

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2024–0152; FRL–11858–01–R3]

Air Plan Approval; Maryland; Determination of Attainment by the Attainment Date for the 2010 1-Hour Primary Sulfur Dioxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Anne Arundel County and Baltimore County, Maryland sulfur dioxide (SO₂) nonattainment area attained the 2010 1-hour primary SO₂ national ambient air quality standard (2010 SO₂ NAAQS) by the applicable attainment date of September 12, 2021. This determination is based on certified ambient air quality data from the 2018–2020 monitoring period, relevant modeling analysis, and additional emissions inventory information. This action, if finalized, will address the EPA's obligation under Clean Air Act (CAA) section 179(c) to determine whether the Anne Arundel and Baltimore County SO₂ nonattainment area (referred to hereafter as the Anne Arundel-Baltimore County Area, or simply the Area) attained the 2010 SO₂ NAAQS by the September 12, 2021 attainment date.

DATES: Written comments must be received on or before October 7, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2024–0152 at www.regulations.gov, or via email to talley.david@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or

other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we refer to the EPA.

I. Background

A. The 2010 1-Hour Primary SO₂ NAAQS

Under section 109 of the CAA, the EPA has established primary and secondary NAAQS for certain pervasive air pollutants (referred to as “criteria pollutants”) and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The primary NAAQS represent ambient air quality standards that the EPA has determined are requisite to protect the public health, while the secondary NAAQS represent ambient air quality standards that the EPA has determined are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such an air pollutant in the ambient air.

Under the CAA, the EPA must establish a NAAQS for SO₂, which is primarily released to the atmosphere through the burning of fossil fuels by power plants and other industrial facilities. The EPA first established primary SO₂ standards in 1971 at 140 parts per billion (ppb) over a 24-hour averaging period and at 30 ppb over an annual averaging period.¹

On June 22, 2010, the EPA published in the **Federal Register** a strengthened, primary 1-hour SO₂ NAAQS, establishing a new standard at a level of 75 ppb, based on the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations of SO₂.² This revised

SO₂ NAAQS provides increased protection of public health, and provided for revocation of the 1971 primary annual and 24-hour SO₂ standards for most areas of the country following area designations under the new NAAQS.

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

Following promulgation of a new or revised NAAQS, the EPA is required to designate all areas of the country as either “attainment,” “nonattainment,” or “unclassifiable,” pursuant to CAA section 107(d)(1). On August 5, 2013, the EPA finalized its first round of designations for the 2010 1-hour primary SO₂ NAAQS.³ In this 2013 action, the EPA designated 29 areas in 16 states as nonattainment for the 2010 1-hour primary SO₂ NAAQS. On July 12, 2016, the EPA finalized its second round of initial designations under the 2010 1-hour primary SO₂ NAAQS, designating an additional four areas as nonattainment, effective September 12, 2016.⁴ Included in this second round of designations was the Anne Arundel-Baltimore County Area. This designation was based on the weight of evidence for the Area, including available air quality modeling and ambient air monitoring data from 2013–2015. Pursuant to section 192(a) of the CAA, the attainment date for the Anne Arundel-Baltimore County Area was no later than five years after the effective date of initial designation, or September 12, 2021.

CAA section 191(a) directs states containing an area designated nonattainment for the 2010 1-hour primary SO₂ NAAQS to develop and submit a nonattainment area (NAA) state implementation plan (SIP) to the EPA within 18 months of the effective date of an area's designation as nonattainment. For SO₂, the NAA SIP (also referred to as an attainment plan) must meet the requirements of subparts 1 and 5 of part D, of title 1 of the CAA, and provide for attainment of the NAAQS by the applicable statutory attainment date, or no later than five years from the effective date of designation. The Maryland Department of Environment (MDE) submitted an attainment plan SIP for the Anne Arundel-Baltimore County Area on January 31, 2020.

When a nonattainment area is attaining the 2010 1-hour primary SO₂ NAAQS based on the most recent available data, the EPA may issue a

¹ 36 FR 8186, April 30, 1971.

² 75 FR 35520, June 22, 2010.

³ 78 FR 47191, August 5, 2013.

⁴ 81 FR 45039, July 12, 2016.

Clean Data Determination (CDD), suspending certain NAA planning requirements. The EPA issued a CDD for the Anne Arundel-Baltimore County Area based on modeling and monitoring data for the period 2019–2021 via a final rule published on November 2, 2022, and at the same time, approved certain elements of the submitted attainment plan that are not waived by the EPA's CDD policy.⁵ Notably, a CDD does not alter the Area's nonattainment designation. For the EPA to redesignate an area to attainment, the state must submit, and the EPA must approve a redesignation request for the Area that meets the requirements of CAA section 107(d)(3). To date, Maryland has not requested redesignation of the Area to attainment.

C. EPA Determination of Attainment by the Attainment Date

Section 179(c)(1) of the CAA requires the EPA to determine whether a nonattainment area attained an applicable standard by the applicable attainment date based on the area's air quality as of the attainment date. The EPA is required to issue this determination within six months of the attainment date. Thus, the EPA had a mandatory duty to determine by March 12, 2022, under CAA section 179(c) if the Area reached attainment. With this action, the EPA proposes to determine, in accordance with CAA section 179(c), that the Anne Arundel-Baltimore County Area attained the 2010 1-hour primary SO₂ NAAQS by the September 12, 2021, attainment date.

A determination of whether an area's air quality meets applicable standards is generally based upon the most recent three years of complete, quality-assured data gathered at established state and local air monitoring stations (SLAMS) in a nonattainment area and entered into the EPA's Air Quality System (AQS) database.⁶ Data from ambient air monitors operated by state and local agencies in compliance with the EPA

monitoring requirements must be submitted to AQS. Monitoring agencies annually certify that these data are accurate to the best of their knowledge. All data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix T (for SO₂). In general, for SO₂ the EPA does not rely exclusively on monitoring data to determine whether the NAAQS is met unless it has been demonstrated that the monitors were appropriately sited to record expected maximum ambient concentrations of SO₂ in an area. As such, monitoring data can be supplemented with other relevant information, including dispersion modeling and emissions inventories, for determining attainment.⁷

The attainment date for the Anne Arundel-Baltimore County Area was September 12, 2021. For an area where monitoring data alone is used in the determination of attainment, the three-year design value for the calendar years preceding the attainment date is typically used (e.g., the design value for January 2018 through December 2020 is the appropriate design value for an attainment date of September 12, 2021). In this case for the Anne Arundel-Baltimore County NAA however, the EPA is relying on both a combination of monitoring data and preexisting modeling from the November 2022 CDD to demonstrate attainment. The modeling for the CDD was for the period January 2019 through December 2021, which includes approximately 3.5 months of data occurring after the attainment date. The use of modeling information from 2021 provides additional credible evidence to demonstrate attainment by the September 12, 2021 attainment date because it is a more current representation of air quality in the area. Additionally, the EPA evaluated emissions from 2018 (i.e., September 13, 2018 through December 31, 2018) as a crosscheck of the 3.5 months of data that was modeled after the attainment date (i.e., September 13, 2021 through December 31, 2021) to confirm that the modeling impacts would not have resulted in violations had other time periods been modeled which would have aligned more closely with the monitored design value from 2018–2020.

⁷ The memorandum of April 23, 2014, from Steve Page, Director, EPA Office of Air Quality Planning and Standards to the EPA Air Division Directors "Guidance for 1-hr SO₂ Nonattainment Area SIP Submissions" provides guidance for determining attainment for the 2010 1-hr primary SO₂ NAAQS. This document is available at www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.

II. Proposed Determination

A. Area Characterization

The Anne Arundel-Baltimore County Area is located in Maryland along the western banks of the Chesapeake Bay and encompasses portions of Anne Arundel County and Baltimore County within 26.8 kilometers of Herbert A. Wagner's Generating Station (Wagner) unit 3 stack, which is located at 39.17765 N latitude, 76.52752 W longitude. Any portion of Baltimore City that falls within this 26.8-kilometer radius is excluded from the nonattainment area. As noted, this area was designated as nonattainment by the EPA on July 12, 2016 for the 2010 1-hour primary SO₂ NAAQS.⁸ A March 2, 2015 Consent Decree and enforceable order issued by the United States District Court for the Northern District of California mandated that the EPA issue designations within 16 months (July 2, 2016) for areas that contained a stationary source that had not been announced for retirement and, according to the EPA's Air Markets Database, emitted either more than 16,000 tons of SO₂ in 2012 or more than 2,600 tons of SO₂ and had an annual average emission rate of at least 0.45 pounds of SO₂ per one million British thermal units (lbs SO₂/MMBTU) in 2012.⁹ In 2012, Wagner emitted 7,514 tons of SO₂ and had an emissions rate of 1.105 lbs SO₂/MMBTU, and had not been announced for retirement as of March 2, 2015. As a result, the Consent Decree applied to the Anne Arundel-Baltimore County Area.

Including Wagner, the Anne Arundel-Baltimore County Area contains three facilities that emit or have historically emitted SO₂ for the timeframe of interest. Brandon Shores power plant, C.P. Crane (Crane) power plant, and Wagner possess or have possessed coal-fired electric generating units (EGUs). Brandon Shores and Wagner are located next to one another in northern Anne Arundel County near the City of Baltimore on a 456-acre site called the Fort Smallwood Complex. Crane is located approximately 22 kilometers northeast of the Fort Smallwood Complex in Baltimore County.¹⁰

⁸ 81 FR 45039 (effective September 12, 2016).

⁹ Consent Decree, *Sierra Club v. McCarthy*, No. 3:13-cv-3953-SI, (N.D. Cal. March 2, 2015). This document is available at www.4cleanair.org/wp-content/uploads/resources/Litigation-SO2-Designations-Deadline-Suit-Final_CD-030215.pdf.

¹⁰ The Wheelabrator-Baltimore waste-to-energy facility is the only other source that could produce model impacts in the NAA. However, Wheelabrator-Baltimore is excluded in this action as it is not located within the NAA and has a minimal contribution to the area of maximum

⁵ 87 FR 66086, November 2, 2022.

⁶ Under EPA regulations in 40 CFR 50.17 and in accordance with 40 CFR part 50, appendix T, the 2010 1-hour annual SO₂ standard is met at an ambient air quality monitoring site when the design value is less than or equal to 75 ppb. Design values are calculated by computing the three-year average of the annual 99th percentile daily maximum 1-hour average concentrations. An SO₂ 1-hour primary standard design value is valid if it encompasses three consecutive calendar years of complete data. A year is considered complete when all four quarters are complete, and a quarter is complete when at least 75 percent of the sampling days are complete. A sampling day is considered complete if 75 percent of the hourly concentration values are reported; this includes data affected by exceptional events that have been approved for exclusion by the Administrator.

To aid in assessing if an area is meeting attainment, SLAMS collect ambient air data. One such monitor, the Essex monitor (Air Quality System (AQS) Site ID 24-005-3001), is located in the Anne Arundel-Baltimore County Area. The Essex monitor in Baltimore County is over 15 kilometers northeast of the Fort Smallwood Complex (Brandon Shores and Wagner) and approximately 9 kilometers west of Crane—placing the monitor well away from any primary sources of SO₂. The Essex monitor’s 1-hour SO₂ design values have not violated the 2010 1-hour primary SO₂ NAAQS of 75 ppb over the last decade. The last design value exceedance of the NAAQS for this site was during the 2007–2009 period. Additionally, there is a special purpose monitor in the Area—the Riviera Beach monitor (AQS ID 24-003-2002)—which has only operated since January 2018. It is sited in Anne Arundel County, less than 5 kilometers away from the Fort Smallwood Complex, providing a better estimation of the actual maximum SO₂ concentration within the nonattainment area. While it has not measured any instances exceeding the 2010 1-hour SO₂ NAAQS, it has experienced

significant timeframes of invalid or missing measurements and was discontinued in 2022.

As placement of the Essex SLAMS and Riviera Beach special purpose monitor does not capture the location of the maximum ambient SO₂ concentration,¹¹ modeling may supplement the monitoring data to assist in determining if the Anne Arundel-Baltimore County Area has timely reached attainment.¹² This action utilizes the same modeling as the November 2022 CDD for the Anne Arundel-Baltimore County Area between 2019–2021. This modeling analysis followed much of the modeling procedures outlined in Maryland’s SIP modeling protocol document¹³ and Maryland’s original designation modeling analysis. As such, this modeling largely follows established model guidelines previously utilized in Maryland’s analysis of the Anne Arundel-Baltimore County Area.

B. Evaluation of SO₂ Emissions Data

The EPA evaluated annual SO₂ emissions trends for sources within the Anne Arundel-Baltimore County Area. The annual emissions from 2012–2021

from each major stationary source within the Area are provided in table 1 in this document, along with the total combined emissions from the listed stationary sources. By the end of 2020, total SO₂ emissions within the Area had declined approximately 90% from 2012 levels and approximately 89% from 2016 levels—the year of nonattainment designation. The closure of Crane’s coal units by 2018, the conversion of Wagner Unit 2 from coal to natural gas in 2020, and the installation of a dry sorbent injection emission control system for SO₂ on Wagner Unit 3 in 2018 all contributed to this significant reduction. Additionally, the remaining Fort Smallwood Complex coal units have reduced their total annual operating hours under enforceable consent orders,¹⁴ further decreasing SO₂ emissions within the Area.

The reduction in emissions in the 2018–2020 timeframe compared to pre-2018 emissions provides evidence that the Anne Arundel-Baltimore County Area saw air quality improvements in SO₂ levels and supports the finding that the Area attained the 2010 1-hour SO₂ NAAQS by September 12, 2021.

TABLE 1—ANNUAL EMISSIONS FROM MAJOR STATIONARY SO₂ SOURCES IN THE ANNE ARUNDEL-BALTIMORE COUNTY NONATTAINMENT AREA FOR 2012–2021
[Tons of SO₂ per year]

Year	Brandon Shores		H.A. Wagner				C.P. Crane		Total
	Unit 1	Unit 2	Unit 1	Unit 2	Unit 3	Unit 4	Unit 1	Unit 2	
2012	1,547	1,301	0.2	2,513	4,964	41.1	1,214	962	12,542
2013	1,389	1,482	0.2	1,555	8,557	72.7	719	2,143	15,918
2014	1,670	1,475	72.6	1,940	7,277	323	574	1,316	14,648
2015	1,311	1,643	65.0	1,188	8,754	185	382	946	14,474
2016	1,450	1,270	26.5	163	7,575	74.8	412	638	11,609
2017	1,098	1,418	2.5	117	1,245	60.8	379	449	4,769
2018	1,747	1,785	6.1	230	2,733	197	392	475	7,565
2019	547	954	15.3	88.8	1,124	39.9	0	0	2,769
2020	420	267	0	0	605	13.5	0	0	1,306
2021	759	720	5.7	0	645	17.4	0	0	2,147

C. Evaluation of SO₂ Monitoring Data

The 3-year design values of 1-hour SO₂ from 2014–2021 as well as the annual 99th percentile of 1-hour SO₂ concentrations for the Essex Monitor are shown in table 2 in this document. The Essex Monitor has been below the 2010 1-hour SO₂ NAAQS design value since

2012 and has had no hourly SO₂ values exceeding the 75 ppb 2010 1-hour SO₂ NAAQS in the same timeframe. From 2014 to 2020, the Essex Monitor design value has declined from 22 ppb to 9 ppb, representing a decrease of approximately 59%, which could be attributed to the significant decline in

operations of the coal fired EGUs in the Area over the past decade. The 2018–2020 design value of 9 ppb represents 12% of the 2010 1-hour SO₂ NAAQS. Since 2014, the Essex Monitor has reliably reported data, collecting and logging data on approximately 95% of days since its installation. This

concentration within the NAA, as described in the “EPA CDD TSD—Technical Support Document—Clean Data Determination for the Anne Arundel-Baltimore Counties SO₂ Nonattainment Area _ August 2022” document.

¹¹ See Page 43 of “EPA CDD TSD—Technical Support Document—Clean Data Determination for the Anne Arundel-Baltimore Counties SO₂ Nonattainment Area _ August 2022” document.

¹² See supra Note 7, EPA “Guidance for 1-hr SO₂ Nonattainment Area SIP Submissions”, available at www.epa.gov/sites/default/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.

¹³ See Maryland’s Planning and Policy: State Implementation Plans (SIPs) web page: mde.maryland.gov/programs/air/airqualityplanning/pages/index.aspx and EPA Round 2 designation page for Maryland:

www.epa.gov/sulfur-dioxide-designations/so2-designations-round-2-maryland-statererecommendation-and-epa-response.

¹⁴ See Appendix B of the January 30, 2020 attainment plan SIP Revision. Specifically, Appendix B1—Consent Order—Brandon Shores and Wagner Generating Stations, dated December 4, 2019; and Appendix B-2: Consent Order—C.P. Crane Generating Station, dated October 9, 2019.

represents complete data for monitoring purposes.¹⁵

TABLE 2—2014–2021 ESSEX MONITOR SO₂ VALUES FOR THE ANNE ARUNDEL-BALTIMORE COUNTY AREA

Year	99th Percentile daily 1-hour maximum value (ppb)	Design value (ppb)*	Number of hourly SO ₂ values above 75 ppb (by year)	Valid monitor days (by year)
2014	26.4	22	0	360
2015	17.7	22	0	357
2016	12.9	19	0	355
2017	8.5	13	0	323
2018	12.3	11	0	318
2019	10.5	10	0	351
2020	4.7	9	0	352
2021	5.4	7	0	354

* The design value was calculated with the reported year as the final year of the three-year period used in determining the design value (e.g., 2014 was calculated from the years 2012–2014).

The other monitor in the Area, the special purpose Riviera Beach Monitor, has a 2018–2020 1-hour SO₂ design value of 24 ppb. This monitor was discontinued in mid-2022, precluding the use of a more recent design value. Furthermore, this monitor has experienced significant periods of invalid or missing measurements since its installation in January 2018 and as such, the incorporation of its data into this determination of attainment by the attainment date will be limited to segments of valid and recorded monitoring periods.

The EPA finds the monitoring data from the Essex monitor in the Anne Arundel-Baltimore County Area supports the conclusion that the Area attained the 2010 1-hour SO₂ NAAQS by the September 12, 2021 attainment date.

D. Evaluation of Modeling Data

The EPA conducted a modeling analysis for the CDD proposal¹⁶ in July 2022, and as both this action and the CDD largely pertain to the same timeframe, this determination of attainment by the attainment date will utilize the same modeling results. The modeling analysis was based on a combination of actual and allowable emissions for 2019–2021. Concurrent meteorological data for 2019–2021 and appropriate background concentrations were incorporated into the model, and inputs were overlaid into a model receptor grid covering the areas near the sources to adequately capture the maximum modeled concentration. As noted, this modeling analysis followed much of the modeling procedures outlined in Maryland’s modeling protocol document and Maryland’s original designation modeling analysis. Therefore, this modeling largely follows established model guidelines previously

utilized in Maryland’s analysis of the Anne Arundel-Baltimore County Area. Additional information on the model assumptions and development is available in the docket for this action.¹⁷

The EPA’s modeling analysis based on 2019–2021 SO₂ emissions demonstrate a peak design value of 53.1 ppb occurs within the Anne Arundel-Baltimore County Area. This modeled value is approximately 71% of the 75 ppb 2010 SO₂ NAAQS and occurred about one kilometer east of the Fort Smallwood Complex, near the southern shoreline of the Patapsco River. The peak model receptor design value and the 99th percentile model concentrations used in this calculation are summarized in table 3 in this document. It should be noted that the 99th percentile values decline over this modeled period—aligning with the reduced SO₂ emissions from the major stationary sources in the Area.

TABLE 3—SUMMARY OF 2019–2021 PEAK MODELED RECEPTOR 1-HOUR SO₂ DESIGN VALUES AND 99TH PERCENTILE VALUES FOR THE ANNE ARUNDEL-BALTIMORE COUNTY, MD AREA

Design value (ppb)	Year 1			Year 2			Year 3		
	Date	Hour of day	SO ₂ 99th percentile (ppb)	Date	Hour of day	SO ₂ 99th percentile (ppb)	Date	Hour of day	SO ₂ 99th percentile (ppb)
53.1	10-02-2019	14	69.3	7-27-2020	12	52.3	1-20-2021	09	37.9

As previously discussed, this CDD modeling data includes approximately 3.5 months of data occurring after the attainment date and does not include approximately 3.5 months of data from September 2018 through December 2018. To ensure consideration of the 36-

month period prior to the attainment date, the EPA has analyzed the emissions data of these 3.5 months at the end of 2018. While emissions between these two 36-month periods (September 2018 through September 2021 vs. January 2018 through

December 2021) are relatively similar, the substitution of the September through December 2018 data for the September through December 2021 data does represent an approximately 16% increase in the total emissions during the 36-month period utilized for

¹⁵ See supra Note 6, for requirements of data completeness.

¹⁶ 87 FR 51006, August 19, 2022.

¹⁷ See “EPA CDD TSD—Technical Support Document—Clean Data Determination for the Anne

Arundel-Baltimore Counties SO₂ Nonattainment Area August 2022” document.

assessing timely attainment. This data, compiled from the EPA’s Clean Air Markets Program Data,¹⁸ is available in table 4 in this document and can be compared to the totals for the 2019–

2021 timeframe provided in table 1 in this document. The total tons of SO₂ emissions for each of these 1-year (or 12-month) periods on a 2019–2021 calendar-year basis vs. a September

2018 through September 2021 basis, respectively, are as follows: Period 1—2,769 vs. 3,396; Period 2—1,306 vs. 1,764; and Period 3—2,147 vs. 2,083.

TABLE 4—EMISSIONS FROM MAJOR STATIONARY SO₂ SOURCES IN THE ANNE ARUNDEL-BALTIMORE COUNTY NONATTAINMENT AREA FOR SEPTEMBER 2018 THROUGH SEPTEMBER 2021
[Tons of SO₂ per year]

Time period	Brandon Shores	Wagner	Total*
Sept. 12, 2018–Sept. 11, 2019	1,976.1	1,419.4	3,395.5
Sept. 12, 2019–Sept. 11, 2020	779.3	984.7	1,764.0
Sept. 12, 2020–Sept. 11, 2021	1,608.2	474.5	2,082.7

*C.P. Crane is excluded from this table as the facility had ceased operation by September 12, 2018.

Two of these periods show higher emissions on the September-to-September basis and thus suggest that the modeled 2019–2021 peak design value may underestimate the 36-month September 2018 through September 2021 peak design value in the Area. However, the modeled peak design value of 53.1 ppb is substantially lower than the NAAQS of 75 ppb and even with the increase in emissions rates for this September 2018 through September 2021 period, the EPA has determined that the increased emissions are insufficient to prevent the Area from having reached attainment by the attainment date.

While emission increases are not necessarily proportional to increases in design values, if the 16% increase in the total emissions led to a 16% increase in the modeled design value of 53.1 ppb, the adjusted modeled design value would be 61.6 ppb—still well below the NAAQS of 75 ppb. Comparatively, the design value for September 2018 through September 2021 would have to increase over 40% from the modeled design value of 53.1 ppb for January 2019 through December 2021 in order to violate the NAAQS.

Additionally, the 2022 CDD Technical Support Document quantifies the annual 99th percentile of the daily maximum 1-hour average concentrations of SO₂ for the 3 years used in computing the modeled peak design value.¹⁹ These values (available in table 3 in this document) are 69.3 ppb, 52.3 ppb, and 37.9 ppb for Years 2019, 2020, and 2021, respectively, and the average of these values, 53.1 ppb, is the modeled design value. In the event that the lowest of these values were to be substituted with an alternative annual 99th percentile of the daily

maximum 1-hour average concentration of SO₂ (which could have occurred during the September 2018 through December 2018 time period), this theoretical value would need to measure in excess of 103.4 ppb for the design value to violate the NAAQS. For comparison, the highest SO₂ concentration observed at the nearby Riviera Beach monitor during the entirety of its valid and recorded monitoring periods measured 63.9 ppb. While not positioned exactly in the area of maximum concentration, as noted above, this monitor was in close proximity to the Fort Smallwood Complex. Considering this monitoring data and the results of the CDD modeling, it is highly unlikely that the September 2018 through December 2018 period would result in an annual 99th percentile (*i.e.*, 4th highest observed) of the daily maximum 1-hour average concentrations exceeding 103.4 ppb and thus producing a design value in violation of the NAAQS.

The EPA finds that the modeling analysis conducted for Anne Arundel-Baltimore County for the January 2019 through December 2021 period supports the conclusion that the Area attained the 2010 1-hour SO₂ NAAQS by the September 12, 2021 attainment date, as the maximum modeled design value in the Area of 53.1 ppb is lower than the NAAQS of 75 ppb.²⁰ Consideration of this 2019–2021 modeling analysis in concert with emissions data from September 2018 through December 2018 indicates that the area was in attainment for the entire 36-month period prior to the attainment date.

E. Conclusion

The EPA proposes to determine that the Anne Arundel-Baltimore County

nonattainment area attained the 2010 1-hour SO₂ NAAQS by the September 12, 2021 attainment date. The supporting bases for our proposed determination of attainment include: emissions within the Area have been reduced by 90% between 2012 to 2020; ambient air quality monitoring has had no exceedances of the 2010 1-hour SO₂ NAAQS since 2012 and SO₂ readings have declined 59% from 2014 to 2020; and the EPA’s modeling analysis (based on 2019–2021 SO₂ emissions) predicts a maximum design value within the Area of 53.1 ppm—71% of the 75 ppb 2010 SO₂ NAAQS—and as explained above, the inclusion of 2018 emissions data would not result in a violating design value. Notably, MDE’s report to the EPA, leading to the subsequent issuance of the CDD, shows that the area continues to attain the NAAQS. The EPA’s determination that the area attained the 2010 1-hour SO₂ NAAQS by the attainment date is supported by all of the available aforementioned evidence.

III. Proposed Action and Request for Public Comment

Based on the EPA’s review of all available evidence described in this proposed rulemaking, the EPA is proposing to determine that the Anne Arundel-Baltimore County nonattainment area attained the 2010 1-hour primary SO₂ NAAQS by the statutory attainment date of September 12, 2021.

Finalizing this action would not constitute a redesignation of the Anne Arundel-Baltimore County nonattainment area to attainment of the 2010 1-hour SO₂ NAAQS under section 107(d)(3) of the CAA. If this action is finalized, the Anne Arundel-Baltimore

¹⁸ Available at campd.epa.gov/.

¹⁹ See Page 44 of “EPA CDD TSD—Technical Support Document—Clean Data Determination for

the Anne Arundel-Baltimore Counties SO₂ Nonattainment Area __August 2022” document.

²⁰ See Page 43 of “EPA CDD TSD—Technical Support Document—Clean Data Determination for

the Anne Arundel-Baltimore Counties SO₂ Nonattainment Area __August 2022” document.

County Area will remain designated nonattainment for the 2010 1-hour SO₂ NAAQS until such time as Maryland submits to the EPA a redesignation request and accompanying 10-year maintenance plan, and the EPA determines that the area meets the CAA requirements for redesignation to attainment and takes action to redesignate the area.

If finalized, this action will address the EPA's obligation under CAA section 179(c) to determine if the Anne Arundel-Baltimore County Area attained the 2010 1-hour SO₂ NAAQS by the September 12, 2021 attainment date. The EPA is soliciting public comments on this proposed rulemaking. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

This action proposes to determine an area has attained the NAAQS by the relevant attainment date and does not impose additional or modify existing requirements. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
 - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
 - Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act;
- Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and

Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.” The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, which finds that a nonattainment area had attained the 2010 SO₂ NAAQS by the applicable attainment date, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples. In addition, this proposed rulemaking, the determination of attainment by attainment date for the Anne Arundel-Baltimore County SO₂ nonattainment area, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because this action is not approved to apply in Indian country located in the State, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Adam Ortiz,

Regional Administrator, Region III.

[FR Doc. 2024-19436 Filed 9-5-24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2023-0454; FRL-12177-01-OCSPP]

RIN 2070-ZA16

Pesticide Tolerances; Implementing Registration Review Decisions for Certain Pesticides (Capric (Decanoic) Acid, Caprylic (Octanoic) Acid, and Pelargonic (Nonanoic) Acid)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is proposing to implement several tolerance actions under the Federal Food, Drug, and Cosmetic Act (FFDCA) that the Agency determined were necessary or appropriate during the registration review conducted under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). During registration review, EPA reviews all aspects of a pesticide case, including existing tolerances, to ensure that the pesticide continues to meet the standard for registration under FIFRA. The pesticide tolerances and active ingredients addressed in this rulemaking are identified and discussed in detail in Unit III. of this document.

DATES: Comments must be received on or before November 5, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2023-0454, through <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Anita Pease, Antimicrobials Division (7510M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-0736; email address: pease.anita@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural