

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 11, 2020. Filing a petition for reconsideration by the Administrator of this final rule does

not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

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

**MASSACHUSETTS NON-REGULATORY**

Dated: February 11, 2020.

**Dennis Deziel,**

*Regional Administrator, EPA Region 1.*

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

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

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

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

**Subpart W—Massachusetts**

■ 2. In § 52.1120, in paragraph (e), amend the table by adding an entry for “Infrastructure SIP for 2015 Ozone NAAQS” at the end of the table to read as follows:

**§ 52.1120 Identification of Plan**

\* \* \* \* \*  
(e) \* \* \*

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date <sup>3</sup>	Explanations
* Infrastructure SIP submittal for 2015 Ozone NAAQS.	* Statewide .....	* September 27, 2018.	* 3/10/2020 [Insert <b>Federal Register</b> citation].	* Approved with respect to requirements for CAA section 110(a)(2) (A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M) with the exception of the PSD-related requirements of (C), (D), and (J).

<sup>3</sup>To determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2020-03203 Filed 3-9-20; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2018-0792; FRL-10006-25-Region 4]

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

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving 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 has determined 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 approving 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:** This rule will be effective April 9, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket

Identification No. EPA-R04-OAR-2018-0792. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the 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. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION**

**CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**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**

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). Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. These SIPs, which EPA has historically referred to as "infrastructure SIPs," are to provide for the "implementation, maintenance, and enforcement" of such NAAQS, and the requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibility under the CAA. Section 110(a) of the CAA requires states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of individual state submissions may vary depending upon the facts and circumstances. The content of the changes in such SIP submissions may also vary depending upon what provisions the state's approved SIP already contains. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS.

Section 110(a)(2)(D)(i)(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).

Through a letter dated August 20, 2018,<sup>1</sup> the Alabama Department of Environmental Management (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. EPA is approving 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 are addressed in separate rulemakings.<sup>2</sup>

In a notice of proposed rulemaking (NPRM) published on December 31, 2019 (84 FR 72278), EPA proposed to approve Alabama's August 20, 2018, SIP revision for the 2010 1-hour SO<sub>2</sub> NAAQS. The details of the SIP revision and the rationale for EPA's action is explained in the NPRM. Comments on the proposed rulemaking were due on or before January 30, 2020. EPA received two sets of adverse comments from anonymous commenters (collectively referred to as the "Commenter"). These comments are included in the docket for this final action. EPA has summarized the comments and provided responses below.

**II. Response to Comments**

*Comment 1:* The Commenter states that EPA has not 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. The Commenter claims this is "best evidenced" in Escambia County, Alabama, and disputes EPA's proposed finding in the NPRM that no further analysis is necessary for assessing the potential impacts of the interstate transport of SO<sub>2</sub> emissions from Escambia Operating Company—Big Escambia Creek Plant (Big Escambia). The Commenter asserts that there are gaps in EPA's analysis, and as summarized below, raises specific concerns regarding several aspects of the analysis of Big Escambia as it relates to interstate transport of SO<sub>2</sub> emissions.

*Comment 1.a:* The Commenter notes that EPA identified Georgia-Pacific's Brewton LLC facility (Brewton) as a

possible contributor to modeled violations but that the facility was not included in the Big Escambia modeling for EPA's Data Requirements Rule (DRR). The Commenter asserts that the decrease in SO<sub>2</sub> emissions from Brewton from 2014 to 2017 (972 tons to 103 tons) identified in the NPRM's Technical Support Document (TSD) "does not unequivocally mean that there is no transport of SO<sub>2</sub> (or causation or contribution to nonattainment)" in Florida. The Commenter claims that EPA's belief that excluding Brewton from the model does not invalidate the model and does not answer the question as to whether there is transport from the facility, and that EPA should offer some weight of evidence (WOE), model Brewton, or ask the State to model Brewton, in order to demonstrate no transport of SO<sub>2</sub> emissions from Brewton into the neighboring state of Florida.

*Comment 1.b:* The Commenter further indicates a concern with the lack of modeling of certain emissions from the Big Escambia facility. The Commenter notes that EPA's TSD indicates the fact that the difference in the lower modeled emissions and the higher reported emissions at Big Escambia (a difference of 1,575.6 tons in 2014) is due to emissions being diverted to a flare at the facility. The Commenter states that EPA did not consider the emission release characteristics and asserts that EPA's estimate of what the unmodeled concentrations would be in Florida from the flare is therefore "unsubstantiated." The Commenter also notes that EPA assumed that the increase in concentrations from the flare would increase overall concentrations at Big Escambia by 50 percent (%) and argues that "some explanation of how the emissions from the flare are released and where the maximum impacts will occur is necessary instead of just adding 50% to highest modeled impact from the source based on emissions changes alone" because "[e]missions changes alone are not directly proportional to modeled impacts."

*Comment 1.c:* The Commenter notes that, although the Big Escambia DRR modeling receptor grid extended into Florida, the grid did not extend 13 kilometers (km) into Florida, which the Commenter asserts is the approximate distance from the Florida border to Breitburn Operating, L.P. (Breitburn), a source located in Florida. The Commenter therefore asserts that there is "an unmodeled area in Florida for which we don't know the air quality impacts." The Commenter further states that given the maximum reported SO<sub>2</sub> concentration (58.8 ppb) from the Big

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

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

Escambia modeling, the 1,575.6 unmodeled tons of SO<sub>2</sub> from the flare at Big Escambia, and the unmodeled space between Breitburn and the Alabama/Florida border, EPA's conclusion that sources in Alabama will not contribute significantly to nonattainment or interfere with maintenance of the NAAQS in any other state is "off base." The Commenter claims that EPA should either ask the State to "properly model" Big Escambia with the flare emissions and the entire land area between the Alabama and Florida sources included or EPA should rerun the modeling.

*Comment 1.d:* The Commenter states that EPA often responds to comments such as this by saying that the Commenter has not provided evidence indicating a contribution to nonattainment or interference with maintenance and standing by its conclusions. The Commenter argues that private citizens and organizations do not have the expertise or resources to perform the necessary modeling to provide definitive answers like EPA does, and asks why EPA doesn't run the modeling for Big Escambia properly "instead of making unsubstantiated technical assumptions that run counter to why modeling is used in the first place."

*Response 1:* EPA disagrees with the Commenter's claim that EPA has not 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 and responds to the Commenter's specific concerns below.

*Response 1.a:* Regarding the Commenter's concerns with EPA's analysis for Brewton, EPA continues to believe that the exclusion of Brewton from the DRR modeling for Big Escambia does not render the model invalid for use in assessing interstate transport of SO<sub>2</sub> into the neighboring state of Florida. EPA did not rely on the modeling alone in drawing the conclusion that, based on the information available, sources in Alabama will not significantly contribute to nonattainment or interfere with maintenance in other states. Rather, EPA considered additional WOE factors to evaluate potential impacts of Alabama sources on air quality in other states.

Relevant to the Commenter's contention, EPA considered the fact that SO<sub>2</sub> emissions at Brewton in 2017 were 103 tons and that the distance between Brewton and Big Escambia is approximately 24 km. EPA therefore determined that it was not necessary for this source to be included in the

modeling because it is unlikely to interact with the emissions from Big Escambia.<sup>3</sup> Since publication of the NPRM, EPA evaluated more recent emissions data from EPA's Emissions Inventory System which indicates that Brewton emitted 27 tons of SO<sub>2</sub> in 2018.<sup>4</sup> A source with this magnitude of emissions is unlikely to contribute to an air quality problem in Florida, regardless of Big Escambia's impact in the State. Further, with respect to the significant decrease in emissions of SO<sub>2</sub> since 2017, seven units at the facility (three recovery furnace units, three smelt dissolving tank units, and one package boiler unit) have permanently shut down as requested in the title V permit renewal application submitted by Brewton in June of 2017.<sup>5</sup> In addition, the No. 2 Power Boiler, rated at 323 million British thermal units per hour, is currently capable of burning natural gas only.<sup>6</sup> These recent changes at the facility indicate that emissions from Brewton are likely to remain low in the future.

Thus, the WOE available regarding Brewton indicates that it will not contribute significantly to nonattainment or interfere with maintenance in any other state, and the Commenter has not provided any information to contradict EPA's determination. Therefore, EPA continues to believe that the exclusion of Brewton from Big Escambia's modeling is not problematic as it relates to an evaluation of the interstate transport of SO<sub>2</sub> emissions into Florida, and this modeling, weighed along with other WOE factors described in the NPRM, supports EPA's conclusion that Alabama has satisfied the good neighbor provision for the 2010 1-hour SO<sub>2</sub> NAAQS.

<sup>3</sup> EPA performed a qualitative evaluation to assess whether SO<sub>2</sub> emissions from Brewton are impacting Florida, the only neighboring state within 50 km of this source. Because EPA does not have monitoring or modeling data for Brewton, EPA evaluated its 2017 SO<sub>2</sub> emissions, distance from the Alabama border, and distances from sources in Florida with SO<sub>2</sub> emissions greater than 100 tons in 2017 and not subject to EPA's DRR as summarized in Table 5 of the NPRM.

<sup>4</sup> Brewton is located approximately 8 km from the Alabama/Florida border.

<sup>5</sup> In an email dated February 24, 2020, ADEM provided an excerpt from Brewton's June 2017 title V permit renewal application requesting the permanent shutdown of seven units at the facility. These seven units are no longer included in Brewton's title V permit issued on January 17, 2018. The February 24, 2020, email, June 2017 renewal application excerpt, and the title V permit are included in the docket for this action.

<sup>6</sup> The Statement of Basis for the draft permit for Brewton (A530001) title V significant modification dated November 7, 2016, documenting ADEM's approval of the removal of all fuel burning equipment at Power Boiler No. 2, is included in the docket for this action.

*Response 1.b:* Regarding the Commenter's statements about emissions from the Big Escambia flare,<sup>7</sup> the release characteristics of the flare, specifically the tall stack height (42 meters), the exit velocity (20 meters/second), and the high stack temperature (1,273 degrees Kelvin), make it likely that the emissions released from the flare would be highly dispersive and therefore concentrations would likely be well below the 2010 1-hour SO<sub>2</sub> NAAQS at the 8 km distance to the Florida border.

A comparison of the flare characteristics to other modeled sources at Big Escambia, as well as the location of the modeled design concentration and the concentration gradient, also support EPA's conclusion. A comparable source, the sulfur recovery unit (incinerator—Source ID S1201), with a stack height of 66 meters, an exit velocity of 50 meters/second, and a stack temperature of 617 degrees Kelvin is the primary source of emissions at Big Escambia. In ADEM's modeling, emissions from the incinerator were varied hourly having a rate greater than or equal to one-half of a ton per hour for 30 percent of the hours and a maximum hourly rate of 3.7 tons per hour. Given the similarities in the characteristics of the flare to that of the incinerator, the dispersion characteristics of the plume from the flare are likewise expected to be very similar to those of the plume from the incinerator with regard to modeled concentrations and concentration gradient.

The area of maximum modeled concentrations is bimodal, *i.e.*, with two areas of high concentrations located in different directions from Big Escambia. The modeled design concentration is actually located at the northwestern fenceline of the Big Escambia facility. There is a secondary area of high concentrations at the southern fenceline. In both regions, the maximum concentrations are located within a distance of only 600–700 meters of the incinerator, the primary SO<sub>2</sub> source, with a steep concentration gradient of decreasing concentrations occurring within the first kilometer beyond the fenceline. The flare is located on the northern side of the facility, about 250 meters northeast of the incinerator, and is almost 1 km from the secondary area of maximum modeled concentrations near the southern fenceline, toward the Florida border. Given the location of the

<sup>7</sup> Alabama provided documentation on December 2, 2019, that indicated the discrepancy in emissions for each of the modeled years was due to acid gas being diverted to a flare, unit FL-02, when the sulfur recovery unit was down during startup, shutdown, malfunction or upset events.

flare relative to the incinerator and the distance of the flare to the southern Big Escambia fence line, additional emissions from the flare would not be expected to have a significant impact on modeled concentrations at the Alabama/Florida border. Based on EPA's analysis of the similar emissions from the incinerator, EPA continues to believe that the unmodeled SO<sub>2</sub> emissions from the flare would not result in a significant concentration gradient in Florida. In other words, the nature of the flare and the distance from Big Escambia to the Florida border make it highly unlikely that the additional emissions from the flare (stated by Alabama to be due to startup, shutdown, malfunction and upset conditions), had they been included in the model, would have increased modeled concentrations in Florida to a level above the 2010 1-hour SO<sub>2</sub> NAAQS.

*Response 1.c:* EPA disagrees with the Commenter's assertion that the receptor grid needs to be expanded before EPA can approve Alabama's SIP submittal as meeting the CAA's good neighbor provision. As part of its WOE analysis, EPA evaluated the issues with the original DRR modeling for Big Escambia<sup>8</sup> and how ADEM addressed them for the purpose of assessing interstate transport of SO<sub>2</sub>. In particular, ADEM provided supplemental information pertaining to Big Escambia's DRR modeling intended to address the issues identified with the original modeling for the purpose of evaluating potential ambient air impacts in the neighboring state of Florida ("Big Escambia Supplement").<sup>9</sup> With respect to Breitburn, the Big Escambia modeling

<sup>8</sup> EPA identified issues with Big Escambia's DRR modeling in EPA's proposed and final TSDs for Alabama for designations under the 2010 1-hour SO<sub>2</sub> NAAQS 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) (see pp. 90–92, 93–95) and <https://www.epa.gov/sites/production/files/2017-12/documents/03-al-so2-rd3-final.pdf> (see p. 26). The TSD to the NPRM is limited to an assessment of Big Escambia's DRR modeling in relation to the interstate transport of SO<sub>2</sub> (i.e., whether Alabama's SO<sub>2</sub> emissions will contribute significantly to nonattainment or interfere with maintenance of the 2010 1-hour SO<sub>2</sub> NAAQS in neighboring states). The TSD does not address designations of the 2010 1-hour SO<sub>2</sub> NAAQS nor does it reopen any designations.

<sup>9</sup> The Big Escambia Supplement files submitted by ADEM in separate correspondence to EPA dated September 5, 2019, September 20, 2019, September 25, 2019, December 2, 2019, and December 6, 2019, are included in the docket for this final action at [www.regulations.gov](http://www.regulations.gov) at Docket ID No. EPA-R04-OAR-2018-0792, 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 the notice associated with this TSD under the section titled **FOR FURTHER INFORMATION CONTACT**.

included Breitburn at allowable emissions, a level 6.4 times higher than actual emissions in 2017, indicating that ADEM's assessment of Breitburn's impact within the modeling grid was conservative. Additionally, the most recent actual emissions available for the Big Escambia facility in EPA's Emissions Inventory System database were 2,990 tons/year in 2018. This level is more than 500 tons/year less than the Big Escambia emissions that were modeled during 2013–2015 timeframe, which also adds to the conservatism of the modeling. Although the modeling grid did not cover Breitburn, a portion of the modeling grid did extend into Florida and therefore assessed the potential impacts of Breitburn and Big Escambia within that portion of the State.<sup>10</sup> That analysis showed that the maximum modeled impact in Florida remained below the level of the 2010 1-hour SO<sub>2</sub> NAAQS.

While, as discussed above in response to Comment 1.b, the Big Escambia modeling did not include all emissions from the flare, the inclusion of Breitburn at its allowable emission levels indicates that air quality at the Alabama/Florida border is likely characterized conservatively. Moreover, given the response to Comment 1.b above regarding the locations of the areas of maximum modeled concentrations in Alabama, their close proximity to the modeled emission sources at Big Escambia, and the nature of the concentration gradients near Big Escambia, EPA further concludes that it is unlikely that there is a violation of the 2010 1-hour SO<sub>2</sub> NAAQS located in the portions of Florida that extend outside of the receptor grid where emissions from Big Escambia may have an impact. EPA continues to believe that the Big Escambia DRR modeling and Supplement provide a conservative estimation of potential SO<sub>2</sub> impacts in Florida and Big Escambia's lack of significant contribution to impacts in Florida when the factors discussed in the NPRM and associated TSD are weighed together.

<sup>10</sup> The Commenter incorrectly asserts that the distance from Breitburn to the Alabama/Florida border is 13 km. Breitburn is located 4 km due south of the border but is located 21 km Southeast of Big Escambia. Big Escambia is located 8 km due north of the border. Therefore, the distance between the sources and the borders are not directly linear as the Commenter asserts. The Big Escambia modeling grid extends 15 km from Big Escambia in all directions and approximately 7 km into Florida in the direction due south of Big Escambia but does not cover the Breitburn facility itself. EPA does not believe this invalidates the Big Escambia modeling for purposes of assessing transport into Florida as explained in the NPRM and associated TSD and this final rule.

While EPA acknowledges that the modeling grid does not address all potential impacts within Florida from the Breitburn and Big Escambia emissions, in the absence of any information demonstrating a potential violation in Florida, EPA continues to believe that the WOE analysis provided in the NPRM is adequate to determine the potential downwind impact from Alabama to neighboring states. EPA's WOE analysis includes 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. This information, when weighed together, does not provide any indication of an air quality problem in Florida due to emissions from Alabama sources with respect to the 2010 1-hour SO<sub>2</sub> NAAQS and instead supports EPA's conclusion that, based on the available information, Alabama will not significantly contribute to nonattainment or interfere with maintenance of the standard in other states.

*Response 1.d:* Regarding the Commenter's suggestion that EPA should rely on its own resources and expertise to model whether or not Alabama sources in Escambia County significantly contribute to nonattainment or interfere with maintenance in Florida, EPA does not believe the uncertainties of the modeling performed by Alabama identified in the NPRM invalidate consideration of the modeling for transport purposes as part of a WOE analysis. EPA does not believe that modeling is required in all cases under CAA section 110(a)(2)(D)(i)(I) to evaluate good neighbor obligations, particularly where other available information can be used to qualitatively and quantitatively assess the potential for downwind impacts from upwind state emission sources. Here, EPA has evaluated a number of different factors in a WOE analysis based on available information and found no basis to conclude that Alabama emissions will have an adverse impact on downwind states in violation of the good neighbor provision. Therefore, as stated in our response to Comment 1.c, EPA continues to believe that the WOE analysis provided in the NPRM is adequate to determine the potential

downwind impact from Alabama to neighboring states.

**III. Final Action**

EPA is approving 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.

**IV. 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 action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications 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.

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

This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 11, 2020 Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

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

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

Dated: February 27, 2020.

**Mary S. Walker**,  
Regional Administrator, Region 4.

For the reasons set out in the preamble, 40 CFR part 52 is amended as follows:

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

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

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

**Subpart B—Alabama**

- 2. Section 52.50(e) is amended by adding an entry for “110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO<sub>2</sub> NAAQS” at the end of the table to read as follows:

**§ 52.50 Identification of plan.**

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(e) \* \* \*

**EPA APPROVED ALABAMA NON-REGULATORY PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO <sub>2</sub> NAAQS.	Alabama .....	8/20/2018	3/10/2020, [Insert citation of publication].	Addressing Prongs 1 and 2 of section 110(a)(2)(D)(i) only.