this rulemaking related to Maryland's submittal for the interstate transport requirement of section 110(a)(2)(D)(i)(I). EPA is taking action on Maryland's 2010 1-hour SO<sub>2</sub> NAAQS infrastructure submission related to the section 110(a)(2)(D)(i)(I) requirements in a separate rulemaking.

The NPRM and the Technical Support Document (TSD) provided EPA's review and rationale for proposing approval of portions of Maryland's submittal and will not be restated here. The TSD is available online at [www.regulations.gov](http://www.regulations.gov), Docket ID Number EPA-R03-OAR-2018-0042.

**III. Public Comments and EPA's Responses**

One anonymous commenter provided comments in response to the May 8, 2019 proposed approval. EPA's responses to the comments are provided in this document. The full text of the comment is in the docket for this final rule.

*Comment 1:* The commenter questions the validity of EPA's statement in the TSD under CAA section 110(a)(2)(B) that Maryland maintains and operates a network of ambient monitors throughout the State

to measure ambient air quality levels and to determine compliance with the NAAQS, in light of the requirements under the Data Requirements Rule (DRR) for SO<sub>2</sub>. The commenter believes that section 110(a)(2)(B) should be disapproved until SO<sub>2</sub> monitors are installed at Brandon Shores, CP Crane, Chalk Point, Herbert Wagner, Luke Paper (Luke) and Morgantown, and that the data should be captured and reported to EPA and the public. The commenter also states that EPA has failed to take the DRR into consideration in its determination that section 110(a)(2)(G) is approvable, despite its finding that Maryland has shown under section 110(a)(2)(B) that it has the ability and authority to perform SO<sub>2</sub> air quality monitoring in accordance with EPA's requirements. The commenter believes that installation of monitors at the six sources in Maryland are required under the DRR so that ambient SO<sub>2</sub> levels near those sources can be evaluated for comparison to significant harm levels for SO<sub>2</sub>, and that EPA should not approve section 110(a)(2)(B) and (G) until Maryland installs more SO<sub>2</sub> monitors and reports the monitored data to EPA and the public.

*Response 1:* The commenter refers to the section 110(a)(2)(G) requirement in the context of SO<sub>2</sub> air quality monitoring and the DRR. Section 110(a)(2)(G) requires that state implementation plans have emergency authority comparable to that contained in section 303 of the CAA, and adequate contingency plans to implement such authority. In the proposed rule for this action, the technical support document lays out EPA's rationale for proposing approval of Maryland's submittal for section 110(a)(2)(G). The SIP-approved Maryland regulations COMAR 26.11.05.03 and 26.11.05.04 establish criteria for addressing emergency episodes of SO<sub>2</sub> in the State. However, because the comment pertains to air quality monitoring, EPA believes that the commenter mistakenly cited to section 110(a)(2)(G) and instead meant to cite to the monitoring requirements under section 110(a)(2)(F), which pertain to the installation, maintenance, and replacement of equipment, and the implementation of stationary source monitoring, periodic reports on emissions and emissions-related data from such sources, and correlation of the reports with any emissions limitations or standards. The section 110(a)(2)(F) requirement is discussed later in this response. EPA agrees that the six sources identified by the commenter were listed by the State under the DRR requirements, 40 CFR

part 51, subpart BB, for characterization of SO<sub>2</sub> emissions,<sup>1,2</sup> but EPA disagrees that the DRR requires installation of SO<sub>2</sub> monitors at all six of the sources. Under the DRR, states were required to submit a list to EPA that identified all sources within the state having SO<sub>2</sub> emissions that exceeded a 2,000 tons per year (tpy) annual threshold during the most recent year for which emissions data for that source was available, plus any additional sources identified by the air agency or by EPA as also warranting air quality characterization. For each of the listed sources, a state was required to indicate by July 1, 2016, whether air quality around the source would be characterized through ambient monitoring or through air quality modeling. See 40 CFR 51.1203(b). Alternatively, the state could indicate that documentation would be provided by January 13, 2017, that the listed source was subject to federally-enforceable and in effect emission limit(s) below 2,000 tpy or a shutdown. If the state chose to install new SO<sub>2</sub> monitor(s), the state was required to include information about the new monitors in the annual monitoring network plan (AMNP) by July 1, 2016, and to ensure that the new monitor(s) were operational by January 1, 2017. If the state chose to model a source, the modeling protocol was required to be submitted by July 1, 2016.

On June 30, 2016, Maryland submitted a letter notifying EPA of the State's selected methods for characterizing the SO<sub>2</sub> emissions for the six sources named by the commenter.<sup>3</sup> The letter identified modeling as the method for characterizing five of the sources, and monitoring for characterizing the Luke facility.<sup>4</sup>

<sup>1</sup> Letter dated January 5, 2016 from Larry Hogan, Maryland Governor to Shawn Garvin, Regional Administrator recommending sources in Maryland subject to the DRR, available in the docket for this rulemaking action or at <https://www.epa.gov/sites/production/files/2016-06/documents/md.pdf>.

<sup>2</sup> Letter dated March 16, 2016 from Shawn Garvin, Regional Administrator to Benjamin H. Grumbles, Maryland Secretary, agreeing with the Maryland recommendation, available in the docket for this rulemaking action, or at <https://www.epa.gov/sites/production/files/2016-06/documents/md-response.pdf>.

<sup>3</sup> Available at [https://www.epa.gov/sites/production/files/2016-07/documents/maryland\\_source\\_characterization.pdf](https://www.epa.gov/sites/production/files/2016-07/documents/maryland_source_characterization.pdf).

<sup>4</sup> Three of the listed sources (Brandon Shores, CP Crane, and Herbert A. Wagner) that the State chose the modeling pathway for are located in an area that EPA designated nonattainment under the 2010 SO<sub>2</sub> NAAQS in July 2016 after consideration of all available modeling, including modeling submitted by the State. See Air Quality Designations for the 2010 Sulfur Dioxide (SO<sub>2</sub>) Primary National Ambient Air Quality Standard—Round 2 (81 FR 45039, July 12, 2016). For the reasons explained in this response regarding listed sources for which a state chose the modeling pathway, EPA disagrees

Maryland's 2016 AMNP includes the following narrative of the chosen option to characterize SO<sub>2</sub> concentrations around each of these sources, as follows: "This final rule gives air agencies the flexibility to characterize air quality using either modeling of actual source emissions or using appropriately sited ambient air quality monitors. At the time of this publication, all sources except Verso Luke Mill are expected to model their emissions. Verso Luke Mill submitted a draft monitoring plan to MDE in March 2016. When Verso Luke Mill has submitted a complete package of material describing their proposed monitoring plan, an addendum to this Network Plan will be published and made available for a separate 30-day public comment period. The same July 2016 submission deadline to EPA will apply to this addendum."<sup>5</sup> This language in the AMNP notes that the DRR provides Maryland the flexibility to choose between modeling and monitoring for each source subject to the requirements of the DRR, which Maryland exercised in its decision to use air quality modeling to characterize five sources' SO<sub>2</sub> emissions and monitoring to characterize Luke's SO<sub>2</sub> emissions. The DRR does not mandate installation of SO<sub>2</sub> monitors at the sources Maryland chose to characterize through air quality modeling. To meet the modeling pathway for Chalk Point and Morgantown Generating Stations, Maryland submitted a modeling analysis for the area surrounding each source on December 19, 2016, prior to the January 13, 2017 submission date required by the DRR. Before the modeling analysis was submitted to EPA, a modeling protocol was developed to outline the procedures to follow for the modeling analysis. To meet the monitoring pathway for Luke in Allegany County, Maryland installed three monitors to characterize the SO<sub>2</sub> emissions around Luke, including one monitor in West Virginia. The new monitors began operation on January 1, 2017.

EPA also disagrees with the comment that section 110(a)(2)(B) and 110(a)(2)(F) should be disapproved because of a lack of SO<sub>2</sub> monitors, which the commenter believes is required under the DRR. As discussed above, the DRR provides states the option to either model or monitor SO<sub>2</sub> emissions around listed

DRR sources, and Maryland chose to model for certain sources. With this in mind, EPA found that for SO<sub>2</sub>, Maryland's monitoring network is sufficient under section 110(a)(2)(B) to monitor, compile and analyze data on SO<sub>2</sub> ambient data, and Maryland does provide monitored or modeled data to EPA upon request. The TSD for the NPRM provides EPA's analysis of how Maryland's submittal met the requirements for section 110(a)(2)(B) and 110(a)(2)(F). Maryland's authority to monitor and analyze ambient air quality is found in sections 2–103(b)(2) and 2–301(a)(1) of the Environment Article, Annotated Code of Maryland. The ambient air quality standards, definitions, reference conditions, and methods of measurement have been approved into the SIP and are found under COMAR 26.11.04.02. Regarding the validity of Maryland's SO<sub>2</sub> monitoring network under 110(a)(2)(B), EPA affirms that Maryland maintains and operates a network of ambient SO<sub>2</sub> monitors throughout the State meeting the requirements of the DRR and other applicable requirements, to measure ambient air quality levels and to determine compliance with the NAAQS. As required by 40 CFR 58.10, Maryland submits an AMNP annually to EPA that details any modifications to the sampling network. Maryland also submits a periodic network assessment to EPA every five years to determine if the network meets the monitoring objectives defined in 40 CFR part 58, appendix D, and to determine whether (1) new sites are needed, (2) existing sites are no longer needed and can be terminated, and (3) new technologies are appropriate for inclusion into the network. As required by 40 CFR 51.320, Maryland submits all ambient air quality data and associated quality assurance data for SO<sub>2</sub> to EPA's Air Quality System (AQS) in accordance with the schedule prescribed by EPA in 40 CFR 58.16. The 2016, 2017, and 2018 AMNP plans are provided in the docket for this rulemaking.<sup>6</sup> Therefore, the NPRM proposed to determine that Maryland met the requirements under section 110(a)(2)(B) of the CAA.

Regarding section 110(a)(2)(F), EPA finds that Maryland's SIP contains authority meeting the requirements to require sources to install, maintain and replace equipment necessary to monitor emissions from sources, the requirements to provide for periodic reports on the nature and amount of emissions from sources, and correlation

of reports to the standard. Section 2–103 and 2–301 of the Environment Article, Annotated Code of Maryland, provides the authority for monitoring of air emissions for sources in the State and for adopting regulations to control air pollution, including testing, monitoring, record keeping, and emissions reporting requirements. Under this authority, Maryland has adopted, and EPA has approved into the Maryland SIP, provisions of Code of Maryland (COMAR) 26.11—*Air Quality* that require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps by stationary sources for testing, monitoring, recordkeeping, and reporting of emissions. This SIP-approved requirement of COMAR 26.11 also establishes the authority needed to require sources to provide for periodic reports on the nature and amount of emissions from such sources. Also relevant to the requirements of section 110(a)(2)(F) is section .04(B)(4) of Maryland regulation COMAR 26.11.01—*Testing and Monitoring*, which requires that all testing and monitoring reports submitted to MDE under this section be available for public inspection, and Maryland makes the monitoring data available to the public in real time at this site: <https://mde.maryland.gov/programs/Air/AirQualityMonitoring/Pages/index.aspx>. The TSD for the NPRM details EPA's analysis of Maryland's submission related to section 110(a)(2)(B) and 110(a)(2)(F), and EPA's determination that the Maryland's submittal meets the requirements for these sections.

*Comment 2:* The commenter stated that EPA should provide air quality data to the public so the public does not have to guess when facilities are polluting the air, and that monitoring network plans and modifications to the plans should be made public as well. The commenter also states that EPA should require monitoring network plans be made available to the public for comment so the public can litigate based on unbiased publicly available data.

*Response 2:* The quality-assured, certified monitoring data collected by the State is provided to the public. Maryland makes the monitoring data available to the public in real time at this site: <https://mde.maryland.gov/programs/Air/AirQualityMonitoring/Pages/index.aspx>. After Maryland submits the certified monitoring data to EPA, EPA reviews the data, then posts the emissions data to EPA's AQS. The AQS air monitoring data can be found at this site: <https://www.epa.gov/aqs>. EPA posts monitoring data and

that the DRR required monitors to characterize SO<sub>2</sub> emissions around Brandon Shores, CP Crane, and Herbert A. Wagner.

<sup>5</sup> The "publication" referred to is the AMNP as published in the Maryland Register. The AMNP lists all six of the sources named by the commenter, with Luke as the only source to be characterized by monitoring.

<sup>6</sup> The 2016, 2017, and 2018 AMNP Plans were approved by EPA November 10, 2016, November 17, 2017, and October 26, 2018, respectively.

summary reports at this site: <https://www.epa.gov/outdoor-air-quality-data>.

Regarding public notice for the AMNP, EPA regulations at 40 CFR part 58, subpart B, require among other things that the state provide the AMNP for public inspection for at least 30 days prior to submission to EPA. 40 CFR 58.10(a)(1). Maryland did provide a 30-day public comment period on the 2016 AMNP, therefore, the public does have an opportunity to comment on Maryland's AMNP at the state level. The monitors installed to characterize SO<sub>2</sub> emissions around the Luke facility are required to continue in operation to report ambient data and may not be shut down unless the monitor meets specific criteria under § 51.1203(c)(3) and 40 CFR part 58. Under 40 CFR 58.10, AMNPs must go through Maryland's public process. Under 40 CFR 58.14, modifications to the SO<sub>2</sub> monitoring network outside of the AMNP require approval by the Regional Administrator of EPA.

*Comment 3:* The commenter questions why EPA has not yet taken action on section 110(a)(2)(D)(i)(I), and also questions EPA's policy of taking separate, later action on the portion of the Maryland submittal related to this section. In particular, the commenter notes that EPA has had the submittal since August 17, 2016, should have taken action by now, and should not be delaying action for a later date. The commenter notes that Maryland had until June 2, 2013 to submit this SIP and that EPA had 18 months after that to take final action on these SIPs, *i.e.* December 2, 2014. The commenter states that EPA must take action on this section as soon as possible to prevent harmful air pollution from negatively impacting neighboring states like Delaware, the District of Columbia, Pennsylvania, New Jersey, West Virginia, and Virginia. The commenter also states that this comment serves as a notice of intent to sue on EPA's failure to act on this section of the CAA within the statutory time frame.

*Response 3:* EPA's approach to reviewing and taking action on infrastructure SIPs is discussed in numerous past infrastructure rulemaking actions.<sup>7</sup> In these past actions, EPA explained an ambiguity in section 110(a)(1) and (2) with respect to infrastructure SIPs pertaining to whether states must meet all of the infrastructure SIP requirements in a

single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit "a plan" to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action. Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. Therefore, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.

This is discussed in the guidance issued on September 13, 2013 (2013 Infrastructure Guidance).<sup>8</sup> The 2013 Infrastructure Guidance explains that EPA has historically, when reviewing infrastructure SIP submissions, operated on the basis that the elements and sub-elements of section 110(a)(2) for a given NAAQS are, for the most part, severable. EPA intends to continue its practice of acting on infrastructure SIP elements together or separately, as appropriate, including in this instance, where EPA is taking separate action on the section 110(a)(2)(D)(i)(I) portion of Maryland's submittal.<sup>9</sup>

EPA acknowledges that it has not met the statutory date for action on this Maryland submittal. However, this action will discharge EPA's statutory obligation related to section 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) of the CAA. With regard to this comment as a notice of intent to sue on the section 110(a)(2)(D)(i)(I) portion of the submittal, section 304(a) of CAA sets forth the circumstances under which a citizen can sue under the CAA. However, section 304(b) states that no action can be commenced "prior to 60 days after the plaintiff has given notice of such action to the Administrator." Section 304(b)(2) stipulates that such notice "shall be given in such manner

as the Administrator may prescribe by regulation." The regulations at 40 CFR part 54 require that a notice of intent to sue be served on the Administrator by certified mail. 40 CFR 54.2(a). Title 40 CFR 54.3 specifies the content of such notice and requires, among other things, the full name and address of the person giving notice. So, a citizen intending to file a notice of intent to sue on EPA's mandatory duty to act on any portion of the Maryland submittal is required to do so via certified mail directly to Administrator, which would also need to meet the other requirements specified in 40 CFR part 54. EPA, therefore, does not consider this comment as meeting the requirements for notice of a mandatory duty suit.

*Comment 4:* The commenter questions EPA's proposed approval of section 110(a)(2)(E) based on Maryland's staff of 43 people, and that EPA needs to clarify whether these 43 individuals are working on only the SO<sub>2</sub> SIP or if they also have other work responsibilities. The commenter believes that EPA should show that these 43 people are able to handle all their assigned duties. The commenter also questions EPA's determination that MDE has adequate funding without an analysis of MDE's revenue and expenses and believes that EPA should perform a financial audit of MDE to ensure the State has adequate funding to perform their obligations under the CAA.

*Response 4:* As stated in the TSD for the NPRM, EPA's evaluation indicates that the State of Maryland has the staffing and funding resources to meet SIP obligations under section 110(a)(2)(E). Maryland's budget and staff level has been consistent over the past number of years and over these years, Maryland has been able to meet its statutory commitments, including submission of required air quality data and annual monitoring network plans. Maryland has an EPA-approved fee program under CAA title V which is used to support title V program elements such as permitting, monitoring, testing, inspections, and enforcement. EPA conducts periodic title V fee and program audits in accordance with generally accepted government auditing standards. Maryland regulation COMAR 26.11.02.19 provides fee schedules and other relevant fee information regarding title V permits and state permits to operate. Additionally, MDE receives grant funding annually from EPA through CAA section 105 to assist the State with the costs of implementing programs for the prevention and control of air pollution or implementation of national primary and secondary ambient

<sup>7</sup> As an example, *See* Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Infrastructure Requirements for the 2010 Nitrogen Dioxide and 2012 Fine Particulate Matter National Ambient Air Quality Standards (80 FR 26461, May 8, 2015).

<sup>8</sup> "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)," Memorandum from Stephen D. Page, September 13, 2013.

<sup>9</sup> In a separate action on April 22, 2020 (85 FR 22381), EPA proposed to disapprove the portion of Maryland's August 17, 2016 infrastructure SIP submittal for section 110(a)(2)(D)(i)(II) related to interstate transport of emissions.

air quality standards. The CAA section 105 grant funding MDE receives goes through an evaluation process under the requirements of 40 CFR part 35, subpart A, which call for the State and EPA to jointly evaluate and report progress and accomplishments under the work plan. Maryland also has various permit programs that are self-funded as they apply fees for permit applications. Most of these permit program fees can be adjusted if the State determines that the fee does not cover the reasonable costs of reviewing and acting upon the permit applications.

In addition to the EPA programs through which funding is received, MDE's infrastructure SIP submission identifies the organizations that participate in developing, implementing, and enforcing the EPA-approved SIP provisions related to a new or revised NAAQS and the associated resources. Maryland's Environmental Trust Fund, administered by the Maryland Department of Natural Resources (DNR), provides Maryland with annual funding that is used by the State to conduct air quality modeling, and also funds the Maryland Power Plan Research Program. Also, the Public Service Commission (PSC) collects application fees from power plants to fund its regulatory program. Based on a review of the existing resources, EPA has concluded that Maryland has met the funding requirements of section 110(a)(2)(E) and has adequate personnel to implement the SIP.

#### IV. Final Action

EPA is approving Maryland's August 17, 2016 infrastructure SIP submission which addresses the basic program elements, or portions thereof, specified in sections 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) of the CAA, necessary to implement, maintain, and enforce the 2010 SO<sub>2</sub> NAAQS. EPA is approving Maryland's infrastructure SIP submittal for the 2010 SO<sub>2</sub> NAAQS for these elements. As noted previously, EPA is taking separate action on the portion of the MDE submittal related to transport *i.e.*, section 110(a)(2)(D)(i)(I). Maryland's submittal did not address section 110(a)(2)(I) or the nonattainment new source review (NNSR) permitting program requirements of section 110(a)(2)(C), which pertain to the nonattainment planning requirements of part D of the CAA. States are required to submit those nonattainment area requirements under a different timeline as statutorily required under part D of the CAA.

#### V. Statutory and Executive Order Reviews

##### A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not 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);
- 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; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249,

November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

##### B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

##### C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 17, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving portions of Maryland's infrastructure SIP submittal for the 2010 SO<sub>2</sub> NAAQS may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

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

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

Dated: May 26, 2020.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

Accordingly, 40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

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

## Subpart V—Maryland

■ 2. In § 52.1070, the table in paragraph (e) is amended by adding the entry

“Section 110(a)(2) Infrastructure Requirements for the 2010 SO<sub>2</sub> NAAQS” at the end of the table to read as follows:

### § 52.1070 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* Section 110(a)(2) Infrastructure Requirements for the 2010 SO <sub>2</sub> NAAQS.	* Statewide ....	* 08/17/16	* 6/16/20, [insert <b>Federal Register</b> citation].	* § 52.1070 is amended. This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), D(ii), (E), (F), (G), (H), (J), (K), (L), and (M). This action does not address CAA sections 110(a)(D)(i)(I) and 110(a)(2)(I), nor does it address the portion of section 110(a)(2)(C) related to NNSR.

[FR Doc. 2020–11643 Filed 6–15–20; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 48 CFR Parts 804, 805, 849, and 852

RIN 2900–AQ77

#### VA Acquisition Regulation: Administrative and Information Matters; Publicizing Contract Actions; and Termination of Contracts

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is amending and updating its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates portions of the removed VAAR as well as other internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish them in the **Federal Register**. In particular, this rulemaking revises VAAR coverage concerning Administrative and Information Matters, Publicizing Contract Actions, and Termination of Contracts, as well as an affected part concerning Solicitation Provisions and Contract Clauses.

**DATES:** This rule is effective on July 16, 2020.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rafael N. Taylor, Senior Procurement Analyst, Procurement Policy and Warrant Management Services, 003A2A, 425 I Street NW, Washington, DC 20001, (202) 382–2787. (This is not a toll-free number.)

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 13, 2020, VA published a proposed rule in the **Federal Register** (85 FR 8242) which announced VA's intent to amend regulations for VAAR Case RIN 2900–AQ77 (parts 804, 805, 849, and 852). VA provided a 60-day comment period for the public to respond to the proposed rule and submit comments. The comment period for the proposed rule ended on April 13, 2020 and VA received no comments. This rule adopts as a final rule, without changes, the proposed rule published in the **Federal Register** on February 13, 2020.

##### Technical Non-Substantive Changes to the Proposed Rule

This rule makes one non-substantive change to the proposed rule to ensure compliance with the FAR. A recent update in 84 FR 40220, dated Aug. 13, 2019, revised the FAR part 4 heading from “Administrative Matters” to “Administrative and Information Matters.” This final rule includes this technical non-substantive change to the heading under 804 to “Administrative and Information Matters.”

##### Executive Orders 12866, 13563, and 13771

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits

(including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). E.O. 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at <http://www.va.gov/orpm/>, by following the link for “VA Regulations Published From FY 2004 Through Fiscal Year to Date.”

This final rule is not subject to the requirements of E.O. 13771 because this rule is not significant under E.O. 12866.

##### Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

##### Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). This rulemaking does not change VA's policy regarding small businesses, does not have an economic impact to individual businesses, and there are no increased or decreased costs to small business entities. On this basis, the final rule would not have an economic impact on