

**List of Subjects in 28 CFR Part 523**

Prisoners.

**Kathleen Hawk Sawyer,**

Director, Federal Bureau of Prisons.

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the Director, Bureau of Prisons in 28 CFR 0.96, we propose to amend 28 CFR part 523 as follows:

**SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER****PART 523—COMPUTATION OF SENTENCE**

■ 1. The authority citation for 28 CFR part 523 continues to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 3568 (repealed November 1, 1987 as to offenses committed on or after that date), 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 4161–4166 (repealed October 12, 1984 as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510.

■ 2. Revise § 523.20 to read as follows:

**§ 523.20 Good Conduct Time.**

(a) *Good conduct time (GCT) credit.* The Bureau of Prisons (Bureau) typically awards GCT credit to inmates under conditions described in this section. GCT credit may be reduced if an inmate: (1) Commits prohibited acts which result in certain disciplinary sanctions (see part 541); or

(2) Fails to comply with literacy requirements in this section and part 544 of this chapter.

(b) *For inmates serving a sentence for offenses committed on or after November 1, 1987:* (1) The Bureau will initially determine a projected release date based on the length of an inmate's imposed sentence. The projected release date is subject to change during the inmate's incarceration.

(2) Any portion of a sentence that is less than a full year will be calculated at a prorated amount.

(3) An inmate may receive up to 54 days GCT credit on the anniversary date of his/her imposed sentence, subject to the requirements in this section.

(4) When the inmate reaches the Bureau-projected release date, the sentence will be satisfied/completed and the inmate will be eligible for release.

(c) *For inmates serving a sentence for offenses committed on or after November 1, 1987, but before September 13, 1994,* GCT credit is vested once received and cannot be withdrawn.

(d) *Literacy requirement.* (1) *For inmates serving a sentence for offenses committed on or after September 13, 1994, but before April 26, 1996,* all GCT credit will vest annually only for inmates who have earned, or are making satisfactory progress toward earning, a high school diploma, equivalent degree, or Bureau-authorized alternative program credit (see part 544 of this chapter).

(2) *For inmates serving a sentence for an offense committed on or after April 26, 1996,* the Bureau will award:

(i) Up to 54 days of GCT credit per year served on the anniversary date of his/her imposed sentence, if the inmate has earned or is making satisfactory progress toward earning a high school diploma, equivalent degree, or Bureau-authorized alternative program credit; or

(ii) Up to 42 days of GCT credit per year served on the anniversary date of his/her imposed sentence, if the inmate does not meet conditions described above (in (d)(2)(i)).

(3) *Aliens.* Notwithstanding the requirements of paragraphs (1) and (2), an alien who is subject to a final order of removal, deportation, or exclusion, is not required to participate in a literacy program to earn yearly awards of GCT credit. However, such inmates remain eligible to participate in literacy programs under part 544.

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

[EPA–R04–OAR–2018–0792; FRL–10003–83–Region 4]

**Air Plan Approval; Alabama; 2010 1-Hour SO<sub>2</sub> NAAQS Transport Infrastructure**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve Alabama's August 20, 2018, State Implementation Plan (SIP) submission pertaining to the "good neighbor" provision of the Clean Air Act (CAA or Act) for the 2010 1-hour sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS). The good neighbor provision requires each state's implementation plan to address the interstate transport of air pollution in amounts that contribute significantly to nonattainment, or interfere with maintenance, of a NAAQS in any other

state. In this action, EPA is proposing to determine that Alabama will not contribute significantly to nonattainment or interfere with maintenance of the 2010 1-hour SO<sub>2</sub> NAAQS in any other state. Therefore, EPA is proposing to approve the August 20, 2018, SIP revision as meeting the requirements of the good neighbor provision for the 2010 1-hour SO<sub>2</sub> NAAQS.

**DATES:** Written comments must be received on or before January 30, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2018–0792 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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. 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Michele Notarianni, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Notarianni can be reached via phone number (404) 562–9031 or via electronic mail at [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background****A. Infrastructure SIPs**

On June 2, 2010, EPA promulgated a revised primary SO<sub>2</sub> NAAQS with a level of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. See 75 FR 35520 (June 22, 2010). Whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to make SIP

submissions to provide for the implementation, maintenance, and enforcement of the NAAQS. This particular type of SIP submission is commonly referred to as an “infrastructure SIP.” These submissions must meet the various requirements of CAA section 110(a)(2), as applicable.

Section 110(a)(2)(D)(i)(I) of the CAA requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in another state. The two clauses of this section are referred to as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance of the NAAQS).

In a letter dated August 20, 2018,<sup>1</sup> the Alabama Department of Environmental Management (ADEM) submitted a revision to the Alabama SIP only addressing prongs 1 and 2 of CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO<sub>2</sub> NAAQS.<sup>2</sup> EPA is proposing to approve ADEM’s August 20, 2018, SIP submission because the State demonstrated that Alabama will not contribute significantly to nonattainment, or interfere with maintenance, of the 2010 1-hour SO<sub>2</sub> NAAQS in any other state. All other elements related to the infrastructure requirements of section 110(a)(2) for the 2010 1-hour SO<sub>2</sub> NAAQS for Alabama have been addressed in separate rulemakings.<sup>3</sup>

### B. 2010 1-Hour SO<sub>2</sub> NAAQS Designations Background

In this action, EPA has considered information from the 2010 1-hour SO<sub>2</sub> NAAQS designations process, as discussed in more detail in section III.C of this notice. For this reason, a brief summary of EPA’s designations process for the 2010 1-hour SO<sub>2</sub> NAAQS is included here.<sup>4</sup>

<sup>1</sup> EPA received ADEM’s August 20, 2018, SIP submission on August 27, 2018.

<sup>2</sup> On April 23, 2013, and October 24, 2017, ADEM submitted SIP revisions addressing all infrastructure elements with respect to the 2010 1-hour SO<sub>2</sub> NAAQS with the exception of prongs 1 and 2 of CAA section 110(a)(2)(D)(i)(I).

<sup>3</sup> EPA acted on all other infrastructure elements for the 2010 1-hour SO<sub>2</sub> NAAQS in Alabama’s April 23, 2013, and October 24, 2017, SIP revisions on January 12, 2017 (82 FR 3637), October 12, 2017 (82 FR 47393), and July 6, 2018 (83 FR 31454).

<sup>4</sup> While designations may provide useful information for purposes of analyzing transport, particularly for a more source-specific pollutant such as SO<sub>2</sub>, EPA notes that designations themselves are not dispositive of whether or not upwind emissions are impacting areas in downwind states. EPA has consistently taken the position that as to impacts, CAA section

After the promulgation of a new or revised NAAQS, EPA is required to designate areas as “nonattainment,” “attainment,” or “unclassifiable” pursuant to section 107(d)(1) of the CAA. The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d) of the CAA. The CAA requires EPA to complete the initial designations process within two years of promulgating a new or revised standard. If the Administrator has insufficient information to make these designations by that deadline, EPA has the authority to extend the deadline for completing designations by up to one year.

EPA promulgated the 2010 1-hour SO<sub>2</sub> NAAQS on June 2, 2010. See 75 FR 35520 (June 22, 2010). EPA completed the first round of designations (“round 1”)<sup>5</sup> for the 2010 1-hour SO<sub>2</sub> NAAQS on July 25, 2013, designating 29 areas in 16 states as nonattainment for the 2010 1-hour SO<sub>2</sub> NAAQS. See 78 FR 47191 (August 5, 2013). EPA signed **Federal Register** notices of promulgation for round 2 designations<sup>6</sup> on June 30, 2016 (81 FR 45039 (July 12, 2016)) and on November 29, 2016 (81 FR 89870 (December 13, 2016)), and round 3 designations<sup>7</sup> on December 21, 2017 (83 FR 1098 (January 9, 2018)).<sup>8</sup>

On August 21, 2015 (80 FR 51052), EPA separately promulgated air quality characterization requirements for the 2010 1-hour SO<sub>2</sub> NAAQS in the Data Requirements Rule (DRR). The DRR

110(a)(2)(D) refers only to prevention of “nonattainment” in other states, not to prevention of nonattainment in designated nonattainment areas or any similar formulation requiring that designations for downwind nonattainment areas must first have occurred. See e.g., Clean Air Interstate Rule, 70 FR 25162, 25265 (May 12, 2005); Cross-State Air Pollution Rule, 76 FR 48208, 48211 (August 8, 2011); Final Response to Petition from New Jersey Regarding SO<sub>2</sub> Emissions From the Portland Generating Station, 76 FR 69052 (November 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<sub>2</sub> NAAQS prior to issuance of designations for that standard).

<sup>5</sup> The term “round” in this instance refers to which “round of designations.”

<sup>6</sup> EPA and state documents and public comments related to the round 2 final designations are in the docket at [regulations.gov](https://www.epa.gov/sulfur-dioxide-designations) with Docket ID No. EPA-HQ-OAR-2014-0464 and at EPA’s website for SO<sub>2</sub> designations at <https://www.epa.gov/sulfur-dioxide-designations>.

<sup>7</sup> EPA and state documents and public comments related to round 3 final designations are in the docket at [regulations.gov](https://www.epa.gov/sulfur-dioxide-designations) with Docket ID No. EPA-HQ-OAR-2017-0003 and at EPA’s website for SO<sub>2</sub> designations at <https://www.epa.gov/sulfur-dioxide-designations>.

<sup>8</sup> Consent Decree, *Sierra Club v. McCarthy*, Case No. 3:13-cv-3953-SI (N.D. Cal. Mar. 2, 2015). This consent decree requires EPA to sign for publication in the **Federal Register** notices of the Agency’s promulgation of area designations for the 2010 1-hour SO<sub>2</sub> NAAQS by three specific deadlines: July 2, 2016 (“round 2”); December 31, 2017 (“round 3”); and December 31, 2020 (“round 4”).

requires state air agencies to characterize air quality, through air dispersion modeling or monitoring, in areas associated with sources that emitted 2,000 tons per year (tpy) or more of SO<sub>2</sub>, or that have otherwise been listed under the DRR by 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<sub>2</sub> emissions to less than 2,000 tpy, or provide documentation that the sources have been shut down. EPA expected that the information generated by implementation of the DRR would help inform designations for the 2010 1-hour SO<sub>2</sub> NAAQS that must be completed by December 31, 2020 (“round 4”).

For Alabama, EPA designated all counties as attainment/unclassifiable or unclassifiable in round 3 except for a portion of Shelby County around the Lhoist North America of Alabama—Montevallo Plant (LNA—Montevallo) that is currently conducting monitoring to inform round 4 designations.<sup>9</sup> There are no nonattainment areas in Alabama for the 2010 1-hour SO<sub>2</sub> NAAQS based on rounds 1, 2, and 3 of EPA’s designations process.<sup>10</sup>

## II. Relevant Factors Used To Evaluate the 2010 1-Hour SO<sub>2</sub> Interstate Transport SIPs

Although SO<sub>2</sub> is emitted from a similar universe of point and nonpoint sources as is directly emitted fine particulate matter (PM<sub>2.5</sub>) and the precursors to ozone and PM<sub>2.5</sub>, interstate transport of SO<sub>2</sub> is unlike the transport of PM<sub>2.5</sub> or ozone because SO<sub>2</sub> emissions

<sup>9</sup> See *Technical Support Document: Chapter 3 Final Round 3 Area Designations for the 2010 1-Hour SO<sub>2</sub> Primary National Ambient Air Quality Standard for Alabama* at <https://www.epa.gov/sites/production/files/2017-12/documents/03-al-so2-rd3-final.pdf>.

<sup>10</sup> On August 5, 2013 (78 FR 47191) and effective October 4, 2013, EPA designated 29 areas in 16 states as nonattainment for the 2010 1-hour SO<sub>2</sub> NAAQS based on violating monitors using air quality data for the years 2009–2011, but did not, at that time, designate other areas in the country. On July 12, 2016 (81 FR 45039), effective September 12, 2016, and December 13, 2016 (81 FR 89870), effective January 12, 2017, EPA published a final rule establishing air quality designations for 65 areas in 24 states for the 2010 SO<sub>2</sub> NAAQS including seven nonattainment areas, 41 attainment/unclassifiable areas, and 17 unclassifiable areas. On January 9, 2018 (83 FR 1098) effective April 9, 2018, EPA designated six areas as nonattainment; 23 areas designated unclassifiable; and the rest of the areas covered by this round in all states, territories, and tribal lands were designated attainment/unclassifiable. No areas in Alabama were designated as nonattainment in these actions. See <https://www.epa.gov/sulfur-dioxide-designations/sulfur-dioxide-designations-regulatory-actions>.

sources usually do not have long range SO<sub>2</sub> impacts. The transport of SO<sub>2</sub> relative to the 2010 1-hour SO<sub>2</sub> NAAQS is more analogous to the transport of lead (Pb) relative to the Pb NAAQS in that emissions of SO<sub>2</sub> typically result in 1-hour pollutant impacts of possible concern only near the emissions source. However, ambient 1-hour concentrations of SO<sub>2</sub> do not decrease as quickly with distance from the source as do 3-month average concentrations of Pb, because SO<sub>2</sub> gas is not removed by deposition as rapidly as are Pb particles and because SO<sub>2</sub> typically has a higher emissions release height than Pb. Emitted SO<sub>2</sub> has wider ranging impacts than emitted Pb, but it does not have such wide-ranging impacts that treatment in a manner similar to ozone or PM<sub>2.5</sub> would be appropriate. Accordingly, while the approaches that the EPA has adopted for ozone or PM<sub>2.5</sub> transport are too regionally focused, the approach for Pb transport is too tightly circumscribed to the source. SO<sub>2</sub> transport is therefore a unique case and requires a different approach.

In SO<sub>2</sub> transport analyses, EPA focuses on a 50 km-wide zone because the physical properties of SO<sub>2</sub> result in relatively localized pollutant impacts near an emissions source that drop off with distance. Given the properties of SO<sub>2</sub>, EPA selected a spatial scale with dimensions from four to 50 kilometers (km) from point sources—the “urban scale”—to assess trends in area-wide air quality that might impact downwind states.<sup>11</sup> As discussed further in section III.B, EPA selected the urban scale as appropriate for assessing trends in both area-wide air quality and the effectiveness of large-scale pollution control strategies at SO<sub>2</sub> point sources. EPA’s selection of this transport distance for SO<sub>2</sub> is consistent with 40 CFR 58, Appendix D, Section 4.4.4(4) “Urban scale,” which states that measurements in this scale would be used to estimate SO<sub>2</sub> concentrations over large portions of an urban area with dimensions from four to 50 km. The American Meteorological Society/ Environmental Protection Agency Regulatory Model (AERMOD) is EPA’s preferred modeling platform for regulatory purposes for near-field dispersion of emissions for distances up to 50 km. See Appendix W of 40 CFR part 51. Thus, EPA applied the 50-km

<sup>11</sup> For the definition of spatial scales for SO<sub>2</sub>, see 40 CFR part 58, Appendix D, section 4.4 (“Sulfur Dioxide (SO<sub>2</sub>) Design Criteria”). For further discussion on how EPA applies these definitions with respect to interstate transport of SO<sub>2</sub>, see EPA’s proposed rulemaking on Connecticut’s SO<sub>2</sub> transport SIP. See 82 FR 21351, 21352, 21354 (May 8, 2017).

threshold as a reasonable distance to evaluate emission source impacts into neighboring states and to assess air quality monitors within 50 km of the State’s border, which is discussed further in section III.C.

As discussed in sections III.C and III.D, EPA first reviewed Alabama’s analysis to assess how the State evaluated the transport of SO<sub>2</sub> to other states, the types of information used in the analysis, and the conclusions drawn by the State. EPA then conducted a weight of evidence analysis based on a review of the State’s submission and other available information, including SO<sub>2</sub> air quality and available source modeling for other states’ sources within 50 km of the Alabama border.<sup>12</sup>

### III. Alabama’s SIP Submission and EPA’s Analysis

#### A. State Submission

Through a letter dated August 20, 2018, ADEM submitted a revision to the Alabama SIP addressing prongs 1 and 2 of CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO<sub>2</sub> NAAQS.<sup>13</sup> Alabama conducted a weight of evidence analysis to examine whether SO<sub>2</sub> emissions from the State adversely affect attainment or maintenance of the 2010 1-hour SO<sub>2</sub> NAAQS in downwind states.

ADEM based its conclusions for prongs 1 and 2 on attaining 2015–2017 SO<sub>2</sub> design values (DVs)<sup>14</sup> in Alabama and adjacent states; the lack of 2010 1-

<sup>12</sup> This proposed approval action is based on the information contained in the administrative record for this action and does not prejudice any other future EPA action that may make other determinations regarding Alabama’s air quality status. Any such future actions, such as area designations under any NAAQS, will be based on their own administrative records and EPA’s analyses of information that become available at those times. Future available information may include, and is not limited to, monitoring data and modeling analyses conducted pursuant to the DRR and information submitted to EPA by states, air agencies, and third-party stakeholders such as citizen groups and industry representatives.

<sup>13</sup> On September 5, 2019, September 20, 2019, September 25, 2019, December 2, 2019, and December 6, 2019, ADEM provided supplemental information pertaining to Escambia Operating Company—Big Escambia Creek Plant’s (Big Escambia’s) DRR modeling that addresses and resolves the issues with the original modeling for this source performed under the DRR (collectively, the “Big Escambia Supplement”). See Section III.C.1.b. for more information. Big Escambia is located in Escambia County, Alabama.

<sup>14</sup> A “Design Value” is a statistic that describes the air quality status of a given location relative to the level of the NAAQS. The DV for the primary 2010 1-hour SO<sub>2</sub> NAAQS is the 3-year average of annual 99th percentile daily maximum 1-hour values for a monitoring site. For example, the 2017 DV is calculated based on the three-year average from 2015–2017. The interpretation of the primary 2010 1-hour SO<sub>2</sub> NAAQS including the data handling conventions and calculations necessary for determining compliance with the NAAQS can be found in Appendix T to 40 CFR part 50.

hour SO<sub>2</sub> NAAQS nonattainment areas in Alabama or within close proximity to Alabama; the existence of DRR modeling for Alabama SO<sub>2</sub> sources; and established federal and State control measures which address SO<sub>2</sub> emissions. EPA’s evaluation of Alabama’s August 20, 2018, SIP submission is detailed in sections III.B, C, and D.

#### B. EPA’s Evaluation Methodology

EPA believes that a reasonable starting point for determining which sources and emissions activities in Alabama are likely to impact downwind air quality in other states with respect to the 2010 1-hour SO<sub>2</sub> NAAQS is by using information in EPA’s National Emissions Inventory (NEI).<sup>15</sup> 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, that is updated every three years using information provided by the states and other information available to EPA. EPA evaluated data from the 2014 NEI (version 2), the most recently available, complete, and quality assured dataset of the NEI.

As shown in Table 1, the majority of SO<sub>2</sub> emissions in Alabama originate from point sources.<sup>16</sup> In 2014, the total SO<sub>2</sub> emissions from point sources in Alabama comprised approximately 96 percent of the total SO<sub>2</sub> emissions in the State. Further analysis of these data show that SO<sub>2</sub> emissions from fuel combustion from point sources make up approximately 74 percent of the total SO<sub>2</sub> emissions in the State. Because emissions from the other listed source categories are more dispersed throughout the State, those categories are less likely to cause high ambient concentrations when compared to a point source on a ton-for-ton basis. Based on EPA’s analysis of the 2014 NEI, EPA believes that it is appropriate to focus the analysis on SO<sub>2</sub> emissions from Alabama’s larger point sources (*i.e.*, emitting over 100 tpy of SO<sub>2</sub> in 2017), which are located within the “urban scale,” *i.e.*, within 50 km of one or more state borders.

<sup>15</sup> EPA’s NEI is available at <https://www.epa.gov/air-emissions-inventories/national-emissions-inventory>.

<sup>16</sup> Alabama’s point sources listed in Table 1, for the purposes of this action, are comprised of all of the “Fuel Combustion” categories and “Industrial Processes (All Categories),” with the exception of residential fuel consumption. Residential fuel combustion is considered a nonpoint source and, thus, residential fuel combustion data is not included in the point source fuel combustion data and related calculations.

TABLE 1—SUMMARY OF 2014 NEI (VERSION 2) SO<sub>2</sub> DATA FOR ALABAMA BY SOURCE TYPES

Category	Emissions (tpy)	Percent of total SO <sub>2</sub> emissions
Fuel Combustion: Electric Generating Units (EGUs) (All Fuel Types) .....	119,922.45	60
Fuel Combustion: Industrial Boilers/Internal Combustion Engines (All Fuel Types) .....	27,658.08	14
Fuel Combustion: Commercial/Institutional (All Fuel Types) .....	13.58	0
Fuel Combustion: Residential (All Fuel Types) .....	84.40	0
Industrial Processes (All Categories) .....	43,805.93	22
Mobile Sources (All Categories) .....	1,528.60	1
Fires (All Types) .....	7,585.65	4
Waste Disposal .....	814.84	0
Solvent Processes .....	0.62	0
Miscellaneous (Non-Industrial, Gas Stations) .....	3.67	0
<b>SO<sub>2</sub> Emissions Total</b> .....	<b>201,417.82</b>	<b>100</b>

As explained in Section II, because the physical properties of SO<sub>2</sub> result in relatively localized pollutant impacts near an emissions source that drop off with distance, in SO<sub>2</sub> transport analyses, EPA focuses on a 50 km-wide zone. Thus, EPA focused its evaluation on Alabama's point sources of SO<sub>2</sub> emissions located within approximately 50 km of another state and their potential impact on neighboring states.

As discussed in section I.B., EPA's current implementation strategy for the 2010 1-hour SO<sub>2</sub> NAAQS includes the flexibility to characterize air quality for stationary sources subject to the DRR via either data collected at ambient air quality monitors sited to capture the points of maximum concentration, or air dispersion modeling (hereinafter referred to as "DRR monitors" or "DRR modeling," respectively). EPA's assessment of SO<sub>2</sub> emissions from Alabama's point sources located within approximately 50 km of another state and their potential impacts on neighboring states (see sections III.C.1. and II.C.2 of this notice) and SO<sub>2</sub> air quality data at monitors within 50 km of the Alabama border (see section III.C.3. of this notice) is informed by all available data at the time of this proposed rulemaking.<sup>17</sup>

As described in Section III, EPA proposes to conclude that an assessment of Alabama's satisfaction of the prong 1

and 2 requirements under section 110(a)(2)(D)(i)(I) of the CAA for the 2010 1-hour SO<sub>2</sub> NAAQS may be reasonably based upon evaluating the downwind impacts via modeling and an assessment of SO<sub>2</sub> emissions from Alabama's point sources emitting more than 100 tpy of SO<sub>2</sub> (including fuel combustion sources) that are located within approximately 50 km of another state and upon any regulations intended to address Alabama's SO<sub>2</sub> point sources.

#### C. EPA's Prong 1 Evaluation—*Significant Contribution to Nonattainment*

Prong 1 of the good neighbor provision requires states' plans to prohibit emissions that will contribute significantly to nonattainment of a NAAQS in another state. ADEM states in its submission that Alabama does not contribute significantly to nonattainment of the 2010 1-hour SO<sub>2</sub> NAAQS in another state based on the information provided therein. To evaluate Alabama's satisfaction of prong 1, EPA assessed Alabama's SIP submission with respect to the following factors: (1) Potential ambient air quality impacts of SO<sub>2</sub> emissions from certain facilities in Alabama on neighboring states based on available air dispersion modeling results; (2) SO<sub>2</sub> emissions from Alabama sources; (3) SO<sub>2</sub> ambient air quality for Alabama and neighboring states; (4) SIP-approved Alabama regulations that address SO<sub>2</sub> emissions; and (5) federal regulations that reduce SO<sub>2</sub> emissions at Alabama sources. A detailed discussion of Alabama's SIP submission with respect to each of these factors follows. EPA

proposes that these factors, taken together, support the Agency's proposed determination that Alabama will not contribute significantly to nonattainment of the 2010 1-hour SO<sub>2</sub> NAAQS in another state. EPA's proposed conclusion is based, in part, on the fact that adjacent states with modeled DRR sources located within 50 km of the Alabama border do not have areas that are violating or that model violations of the 2010 1-hour SO<sub>2</sub> NAAQS and the fact that the valid SO<sub>2</sub> 2016–2018 DVs for monitors in adjacent states show attainment of the 2010 1-hour SO<sub>2</sub> NAAQS.<sup>18</sup> Also, 2017 SO<sub>2</sub> emissions for Alabama's non-DRR sources emitting over 100 tons of SO<sub>2</sub> within 50 km of another state are at distances or emit levels of SO<sub>2</sub> that make it unlikely that these SO<sub>2</sub> emissions could interact with SO<sub>2</sub> emissions from the neighboring states' sources in such a way as to contribute significantly to nonattainment in these neighboring states. In addition, the downward trends in statewide SO<sub>2</sub> emissions, combined with federal and SIP-approved State regulations affecting SO<sub>2</sub> emissions from Alabama's sources, further support EPA's proposed conclusion.

#### 1. SO<sub>2</sub> Designations Air Dispersion Modeling

##### a. State Submission

<sup>18</sup>The Floyd County, Georgia monitor (AQ5 ID: 13–115–0003) does not have a valid DV for the 2015–2017 and 2016–2018 time periods. This monitor has valid DVs for the 2010–2012 through 2014–2016 time periods which declined over this period and are all below the level of the 2010 1-hour SO<sub>2</sub> NAAQS.

<sup>17</sup>EPA notes that the evaluation of other states' satisfaction of section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO<sub>2</sub> 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 Alabama, depending on available information and state-specific circumstances.

In its August 20, 2018, SIP submission, ADEM referenced a January 14, 2016, letter<sup>19</sup> that the State submitted to EPA identifying the facilities in Alabama with SO<sub>2</sub> emissions subject to the DRR.<sup>20</sup> ADEM explained that the DRR modeling data is contained in EPA's technical support document (TSD) for the SO<sub>2</sub> round 3 area designations.<sup>21</sup>

#### b. EPA Analysis

EPA evaluated available DRR modeling data for sources in Alabama within 50 km of another state, including the Big Escambia Supplement, and available DRR modeling data for sources in the adjacent states of Florida, Georgia, Mississippi, and Tennessee that are within 50 km of the Alabama border.<sup>22</sup> The purpose of evaluating

<sup>19</sup> Alabama's January 14, 2016, letter is available on [www.regulations.gov](http://www.regulations.gov) at Docket ID No. EPA-HQ-OAR-2017-0003.

<sup>20</sup> In 2017, Alabama provided recommendations and submitted air dispersion modeling for the 2010 1-hour SO<sub>2</sub> NAAQS for the DRR sources in the State which elected to comply with the DRR using modeling. The remainder of Alabama's DRR sources established federally-enforceable limits, shut down, or the State installed and began operation of new, approved SO<sub>2</sub> monitors to characterize SO<sub>2</sub> air quality around the source. See <https://www.epa.gov/so2-pollution/so2-data-requirements-rule-january-13-2017-state-submittals-alabama>.

<sup>21</sup> See *Technical Support Document: Chapter 3 Final Round 3 Area Designations for the 2010 1-Hour SO<sub>2</sub> Primary National Ambient Air Quality Standard for Alabama* at <https://www.epa.gov/sites/production/files/2017-12/documents/03-al-so2-rd3-final.pdf>. See also *Technical Support Document: Chapter 3 Proposed Round 3 Area Designations for the 2010 1-Hour SO<sub>2</sub> Primary National Ambient Air Quality Standard for Alabama* at [https://www.epa.gov/sites/production/files/2017-08/documents/3\\_al\\_so2\\_rd3-final.pdf](https://www.epa.gov/sites/production/files/2017-08/documents/3_al_so2_rd3-final.pdf).

<sup>22</sup> As discussed in section I.B., Alabama used air dispersion modeling to characterize air quality in the vicinity of certain SO<sub>2</sub> emitting sources to identify the maximum 1-hour SO<sub>2</sub> concentrations in ambient air which informed EPA's round 3 SO<sub>2</sub> designations. EPA's preferred modeling platform for regulatory purposes is AERMOD (Appendix W of 40 CFR part 51). In these DRR modeling analyses using AERMOD, the impacts of the actual emissions for one or more of the recent 3-year periods (e.g., 2012–2014, 2013–2015, 2014–2016) were considered, and in some cases, the modeling was of currently effective limits on allowable emissions in lieu of or as a supplement to modeling of actual emissions. The available air dispersion modeling of certain SO<sub>2</sub> sources can support transport related conclusions about whether sources in one state are potentially contributing significantly to nonattainment or interfering with maintenance of the 2010 1-hour SO<sub>2</sub> standard in other states. While AERMOD was not designed specifically to address interstate transport, the 50-km distance that EPA recommends for use with AERMOD aligns with the concept that there are localized pollutant impacts

of SO<sub>2</sub> near an emissions source that drop off with distance. Thus, EPA believes that the use of AERMOD provides a reliable indication of air quality for transport purposes.

DRR modeling results in adjacent states within 50 km of the Alabama border is to ascertain whether any nearby sources in Alabama are impacting a violation of the 2010 1-hour SO<sub>2</sub> NAAQS in another state. Of the 15 sources in Alabama initially subject to the DRR, 10 sources conducted dispersion modeling.<sup>23</sup> Six of the 10 modeled sources are within 50 km of another state: Akzo Nobel Functional Chemicals—Lemoyne Site (AkzoNobel); Alabama Power Company—James M. Barry Electric Generating Plant (Plant Barry); Ascend Performance Materials—Decatur Plant (Ascend); Big Escambia; PowerSouth Energy Cooperative—Charles R. Lowman Power Plant (Lowman); and Continental Carbon Company—Phenix City Plant (Continental Carbon).<sup>24</sup> With respect to Continental Carbon, EPA previously determined that the modeling and supporting information provided to meet DRR requirements was acceptable.<sup>25</sup> With respect to the modeling and other information submitted by the State for the remaining five modeled Alabama sources within 50 km of another state (i.e., AkzoNobel, Ascend, Big Escambia, Lowman, and Plant Barry), EPA previously determined that the Agency does not have sufficient information to demonstrate whether the areas around these sources meet or do not meet the 2010 1-hour SO<sub>2</sub> NAAQS or contribute

to an area that does not meet the standard, and thus designated these areas as unclassifiable.<sup>26</sup> Although EPA does not have any indications that there are violations of the 2010 1-hour SO<sub>2</sub> NAAQS in these areas, the Agency assessed AkzoNobel, Ascend, Lowman, and Plant Barry in section III.C.2.b. of this proposed action with respect to interstate transport for the 2010 1-hour SO<sub>2</sub> NAAQS. Regarding Big Escambia, ADEM provided supplemental information in September and December of 2019 that addresses the issues with the original modeling for this source performed under the DRR for the purposes of evaluating interstate transport of SO<sub>2</sub> from Alabama into Florida.<sup>27</sup> EPA's TSD for Big Escambia summarizes the issues with the original DRR modeling and how ADEM has now addressed these issues for the purpose of evaluating potential ambient air impacts in the neighboring state of Florida.<sup>28</sup> Table 2 provides a summary of the 99th percentile daily maximum 1-hour average concentrations estimated by the modeling for Big Escambia and Continental Carbon, which are based on actual emissions for Big Escambia and potential to emit (PTE) emissions for Continental Carbon. Alabama's modeling analyses for Big Escambia and Continental Carbon indicate that the maximum impacts did not exceed the level of the 2010 1-hour SO<sub>2</sub> NAAQS in neighboring states. Based on the modeling results indicating that the maximum impacts did not exceed the level of the 2010 1-hour SO<sub>2</sub> NAAQS in neighboring states, no further analysis is necessary for assessing the potential impacts of the interstate transport of SO<sub>2</sub> emissions from these facilities.

<sup>23</sup> Of the remaining five sources in Alabama initially subject to the DRR which did not opt to conduct dispersion modeling, three sources accepted federally-enforceable permit limits to exempt out of the DRR requirements, one source provided documentation that the facility shut down, and one source installed a monitor. The three sources that accepted federally-enforceable permit limits to exempt out of the DRR requirements are: Alabama Power—Gadsden Electric Generating Plant; Alabama Power—Greene County Electric Generating Plant; and Tennessee Valley Authority (TVA)—Colbert Fossil Plant. Alabama's one DRR source which shut down is the TVA—Widows Creek Fossil Plant. As mentioned in Section I.B., LNA—Montevallo installed a monitor to inform round 4 designations. See Docket ID No. EPA-HQ-OAR-2017-0003.

<sup>24</sup> The Mobile County area includes two DRR sources: AkzoNobel and Plant Barry. Due to the close proximity of AkzoNobel and Plant Barry to each other, a combined air dispersion modeling analysis was conducted for both facilities pursuant to the DRR.

<sup>25</sup> See [https://www.epa.gov/sites/production/files/2017-08/documents/3\\_al\\_so2\\_rd3-final.pdf](https://www.epa.gov/sites/production/files/2017-08/documents/3_al_so2_rd3-final.pdf).

to an area that does not meet the standard, and thus designated these areas as unclassifiable.<sup>26</sup> Although EPA does not have any indications that there are violations of the 2010 1-hour SO<sub>2</sub> NAAQS in these areas, the Agency assessed AkzoNobel, Ascend, Lowman, and Plant Barry in section III.C.2.b. of this proposed action with respect to interstate transport for the 2010 1-hour SO<sub>2</sub> NAAQS. Regarding Big Escambia, ADEM provided supplemental information in September and December of 2019 that addresses the issues with the original modeling for this source performed under the DRR for the purposes of evaluating interstate transport of SO<sub>2</sub> from Alabama into Florida.<sup>27</sup> EPA's TSD for Big Escambia summarizes the issues with the original DRR modeling and how ADEM has now addressed these issues for the purpose of evaluating potential ambient air impacts in the neighboring state of Florida.<sup>28</sup> Table 2 provides a summary of the 99th percentile daily maximum 1-hour average concentrations estimated by the modeling for Big Escambia and Continental Carbon, which are based on actual emissions for Big Escambia and potential to emit (PTE) emissions for Continental Carbon. Alabama's modeling analyses for Big Escambia and Continental Carbon indicate that the maximum impacts did not exceed the level of the 2010 1-hour SO<sub>2</sub> NAAQS in neighboring states. Based on the modeling results indicating that the maximum impacts did not exceed the level of the 2010 1-hour SO<sub>2</sub> NAAQS in neighboring states, no further analysis is necessary for assessing the potential impacts of the interstate transport of SO<sub>2</sub> emissions from these facilities.

<sup>26</sup> See EPA's initial and final TSDs for Alabama at: [https://www.epa.gov/sites/production/files/2017-08/documents/3\\_al\\_so2\\_rd3-final.pdf](https://www.epa.gov/sites/production/files/2017-08/documents/3_al_so2_rd3-final.pdf) and <https://www.epa.gov/sites/production/files/2017-12/documents/03-al-so2-rd3-final.pdf>.

<sup>27</sup> ADEM submitted the Big Escambia Supplement to EPA in separate correspondence dated September 5, 2019, September 20, 2019, September 25, 2019, December 2, 2019, and December 6, 2019, and it is included in the docket for this proposed action, with the exception of certain files due to their nature and size and incompatibility with the Federal Docket Management System. These files are available at the EPA Region 4 office for review. To request these files, please contact the person listed in this notice under the section titled **FOR FURTHER INFORMATION CONTACT**.

<sup>28</sup> EPA's TSD addressing Big Escambia for this proposed rulemaking is located in the docket.

TABLE 2—ALABAMA SOURCES WITH VALID<sup>29</sup> DRR MODELING LOCATED WITHIN 50 km OF ANOTHER STATE

DRR source	County	Approximate distance from source to adjacent State (km)	Other facilities included in modeling	Modeled 99th percentile daily maximum 1-hour SO <sub>2</sub> concentration in nearest neighboring state (ppb)	Model grid extends into another State?
Big Escambia	Escambia .....	8 (FL) .....	Escambia Operating Company-Flomaton (AL) and Breitburn Operating, L.P. (FL).	58.8 ppb (FL) <i>(based on 2013–2015 actual emissions for the thermal oxidizer at Big Escambia and allowable/PTE emissions for the remaining units at Big Escambia and the nearby sources).</i>	Yes, into FL (the northern portion of Escambia County, FL).
Continental Carbon.	Russell .....	1 (GA) .....	IIG MinWool LLC (AL) .....	38.9 (GA) <i>(based on PTE emissions).</i>	Yes, into GA (the southwestern portion of Muscogee County and the northwestern portion of Chattahoochee County).

Table 3 provides a summary of the modeling results for the four DRR sources in neighboring states which are located within 50 km of Alabama and which elected to provide air dispersion modeling under the DRR: Gulf Power

Company—Crist Electric Generating Station (Crist) in Florida; Georgia Power—Plant Bowen (Plant Bowen) and Georgia Power—Plant Wansley (Plant Wansley) in Georgia; and Mississippi Power Company’s Victor J. Daniel Steam

Electric Generating Plant (Plant Daniel) in Mississippi. The modeling results for all four sources indicated that the maximum impacts did not exceed the level of the 2010 1-hour SO<sub>2</sub> NAAQS.<sup>30</sup>

TABLE 3—OTHER STATES’ SOURCES WITH DRR MODELING LOCATED WITHIN 50 km OF ALABAMA

DRR source	County (state)	Approximate distance from source to Alabama border (km)	Other facilities included in modeling	Modeled 99th percentile daily maximum 1-hour SO <sub>2</sub> concentration (ppb) *	Model grid extends into another state?
Crist .....	Escambia (FL)	17	Yes—International Paper Pensacola Facility.	33.8	No.
Plant Bowen .....	Bartow (GA) .....	46	No .....	57.6	No.
Plant Wansley ..	Heard (GA) .....	24	Yes—Georgia Power—Plant Yates; Municipal Electric Authority of Georgia; Chattahoochee Energy Facility; and Wansley Combined-Cycle Generating Plant.	15	No.
Plant Daniel .....	Jackson (MS) ...	14	None .....	56.5	Yes—into AL (a portion of extreme southwest AL west of Mobile County, AL).

\* The modeled 99th percentile daily maximum 1-hour SO<sub>2</sub> concentrations are based on: 2012–2014 actual SO<sub>2</sub> emissions for Crist and Plant Daniel; 2012–2014 actual SO<sub>2</sub> emissions for Plant Wansley; PTE for the other sources included in Plant Wansley’s modeling; and 2014–2016 actual SO<sub>2</sub> emissions for Plant Bowen.

EPA believes that the modeling results in Tables 2 and 3, weighed along with other factors in this notice, support EPA’s proposed conclusion that sources in Alabama will not contribute significantly to nonattainment of the 2010 1-hour SO<sub>2</sub> NAAQS in any other state.

2. SO<sub>2</sub> Emissions Analysis

a. State Submission

With respect to emissions trends, ADEM states that significant SO<sub>2</sub> emissions reductions have resulted from the implementation of several federal programs in Alabama. These federal programs are identified in section III.C.5 of this notice.

b. EPA Analysis

EPA reviewed statewide and EGU SO<sub>2</sub> emissions in Alabama from the NEI for the years 2005, 2008, 2011, and 2014 to examine any trends in SO<sub>2</sub> emissions over this period. As shown in Table 4, Alabama’s statewide SO<sub>2</sub> emissions have declined by 66 percent from 592,670 tons in 2002 to 201,418 tons in 2014. Alabama EGU SO<sub>2</sub> emissions decreased by 74 percent from 461,634 tons in 2005 to 119,976 tons in 2014.

<sup>29</sup> As used in the heading for this table, the term “valid” means valid for the purpose of evaluating impacts for interstate transport of the 2010 1-hour SO<sub>2</sub> NAAQS from Alabama in neighboring states.

<sup>30</sup> Although the modeling grids for Crist, Plant Bowen, and Plant Wansley do not extend into Alabama, EPA finds that the model results for these sources which show that the maximum impacts did

not exceed the level of the 2010 1-hour SO<sub>2</sub> NAAQS indicate that there is not a transport issue in the areas modeled for which there is data.

TABLE 4—ALABAMA SO<sub>2</sub> EMISSIONS (tons) FROM THE NEI

	2005 NEI	2008 NEI (Version 3)	2011 NEI (Version 2)	2014 NEI (Version 2)
Total SO <sub>2</sub> Emissions .....	592,670	443,810	278,364	201,418
SO <sub>2</sub> Emissions from EGUs .....	461,634	362,671	179,849	119,976

As discussed in section III.B., EPA also finds that it is appropriate to examine the impacts of SO<sub>2</sub> emissions from stationary sources emitting greater than 100 tons of SO<sub>2</sub> in Alabama at distances ranging from zero km to 50 km from a neighboring state’s border. Therefore, in addition to those sources addressed in section III.C.1.b. of this notice, EPA also assessed the potential impacts of SO<sub>2</sub> emissions from stationary sources not subject to the DRR that emitted over 100 tons of SO<sub>2</sub> in 2017 and are located in Alabama within 50 km from the border.<sup>31</sup> EPA

assessed this information to evaluate whether the SO<sub>2</sub> emissions from these sources could interact with SO<sub>2</sub> emissions from the nearest source in a neighboring state in such a way as to impact a violation of the 2010 1-hour SO<sub>2</sub> NAAQS in that state. Table 5 lists sources in Alabama not subject to the DRR that emitted greater than 100 tpy of SO<sub>2</sub> in 2017 within 50 km of the State’s border.

Currently, EPA does not have monitoring or modeling data suggesting that Florida, Georgia, North Carolina, and Tennessee are impacted by SO<sub>2</sub>

emissions from the 14 Alabama sources not subject to the DRR listed in Table 5. Of these 14 Alabama sources, 10 are located over 50 km from the nearest source in another state emitting over 100 tons of SO<sub>2</sub>. EPA believes that the distances greater than 50 km between sources make it unlikely that SO<sub>2</sub> emissions from the 10 Alabama sources could interact with SO<sub>2</sub> emissions from the neighboring states’ nearest sources in Table 5 in such a way as to contribute significantly to nonattainment in Florida, Georgia, Mississippi, and Tennessee.

TABLE 5—ALABAMA NON-DRR SO<sub>2</sub> SOURCES EMITTING GREATER THAN 100 tpy IN 2017 NEAR NEIGHBORING STATES

Alabama source	2017 Annual SO <sub>2</sub> emissions (tons)	Approximate distance to Alabama border (km)	Closest neighboring state	Approximate distance to nearest neighboring state SO <sub>2</sub> source (km)	Nearest neighboring state non-DRR SO <sub>2</sub> source & 2017 emissions (>100 tons SO <sub>2</sub> )
American Midstream Chatom, LLC.	948	5	Mississippi .....	44	Petro Harvester Operating Company LLC—South Cypress Creek (Petro-Cypress Creek) (128 tons).
Evonik Corporation .....	225	25	Mississippi .....	41	Plant Daniel (204 tons).
ExxonMobil Production Company.	157	19	Mississippi .....	37	Plant Daniel (204 tons).
Georgia-Pacific (Penington) ...	1,236	37	Mississippi .....	70	Petro-Cypress Creek (128 tons).
Georgia-Pacific Brewton LLC	103	8	Florida .....	16	Breitburn Operating LP (1,491 tons).
Georgia-Pacific Cedar Springs LLC.	512	<5	Georgia .....	96	Georgia Power Company—Plant Mitchell (633 tons in 2015).
Hilcorp Energy Company .....	126	33	Mississippi .....	60	Plant Daniel (204 tons).
MeadWestvaco Maht Mill .....	222	<5	Georgia .....	85	C–E Minerals Plants 1, 2, and 6 (292 tons).
Mineral Manufacturing Corporation.	182	5	Georgia .....	109	C–E Minerals Plants 1, 2, and 6 (292 tons).
Nucor Steel Decatur LLC .....	110	39	Tennessee .....	102	Steel Dynamics Columbus (457 tons).
Rock-Tenn Mill Company, LLC.	250	38	Mississippi .....	90	Petro-Cypress Creek (128 tons).
SSAB Alabama Inc .....	381	39	Mississippi .....	70	Plant Daniel (204 tons).
Tennessee Alloys Corporation	671	<5	Tennessee and Georgia.	93	Resolute Forest Products—Calhoun Operations (TN)—(218 tons).
Union Oil of California—Churchula Gas Plant.	* 105	29	Mississippi .....	60	Plant Daniel (204 tons).

\*(2016 Emissions).

There are four Alabama sources not subject to the DRR that are located at or less than 50 km from the nearest source in another state which emit greater than 100 tons of SO<sub>2</sub>: American Midstream

Chatom, LLC; Evonik Corporation; ExxonMobil Production Company; and Georgia-Pacific Brewton LLC. EPA believes that the relatively low SO<sub>2</sub> emissions of each of these four Alabama

sources combined with the emissions from the nearest sources emitting greater than 100 tons of SO<sub>2</sub> in neighboring states make it unlikely that the SO<sub>2</sub> emissions from these four Alabama

<sup>31</sup> 2017 emissions are the latest available data for these sources in Alabama.

sources could interact with SO<sub>2</sub> emissions from the neighboring states' sources in such a way as to contribute significantly to nonattainment in the neighboring states of Florida, Georgia, Mississippi, and Tennessee.

In addition, EPA evaluated 2017 SO<sub>2</sub> emissions data for four of the five DRR

sources for which EPA could not rely on existing DRR modeling to assess their impacts for interstate transport for the 2010 1-hour SO<sub>2</sub> NAAQS on other states: AkzoNobel, Ascend, Lowman, and Plant Barry. Table 6 provides annual 2017 SO<sub>2</sub> emissions data along

with the distances to the closest neighboring state's sources emitting over 100 tpy of SO<sub>2</sub>.<sup>32</sup> Table 7 shows the SO<sub>2</sub> emissions trends for these sources from 2012–2017 (and 2018 if data is available).<sup>33</sup>

TABLE 6—ALABAMA DRR SO<sub>2</sub> SOURCES WITHOUT VALID DRR MODELING NEAR NEIGHBORING STATES

Alabama source	2017 Annual SO <sub>2</sub> emissions (tons)	Approximate distance to Alabama (km)	Closest neighboring state	Approximate distance to nearest neighboring state SO <sub>2</sub> source (km)	Nearest neighboring state SO <sub>2</sub> source & 2017 Emissions (≤100 Tons SO <sub>2</sub> )
Ascend .....	1,628	40	Tennessee .....	123	Packaging Corp. of America (616 tons).
Lowman .....	1,110	51	Mississippi .....	73	Petro-Cypress Creek (128 tons).
Plant Barry .....	4,218	40	Mississippi .....	74	Plant Daniel (204 tons).
AkzoNobel .....	2,201	39	Mississippi .....	71	Plant Daniel (204 tons).

TABLE 7—ALABAMA DRR SO<sub>2</sub> SOURCES EMITTING GREATER THAN 100 tpy NEAR NEIGHBORING STATES—EMISSIONS TRENDS

Alabama source	2012	2013	2014	2015	2016	2017	2018
AkzoNobel .....	3,293	2,752	2,320	3,587	3,646	2,201	N/A *
Ascend .....	2,182	2,595	2,839	2,594	2,179	1,628	N/A *
Lowman .....	3,619	3,893	4,546	2,506	1,241	1,110	808
Plant Barry .....	10,731	13,448	10,690	8,688	5,421	4,218	5,257

\* 2018 emissions not yet available for AkzoNobel and Ascend from EPA's Emissions Inventory System (EIS).

Table 6 shows that the distances between the four Alabama DRR sources without valid DRR modeling and the nearest state's source emitting over 100 tpy of SO<sub>2</sub> exceed 50 km. EPA believes that the distances greater than 50 km between sources make it unlikely that SO<sub>2</sub> emissions from the four Alabama DRR sources could interact with SO<sub>2</sub> emissions from the neighboring states' nearest sources in Table 6 in such a way as to contribute significantly to nonattainment in Mississippi and Tennessee. Table 7 shows that 2017 SO<sub>2</sub> emissions have declined below 2012 levels for Ascend and Akzo Nobel) and that 2018 SO<sub>2</sub> emissions have declined below 2012 levels for Lowman and Plant Barry.

EPA also considered whether any changes in controls or operations had occurred at AkzoNobel, Ascend, Lowman, and Plant Barry. AkzoNobel entered into a consent decree with EPA that has reduced SO<sub>2</sub> emissions.<sup>34</sup>

According to June 6, 2019, and December 2, 2019, emails from ADEM to EPA, Ascend ceased operating Boiler 5, Boiler 6 is set to cease operations in 2020, and Cokers 1 and 2 are set to cease operations in 2021.<sup>35</sup> At Loman, three coal-fired boilers are set to be shut down in 2020. Plant Barry has retired Unit 3, and Units 1 and 2 are restricted to burn only natural gas as of January 1, 2017.

EPA also evaluated data in EPA's Air Quality System (AQS)<sup>36</sup> from the SO<sub>2</sub> monitors in the surrounding areas of AkzoNobel, Ascend, Lowman, and Plant Barry. The only monitor within 50 km of these sources is located in Mobile County, Alabama (AQS ID: 01–097–0003) and is approximately 23 km from AkzoNobel. The 2018 DV for this monitor is 11 ppb.

Based on the declining SO<sub>2</sub> emissions trends in Alabama shown in Table 4, and the Agency's analysis of the Alabama sources and respective data in Tables 5, 6, and 7, EPA believes that

Alabama's potential for contributing significantly to nonattainment in a nearby state is reduced substantially.

3. SO<sub>2</sub> Ambient Air Quality

a. State Submission

In its August 20, 2018, SIP submission, ADEM indicated that there is one SO<sub>2</sub> monitor located in the State with complete data.<sup>37</sup> This monitor (AQS ID: 01–073–1003) is located in Jefferson County, Alabama, and has a 2015–2017 DV of 13 ppb. The monitor is well over 50 km from the State's border. ADEM also asserts that there are no monitors located in Florida, Georgia, Louisiana, Mississippi, or Tennessee that are violating the 2010 1-hour SO<sub>2</sub> NAAQS for the 2015–2017 monitoring period based on the DVs in EPA's AQS for these monitors.

b. EPA Analysis

EPA reviewed monitoring data for AQS monitors in Alabama within 50 km

<sup>32</sup> Table 6 SO<sub>2</sub> emissions are from EPA's Air Markets Program Data (AMPD) accessible at: <https://ampd.epa.gov/ampd/>. EPA's AMPD is an application that provides both current and historical data collected as part of EPA's emissions trading programs.

<sup>33</sup> Table 7 SO<sub>2</sub> emissions for Lowman and Plant Barry are from EPA's AMPD.

<sup>34</sup> The consent decree, entered on November 21, 2019, is available at: <https://www.justice.gov/enrd/>

*consent-decree/file/1201231/download*. A press release is available at: <https://www.epa.gov/newsreleases/settlement-reached-nouryon-functional-chemicals-llc-fka-akzo-nobel-functional-chemicals>.

<sup>35</sup> ADEM's June 6, 2019, and December 2, 2019, emails are included in the docket for this action at [www.regulations.gov](http://www.regulations.gov) at Docket ID No. EPA–R04–OAR–2018–0792.

<sup>36</sup> EPA's AQS contains ambient air pollution data collected by EPA, state, local, and tribal air pollution control agencies. This data is available at <https://www.epa.gov/air-trends/air-quality-design-values>.

<sup>37</sup> At the time of SIP submission, the Jefferson County, Alabama, monitor (AQS ID: 01–073–1003) was the only monitor with a valid DV for the 2015–2017 time period.

of another state and for AQS monitors within 50 km of Alabama in adjacent states using relevant data from EPA’s AQS DV reports. The 2010 1-hour SO<sub>2</sub> standard is violated at an ambient air quality monitoring site (or in the case of dispersion modeling, at an ambient air quality receptor location) when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentrations exceeds 75 ppb, as determined in accordance with Appendix T of 40 CFR part 50. The only AQS monitors in Alabama within 50 km of another state are the Mobile County monitor (AQS ID: 01–097–0003), and the Sumter County monitor (AQS ID: 01–119–0003). The Mobile County monitor is approximately 30 km from Mississippi and 45 km from Florida,

and the Sumter County monitor is approximately 13 km from Mississippi. The Mobile County monitor began operation on January 1, 2016. The monitor has a complete, quality-assured 2016–2018 DV of 11 ppb, which is 85 percent below the level of the 2010 1-hour SO<sub>2</sub> NAAQS. The Sumter County monitor began operation on January 1, 2018. Since the monitor has not operated for three years, it has not yet collected a valid DV. During 2018, the Sumter County monitor recorded a 99th percentile daily maximum 1-hour SO<sub>2</sub> concentration of approximately 4 ppb. Neither the Mobile County nor Sumter County monitor has measured any daily exceedances of the 2010 1-hour SO<sub>2</sub> NAAQS during their respective years of operation.

Table 8 shows that there are three AQS monitors in the adjacent states of Florida (Escambia County monitor), Georgia (Floyd County monitor), and Mississippi (Jackson County monitor) which are located within 50 km of the Alabama border. Currently, there are no AQS monitors with complete, valid data indicating a violation of the 2010 1-hour SO<sub>2</sub> NAAQS located within 50 km of Alabama in the states of Florida, Georgia, and Mississippi. Further, the DVs from these monitors show a general downward trend in SO<sub>2</sub> concentrations and that the DVs from 2012–2018 have remained below the standard, with the exception of the Floyd County monitor in Georgia which did not have a valid DV for 2015–2017 and 2016–2018.<sup>38</sup>

TABLE 8—2010 1-HOUR SO<sub>2</sub> DVs (ppb) FOR AQS MONITORS LOCATED IN ADJACENT STATES WITHIN 50 km OF ALABAMA

State	County	AQS ID	2010–2012	2011–2013	2012–2014	2013–2015	2014–2016	2015–2017	2016–2018	Approximate distance to state border (km)
Florida	Escambia	12–033–0004	27	22	25	24	16	8	6	23
Georgia	Floyd	13–115–0003	74	67	46	35	42	*ND	*ND	12
Mississippi	Jackson	28–059–0006	27	23	27	28	21	12	6	13

\*ND indicates no data due to relocation of the Floyd County, Georgia monitor to serve as a DRR monitor (AQS ID: 13–115–0006) listed in Table 8.

EPA notes that the 2014–2016 DV for the Floyd County, Georgia AQS monitor (AQS ID: 13–115–0003) of 42 ppb is 44 percent below the level of the 2010 1-hour SO<sub>2</sub> NAAQS. None of the monitors listed in Table 8 has measured any daily exceedances of the 2010 1-hour SO<sub>2</sub> NAAQS during 2017 or 2018. Thus, based on this assessment, EPA believes that these data support EPA’s proposed conclusion that Alabama will not contribute significantly to

nonattainment of the 2010 1-hour SO<sub>2</sub> NAAQS in any other state. EPA also evaluated monitoring data provided to date for AQS monitors located in states adjacent to Alabama within 50 km of the State’s border that were established to characterize the air quality around specific sources subject to EPA’s DRR to inform the Agency’s future round 4 designations for the 2010 1-hour SO<sub>2</sub> NAAQS in lieu of modeling (hereinafter referred to as “DRR monitors”). There is only one DRR

monitor—located in Floyd County, Georgia (AQS ID: 13–115–0006)—that is within 50 km of the Alabama border. Although this monitor does not have three or more years of complete data to establish DVs, EPA evaluated the available, annual 99th percentile SO<sub>2</sub> concentration data for 2017 and 2018 (see Table 9). The Floyd County DRR monitor was sited in the vicinity of the International Paper—Rome facility, a DRR source.

TABLE 9—ANNUAL 99TH PERCENTILE OF 1-HOUR DAILY MAXIMUM SO<sub>2</sub> CONCENTRATIONS (ppb) FOR ROUND 4 DRR MONITORS LOCATED IN ADJACENT STATES WITHIN 50 km OF ALABAMA

County (state)	Round 4 monitored source	AQS ID	2017 99th percentile concentration	2018 99th percentile concentration	Approximate distance to Alabama (km)
Floyd (GA)	International Paper—Rome	13–115–0006	22	15	12

Though the annual 99th percentile daily maximum 1-hour SO<sub>2</sub> concentrations shown in Table 9 are not directly comparable to a DV for the 2010 1-hour SO<sub>2</sub> NAAQS, which is in the form of the 3-year average of the 99th percentile of daily maximum 1-hour values, EPA notes that the highest

annual 99th percentile daily maximum 1-hour values observed at the Floyd County DRR monitor in 2017 and 2018 were 22 ppb and 15 ppb, respectively. The Floyd County DRR monitor has not measured any daily exceedances of the 2010 1-hour SO<sub>2</sub> NAAQS during 2017 or 2018. After careful review of the State’s

assessment and all available monitoring data, EPA believes that the AQS monitoring data assessed support EPA’s proposed conclusion that Alabama will not contribute significantly to 2010 1-hour SO<sub>2</sub> violations in the neighboring states.

<sup>38</sup> The Floyd County, Georgia monitor (AQS ID: 13–115–0003) was relocated in January 2017 to the opposite side of the International Paper-Rome

facility to characterize the area of expected maximum 1-hour SO<sub>2</sub> concentration near the source under the DRR. The relocated monitor (AQS ID: 13–

115–0006) is shown in Table 9 of this notice and does not have a valid 2016–2018 DV due to the relocation.

#### 4. SIP-Approved Regulations Addressing SO<sub>2</sub> Emissions

##### a. State Submission

Alabama's August 20, 2018, SIP submission identifies SIP-approved measures which help ensure that SO<sub>2</sub> emissions in the State will not contribute significantly to nonattainment of the 2010 1-hour SO<sub>2</sub> NAAQS in any other state. Specifically, ADEM lists the following SIP-approved Alabama regulations which establish emission limits and other control measures for SO<sub>2</sub>: ADEM Administrative Code Chapter 335-3-5—*Control of Sulfur Compound Emissions* and Rules 335-3-14-.01—*General Provisions*; 335-3-14-.02—*Permit Procedure*; 335-3-14-.03—*Standards for Granting Permits*; 335-3-14-.04—*Air Permits Authorizing Construction in Clean Air Areas (Prevention of Significant Deterioration (PSD))*; and 335-3-14-.05—*Air Permits Authorizing Construction in or Near Nonattainment Areas*.

##### b. EPA Analysis

EPA believes that Alabama's SIP-approved measures summarized in III.C.4.a. of this notice, which establish emissions limits, permitting requirements, and other control measures for SO<sub>2</sub>, effectively address emissions of SO<sub>2</sub> from sources in the State. For the purposes of ensuring that SO<sub>2</sub> emissions at new major sources or major modifications at existing major sources in Alabama do not contribute significantly to nonattainment or interfere with maintenance of the 2010 1-hour SO<sub>2</sub> NAAQS, the State has a SIP-approved major source new source review (NSR) program. Alabama's SIP-approved nonattainment NSR regulation, Rule 335-3-14-.05, applies to the construction of any new major stationary source or major modification at an existing major stationary source in an area designated as nonattainment. Alabama's SIP-approved prevention of significant deterioration (PSD) regulation, Rule 335-3-14-.04, applies to the construction of any new major stationary source or any major modification at an existing major stationary source in an area designated as attainment or unclassifiable or not yet designated. Rules 335-3-14-.01—*General Provisions*, 335-3-14-.02—*Permit Procedure*, and 335-3-14-.03—*Standards for Granting Permits* govern the preconstruction permitting of modifications to and construction of minor stationary sources. These major and minor NSR rules ensure that SO<sub>2</sub> emissions due to major modifications at existing major stationary sources,

modifications at minor stationary sources, and the construction of new major and minor sources in Alabama will not contribute significantly to nonattainment of the 2010 1-hour SO<sub>2</sub> NAAQS in neighboring states.

#### 5. Federal Regulations Addressing SO<sub>2</sub> Emissions in Alabama

##### a. State Submission

ADEM identified EPA programs which, either directly or indirectly, have significantly reduced SO<sub>2</sub> emissions in Alabama. These programs include: 2007 Heavy-Duty Highway Rule; Acid Rain Program; Cross-State Air Pollution Rule; National Emission Standards for Hazardous Air Pollutants; New Source Performance Standards; Nonroad Diesel Rule; and Tier 1 and 2 Mobile Source Rules.

##### b. EPA Analysis

In addition to the list of federal regulations identified in section III.C.5.a. of this notice which contribute to SO<sub>2</sub> reductions in Alabama, EPA notes that some facilities in the State are also subject to the federal requirements contained in EPA's Mercury Air Toxic Standards (MATS). These regulations reduce acid gases, which also result in reductions of SO<sub>2</sub> emissions. EPA believes that the federal control measures for SO<sub>2</sub> which Alabama lists in the State's SIP submission, along with MATS, may lower SO<sub>2</sub> emissions, which, in turn, are expected to continue to support EPA's proposed conclusion that SO<sub>2</sub> emissions from Alabama will not contribute significantly to nonattainment of the 2010 1-hour SO<sub>2</sub> NAAQS in another state.

#### 6. Conclusion

EPA proposes to determine that Alabama's August 20, 2018, SIP submission satisfies the requirements of prong 1 of CAA section 110(a)(2)(D)(i)(I). This proposed determination is based on the following considerations: Current air quality data for AQS SO<sub>2</sub> monitors located in the states of Florida, Georgia, and Mississippi that are within 50 km of Alabama's border are well below the 2010 1-hour SO<sub>2</sub> NAAQS; modeling for the two Alabama DRR sources whose modeling grids extend into a portion of other states indicate that the maximum impacts did not exceed the level of the 2010 1-hour SO<sub>2</sub> NAAQS in neighboring states; modeling for four DRR sources in the surrounding states of Florida, Georgia, and Mississippi located within 50 km of Alabama indicate that the areas around these sources do not violate the 2010 1-hour SO<sub>2</sub> NAAQS; declining statewide and EGU SO<sub>2</sub>

emissions from 2005 to 2014 in Alabama suggest that the State's potential for contributing significantly to nonattainment of the 2010 1-hour SO<sub>2</sub> NAAQS is reduced substantially; SO<sub>2</sub> emissions from Alabama sources not subject to the DRR and which emitted over 100 tons of SO<sub>2</sub> in 2017 are not likely interacting with SO<sub>2</sub> emissions from the nearest sources in bordering states in such a way as to contribute significantly to nonattainment in the surrounding states of Florida, Georgia, Mississippi, and Tennessee; Alabama DRR sources without valid DRR modeling are located over 50 km from the nearest state's SO<sub>2</sub> source and their SO<sub>2</sub> emissions show an overall general downward trend; and the implementation of current Alabama SIP-approved measures and federal emissions control programs help to further reduce and control SO<sub>2</sub> emissions from sources within Alabama. Further, EPA has no information indicating that Alabama sources will contribute significantly to nonattainment of the 2010 1-hour SO<sub>2</sub> NAAQS in another state.

Based on the analysis provided by Alabama in its SIP submission and EPA's analysis of the factors described in section III.C, EPA proposes to find that sources within Alabama will not contribute significantly to nonattainment of the 2010 1-hour SO<sub>2</sub> NAAQS in any other state.

#### D. EPA's Prong 2 Evaluation—*Interference With Maintenance of the NAAQS*

Prong 2 of the good neighbor provision requires state plans to prohibit emissions that will interfere with maintenance of a NAAQS in another state.

##### 1. State Submission

In its August 20, 2018, SIP submission, ADEM relied upon the information provided for prong 1 to demonstrate that emissions within Alabama will not interfere with maintenance of the 2010 1-hour SO<sub>2</sub> NAAQS in any neighboring state. Further, ADEM notes that there are no monitors located in the surrounding states of Florida, Georgia, Louisiana, Mississippi, and Tennessee that are violating the 2010 1-hour SO<sub>2</sub> NAAQS for the 2015–2017 monitoring period. ADEM also highlighted the State's PSD regulation (335-3-14-.04) and states that this regulation “will continue to apply to any future, large sources in Alabama, further ensuring that maintenance efforts in neighboring states are addressed.”

## 2. EPA Analysis

In *North Carolina v. EPA*, the United States Court of Appeals for the District of Columbia Circuit (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. *North Carolina v. EPA*, 531 F.3d 896, 910–11 (D.C. Cir. 2008). EPA interprets prong 2 to require an evaluation of the potential impact of a state’s emissions on areas that are currently measuring clean data, but that may have issues maintaining that air quality. Therefore, in addition to the analysis presented by Alabama, EPA has also reviewed additional information on SO<sub>2</sub> air quality and emission trends to evaluate the State’s conclusion that Alabama will not interfere with maintenance of the 2010 1-hour SO<sub>2</sub> NAAQS in downwind states. This evaluation builds on the analysis regarding significant contribution to nonattainment (prong 1).

For the prong 2 analysis, EPA evaluated the data discussed in section III.C. of this notice for prong 1, with a specific focus on evaluating emissions trends in Alabama, analyzing air quality data, and assessing how future sources of SO<sub>2</sub> are addressed through existing SIP-approved and federal regulations. Given the continuing trend of decreasing statewide SO<sub>2</sub> emissions from sources within Alabama, and the fact that all areas in other states within 50 km of the Alabama border have DVs attaining the 2010 1-hour SO<sub>2</sub> NAAQS, EPA believes that evaluating whether these decreases in emissions can be maintained over time is a reasonable criterion to ensure that sources within Alabama do not interfere with its neighboring states’ ability to maintain the 2010 1-hour SO<sub>2</sub> NAAQS.

With respect to air quality data trends, the valid 2016–2018 DVs for AQS SO<sub>2</sub> monitors both in Alabama within 50 km of another state’s border and in adjacent states within 50 km of Alabama’s border are below the 2010 1-hour SO<sub>2</sub> NAAQS.<sup>39</sup> Further, modeling results for DRR sources in the State within 50 km of Alabama’s border did not exceed the level of the 2010 1-hour SO<sub>2</sub> NAAQS in neighboring states and modeling results for DRR sources in neighboring states within 50 km of Alabama’s border show

<sup>39</sup> As noted in Section III.C.3.b, the Floyd County, Georgia monitor (AQS ID: 13–115–0003) does not have a valid 2016–2018 DV as this monitor was relocated in January 2017 to the opposite side of the International Paper-Rome facility to characterize the area of expected maximum 1-hour SO<sub>2</sub> concentration near the source under the DRR.

maximum impacts did not exceed the level of the 2010 1-hour SO<sub>2</sub> NAAQS. Thus, these modeling results demonstrate that Alabama’s largest point sources of SO<sub>2</sub> are not expected to interfere with maintenance of the 2010 1-hour SO<sub>2</sub> NAAQS in another state.

As discussed in sections III.C.4 and III.C.5, EPA believes that federal and SIP-approved State regulations that both directly and indirectly reduce emissions of SO<sub>2</sub> in Alabama help ensure that the State does not interfere with maintenance of the NAAQS in another state. SO<sub>2</sub> emissions from future major modifications and new major sources will be addressed by Alabama’s SIP-approved major NSR regulations described in section III.C.4. In addition, ADEM Rules 335–3–14–.01—*General Provisions*, 335–3–14–.02—*Permit Procedure*, and 335–3–14–.03—*Standards for Granting Permits* govern the preconstruction permitting of modifications to and construction of minor stationary sources. These major and minor source permitting regulations are designed to ensure that emissions from these activities will not interfere with maintenance of the 2010 1-hour SO<sub>2</sub> NAAQS in the State or in any other state.

## 3. Conclusion

EPA proposes to determine that Alabama’s August 20, 2018, SIP submission satisfies the requirements of prong 2 of CAA section 110(a)(2)(D)(i)(I). This determination is based on the following considerations: Statewide and EGU SO<sub>2</sub> emissions from 2005 to 2014 in Alabama have declined significantly (66 and 74 percent, respectively); current Alabama SIP-approved measures and federal emissions control programs adequately control SO<sub>2</sub> emissions from sources within Alabama; Alabama’s SIP-approved PSD and minor source NSR permit programs will address future large and small SO<sub>2</sub> sources; current air quality data for AQS SO<sub>2</sub> monitors in Florida, Georgia, and Mississippi within 50 km of Alabama’s border have DVs well below the 2010 1-hour SO<sub>2</sub> NAAQS; and modeling for DRR sources in Alabama indicate that the maximum impacts did not exceed the level of the 2010 1-hour SO<sub>2</sub> NAAQS in neighboring states; modeling for DRR sources within 50 km of Alabama’s border located in the states of Florida, Georgia, and Mississippi demonstrate that Alabama’s largest point sources of SO<sub>2</sub> will not interfere with maintenance of the 2010 1-hour SO<sub>2</sub> NAAQS in another state. Based on the analysis provided by Alabama in its SIP submission and EPA’s analysis of the factors described

in section III.C of this notice, EPA proposes to find that emission sources within Alabama will not interfere with maintenance of the 2010 1-hour SO<sub>2</sub> NAAQS in any other state.

## IV. Proposed Action

In light of the above analysis, EPA is proposing to approve Alabama’s August 20, 2018, SIP submission as demonstrating that emissions from Alabama will not contribute significantly to nonattainment or interfere with maintenance of the 2010 1-hour SO<sub>2</sub> NAAQS in another state.

## 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 Act and applicable federal regulations. See 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. This proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive 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).

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 proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: December 17, 2019.

**Blake M. Ashbee,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2019-28236 Filed 12-30-19; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2018-0705; FRL-10003-47-Region 6]

#### Air Plan Approval; New Mexico; Interstate Transport Requirements for the 2008 Ozone NAAQS

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) is extending the comment period for the proposed rule titled "Air Plan Approval; New Mexico; Interstate Transport Requirements for the 2008 Ozone NAAQS" that was published in the **Federal Register** on December 3, 2019. The proposal provided for a public comment period ending January 2, 2020. The EPA received a request from the public to extend this comment period. The EPA is extending the comment period to a 45-day public comment period ending January 17, 2020.

**DATES:** The comment period for the proposed rule published December 3, 2019 (84 FR 66098), is extended.

Written comments must be received on or before January 17, 2020.

**ADDRESSES:** Submit your comments, identified by Docket Number EPA-R06-OAR-2018-0705, at <http://www.regulations.gov> or via email to [fuerst.sherry@epa.gov](mailto:fuerst.sherry@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 Sherry Fuerst, 214-665-6454, [fuerst.sherry@epa.gov](mailto:fuerst.sherry@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](http://www.regulations.gov) and in hard copy at the EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas. 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:**

Sherry Fuerst, 214-665-6454, [fuerst.sherry@epa.gov](mailto:fuerst.sherry@epa.gov). To inspect the hard copy materials, please schedule an appointment with Ms. Fuerst or Mr. Bill Deese at 214-665-7253.

**SUPPLEMENTARY INFORMATION:** On December 3, 2019, we published in the **Federal Register** "Air Plan Approval; New Mexico; Interstate Transport Requirements for the 2008 Ozone NAAQS" addressing ozone interstate transport (84 FR 66098). We received a request for an extension of the comment period and, in response, have decided to allow an additional 15 days. We are extending the comment period to January 17, 2020. This action will allow

interested persons additional time to prepare and submit comments.

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

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen Oxides, Ozone.

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

Dated: December 18, 2019.

**David Garcia,**

*Air and Radiation Division Director, Region 6.*

[FR Doc. 2019-27865 Filed 12-30-19; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Inspector General

#### 42 CFR Part 1001

#### Solicitation of New Safe Harbors and Special Fraud Alerts

**AGENCY:** Office of Inspector General (OIG), HHS.

**ACTION:** Notification of intent to develop regulations.

**SUMMARY:** In accordance with section 205 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), this annual notification solicits proposals and recommendations for developing new, or modifying existing, safe harbor provisions under section 1128B(b) of the Social Security Act (the Act), (the anti-kickback statute), as well as developing new OIG Special Fraud Alerts.

**DATES:** To ensure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on March 2, 2020.

**ADDRESSES:** In commenting, please refer to file code OIG-128-N. Because of staff and resource limitations, we cannot accept comments by facsimile (fax) transmission. You may submit comments in one of three ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific recommendations and proposals through the Federal eRulemaking Portal at <http://www.regulations.gov>.

2. *By regular, express, or overnight mail.* You may send written comments to the following address: Office of Inspector General, Regulatory Affairs, Department of Health and Human Services, Attention: OIG-128-N, Room 5527, Cohen Building, 330 Independence Avenue SW, Washington, DC 20201. Please allow sufficient time for mailed comments to be received before the close of the comment period.