

the California SIP as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by January 4, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0651 at <https://www.regulations.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*. 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 the disclosure of which 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 <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. **FOR FURTHER INFORMATION CONTACT:** Po-Chieh Ting, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3191 or by email at ting.pochieh@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

This document proposes to approve EKAPCD Rule 210.1A into the EKAPCD portion of the California SIP. This rule was submitted to the EPA by the California Air Resources Board (CARB) on October 5, 2022 by a letter of the same date. We find that CARB’s October 5, 2022 SIP submittal for EKAPCD Rule 210.1A meets the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

We have published a direct final rule to approve the submitted rule into the

EKAPCD portion of the California SIP in the “Rules and Regulations” section of this issue of the **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

Dated: November 28, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2022-0201; FRL-10437-01-R4]

Air Plan Approval; Tennessee; Revisions to Control of Sulfur Dioxide Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC), through a letter dated June 1, 2021. The SIP submittal proposes to revise SIP requirements regarding the installation, maintenance, and termination of ambient air sulfur dioxide (SO₂) monitors near large industrial SO₂ emitting sources in the State. EPA is proposing to approve these changes to the Tennessee Air Pollution Control Regulations (TAPCR) related to the control of SO₂ emissions into the SIP because they are consistent with the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before January 4, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-

OAR-2022-0201 at 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 www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT:

Josue Ortiz, 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. The telephone number is (404) 562-8085. Mr. Ortiz can also be reached via electronic mail at ortizborrero.josue@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Chapter 1200-3-14 of TAPCR regulates SO₂ emissions within the State. Under the General Provisions of this chapter, TAPCR 1200-03-14-.01(6) requires every owner or operator of certain large fuel burning installations and process emission sources to: (1) demonstrate to the satisfaction of the Technical Secretary that their SO₂ emissions will not interfere with attainment and maintenance of any air quality standard, and (2) install and maintain air quality sensors to monitor attainment and maintenance of ambient air quality standards in the areas influenced by their SO₂ emissions. This rule also allows owners or operators to petition the Technical Secretary to terminate ambient monitoring previously commenced provided certain conditions are met.

As explained in more detail below, TDEC’s June 1, 2021, SIP submittal proposes changes to paragraph 1200-03-14-.01(6), which is related to the control of SO₂ emissions in the State of

Tennessee. Specifically, the submission proposes changes to Tennessee's ambient SO₂ monitoring requirements for affected emission sources, including adding a provision to require the use of permitted allowable SO₂ emissions for the demonstration that subject sources are required to make to show that their SO₂ emissions will not cause interference with attainment and maintenance of any air quality standard, the removal of a less than 20,000 tons per year (tpy) threshold to qualify for the termination of monitors, the addition of a data completeness requirement for the two years of ambient data collected prior to termination of monitoring, and the addition of an exemption for any fuel burning installation or process emission source located in an area in which the Technical Secretary operates one or more ambient SO₂ air quality monitors in the area under the influence of the source's emissions. Tennessee's SIP submittal also provides a CAA section 110(I) non-interference demonstration to show that the proposed changes to paragraph 1200-03-14-.01(6) will not interfere with any applicable requirement concerning attainment of any NAAQS and reasonable further progress (RFP), or any other applicable CAA requirement. Lastly, the SIP includes clarifying administrative changes to the regulatory language at paragraph 1200-03-14-.01(6).

II. What action is EPA proposing?

EPA is proposing to approve Tennessee's June 1, 2021, SIP revision¹ adopting changes to the *General Provisions* (Section 1200-03-14-.01) of TAPCR Chapter 1200-03-14, *Control of Sulfur Dioxide Emissions*, which were adopted on June 3, 2009, and May 31, 2021. The SIP submission proposes to revise Tennessee's general provisions for characterizing SO₂ emissions through ambient air monitoring near fuel burning installations² with a specific rated capacity or process emission sources that emit a specific emission level of SO₂. EPA proposes to approve this SIP revision because the Agency preliminarily finds that the changes to paragraph 1200-03-14-.01(6) are consistent with the CAA and will not interfere with any applicable

¹ EPA notes that the June 1, 2021, SIP revision was received by the Regional Office on June 15, 2021. However, for clarity, EPA will reference the submission by its cover letter date of June 1, 2021.

² TAPCR 1200-3-2-.01, *General Definitions*, defines "fuel burning installation" as one or more units of fuel-burning equipment where the products of combustion are discharged through a single stack or where the products of combustion are discharged through more than one stack the plumes from which tend to merge into a single plume.

requirement concerning attainment of the SO₂ NAAQS and RFP or any other applicable CAA requirement.

III. Tennessee's SIP Revision and EPA's Review

A. Summary of Existing Paragraph 1200-03-14-.01(6)

The current SIP-approved version of paragraph 1200-03-14-.01(6) applies to owners or operators of large fuel burning installations with a total rated capacity greater than 1,000 million British thermal units per hour (MMBtu/hr) or process emission sources that emit greater than 1,000 tpy of SO₂, starting in 1972 and thereafter. The following three subparagraphs of the rule describe the requirements these facilities must meet.

As described in subparagraph (a) of paragraph 1200-03-14-.01(6), these sources are required to demonstrate that they will not interfere with attainment or maintenance of the SO₂ NAAQS, either alone or in combination with other SO₂ sources in the area.

Subparagraph (b) of paragraph 1200-03-14-.01(6) requires subject sources to install and maintain ambient air SO₂ monitors in areas influenced by their emissions. This subparagraph also allows sources to petition the Tennessee Technical Secretary³ to shut down these industrial SO₂ monitors based on two years of air quality data within the area of influence of the source's emissions under certain conditions. As described in subparagraph 1200-03-14-.01(6)(b), such petitions may be granted only if the following three conditions are met: (1) the actual SO₂ emissions from a fuel burning installation do not exceed 20,000 tpy; (2) the source is not located in a nonattainment area, and does not significantly impact a nonattainment area; and (3) the monitored SO₂ concentrations in the vicinity of the source do not exceed 75 percent of the Tennessee Ambient Air Quality Standards.

Finally, subparagraph (c) of paragraph 1200-03-14-.01(6) requires that any calculations performed to demonstrate that sources, either alone or in contribution to other sources, will not interfere with attainment and maintenance of any primary or secondary air quality standard must be based on the assumption that the source is operating at maximum rated capacity.

Sources in Tennessee that meet applicability requirements of paragraph 1200-03-14-.01(6) include large fuel

burning installations (identified by Tennessee as electric generating units (EGUs)) and process or manufacturing emission sources (non-EGUs). The existing subject sources consist of seven EGUs operated by the Tennessee Valley Authority (TVA) and three non-EGU sources. Tennessee includes in its submission a list of the EGUs and non-EGUs in the State that meet the applicability criteria of paragraph 1200-03-14-.01(6).⁴ The list includes the SO₂ attainment status for each area where these sources are located and each facility's ambient monitoring status.

B. Summary of Tennessee's June 1, 2021, Proposed Changes to Paragraph 1200-03-14-.01(6)

Tennessee's June 1, 2021, SIP submission proposes to amend Chapter 1200-03-14, *Control of Sulfur Dioxide Emissions*, by modifying paragraph (6) of Section 1200-03-14-.01, *General Provisions*. The submission also includes a CAA section 110(I) non-interference demonstration, discussed in more detail in Section III.C of this preamble, to show that the proposed changes to paragraph 1200-03-14-.01(6) in the Tennessee SIP will not interfere with any applicable requirement concerning attainment of the SO₂ NAAQS and RFP or any other applicable CAA requirement. The following paragraphs discuss these revisions more specifically.

Paragraph 1200-03-14-.01(6) is revised to replace "calendar year 1972 or any other calendar year thereafter" with "any calendar year." This change simply removes the obsolete year 1972 for which an affected source would have to reach the required rated capacity or the 1,000 tpy emission threshold in order to be covered under this rule. Additionally, minor administrative changes were applied to this paragraph and a reference is added to point to the new applicability exception under subparagraph 1200-03-14-.01(6)(d) described below.

As noted in Section III.A of this preamble, subparagraph (a) of paragraph 1200-03-14-.01(6) requires affected sources subject to this rule to demonstrate that SO₂ emissions from these sources will not interfere with attainment or maintenance of the SO₂ NAAQS, either alone or in combination with other SO₂ sources. The June 1, 2021, SIP submission adds a sentence to

⁴ The list of affected sources can be found in Table 1, Facilities Affected by the Proposed Rule Changes, under the CAA section 110(I) demonstration included with the State's submission. The June 1, 2021, submission, including the 110(I) demonstration, can be found in the docket for this proposed action.

³ TAPCR 1200-03-02-.01, *General Definitions*, defines "Technical Secretary" as the Technical Secretary of the Air Pollution Control Board of the State of Tennessee.

subparagraph (a) stating that “Any such demonstration must be based on the allowable emission rate specified in the source’s construction or operating permit(s) and the source’s maximum rated capacity.” The requirement that the demonstration will be based on maximum rated capacity is moved from SIP-approved subparagraph (c) which is now deleted and reserved.

Subparagraph (a) adds language that provides that any such demonstrations will be based on a source’s allowable emissions, which is limited by the source’s maximum rated capacity and any enforceable emission limits. The latter is determined by either requirements for new or modified sources under construction permit programs or by applicable requirements incorporated into title V operating permits for the sources covered under Rule 1200–03–14–.01(6).⁵

As noted in Section III.A of this preamble, subparagraph (b) of paragraph 1200–03–14–.01(6) establishes the requirement for owners and operators of affected sources to install and maintain SO₂ air quality monitors, provides the criteria for reporting monitored SO₂ data to the state air agency, and states that owners and operators may petition the Technical Secretary to terminate operation of a SO₂ monitor based on two calendar years of air quality data and compliance with other specific criteria. See TAPCR 1200–03–14–.01(6)(b). The proposed amendments at subparagraph (b) clarify that owners or operators must provide two *complete* calendar years of data from the cited monitor in the area of influence of the SO₂ source. The revision also defines the term “complete” for the purpose of this subparagraph to mean that all data was collected in accordance with the collection, completeness, and quality assurance requirements specified in the affected source’s title V operating permit.

As noted in Section III.A of this preamble, subparagraph (b) of paragraph 1200–03–14–.01(6) also allows source owners or operators to petition to terminate operation of an SO₂ monitor in the source’s area of influence. The Technical Secretary may grant the petition if three criteria are met: (1) Actual SO₂ emissions from a fuel burning installation do not exceed 20,000 tpy; (2) the source is located in an attainment area and does not significantly impact a sulfur dioxide nonattainment area; and (3)

measurements of air quality in the vicinity of the source demonstrate that ambient SO₂ levels do not exceed 75 percent of the Tennessee Ambient Air Quality Standards. The June 1, 2021, proposed amendment removes the first criterion, that actual SO₂ emissions for fuel burning installations do not exceed 20,000 tpy, as a mandatory prerequisite to granting a petition to terminate operation of a monitor.⁶

The proposed amendments to the rule also add a new provision at subparagraph 1200–03–14–.01(6)(d) that exempts owners or operators from the requirement to install and maintain an SO₂ ambient air monitor in the area under the influence of the applicable source, as required by 1200–03–14–.01(b), if the Technical Secretary operates one or more ambient SO₂ air quality monitors in the area under the influence of the source’s emissions.

Tennessee explains in its section 110(I) non-interference demonstration that SO₂ emission levels in the State have decreased significantly over the last ten years due to several air quality improvements such that the SIP revision will not interfere with attainment or maintenance of any NAAQS. See section III.C, below, for EPA’s review and analysis of Tennessee’s SIP submission, including its non-interference demonstration.

C. CAA Section 110(I) Non-Interference Demonstration

Section 110(I) of the CAA prohibits approval of a SIP revision if the revision would interfere with any applicable requirement concerning attainment and RFP, or any other applicable requirement of the CAA. Tennessee’s June 1, 2021, SIP revision includes a CAA section 110(I) non-interference demonstration for the removal of item (1) of subparagraph 1200–03–14–.01(6)(b), which eliminates one of three criteria required for terminating operation of an industrial SO₂ monitor, and for adding a new subparagraph 1200–03–14–.01(6)(d), which would exempt subject sources from the requirement to install an SO₂ monitor if the state air agency operates one or more SO₂ monitors in the area under the influence of the source. Tennessee’s section 110(I) demonstration is intended to show that the changes to Rule 1200–03–14–.01(6) will not interfere with attainment or maintenance, RFP, or any

other applicable CAA requirement. Because Rule 1200–03–14–.01(6) is part of the Tennessee SIP, the requirements of CAA section 110(I) must be satisfied before EPA can approve changes to the existing ambient monitoring requirements. EPA has reviewed Tennessee’s SIP revision and preliminarily finds the submission consistent with CAA section 110(I). EPA’s review and assessment of Tennessee’s CAA 110(I) demonstration is provided in Sections III.C.1 and 2.

1. CAA Section 110(I) Demonstration for Proposed Changes to Subparagraph 1200–03–14–.01(6)(b)

Tennessee’s June 1, 2021, submission includes a demonstration to show that removing the 20,000 tpy emission threshold criterion at item (1) of subparagraph 1200–03–14–.01(6)(b), which is one of three required conditions that must be met for the Technical Secretary to grant approval of a petition to terminate operation of the SO₂ monitor, is consistent with CAA section 110(I). Tennessee’s section 110(I) demonstration indicates that SO₂ levels in the State have dropped markedly over the last decade due to enforceable control measures and retirement of coal-burning installations, which have resulted in a significant reduction in SO₂ emissions such that the removal of the 20,000 tpy threshold in item (1) of subparagraph 1200–03–14–.01(6)(b) will not interfere with attainment or maintenance of the SO₂ standard in the State.

Table 1 of the section 110(I) demonstration identifies seven EGUs and three non-EGU SO₂ emitting sources in Tennessee as sources affected by the proposed changes to the requirements of paragraph 1200–03–14–.01(6). Some of these facilities petitioned the Technical Secretary to terminate the operation of their respective SO₂ industrial monitors, and those petitions were granted. Table 1 indicates that a petition to terminate the operation of SO₂ monitors was granted to six facilities in 2008 and to one facility in 2019. Table 1 identifies two facilities, Eastman Chemical Company (Eastman) and Nyrstar Clarksville, Inc. (Nyrstar), as operating monitors, and the 110(I) demonstration also states that these are the only sources currently required to perform ambient monitoring pursuant to 1200–03–14–.01(6)(b).⁷

⁵ These applicable requirements include requirements under Tennessee’s SIP, including limitations on SO₂ emissions for fuel burning and process installations that are specified in TAPCR 1200–3–14–.02 and 1200–3–14–.03, respectively.

⁶ The criterion under 1200–03–14–.01(6)(b)(1) was removed from the Tennessee state regulations on June 13, 2009. A copy of the 2008 public notice for the amendment to 1200–03–14–.01(6)(b)(1) is included in Tennessee’s June 1, 2021, SIP revision which proposes to remove the provision from the SIP.

⁷ TDEC confirmed that Eastman no longer operates a monitor, so Nyrstar is the only facility currently subject to Rule 1200–03–14–.01(6) with an industrial SO₂ monitor. See emails dated June 10, 2022, included in the docket for this proposed action.

The seven EGUs listed in Table 1 are TVA fossil plants Allen, Bull Run, Cumberland, Gallatin, John Sevier, Johnsonville, and Kingston. Actual SO₂ emissions from each of these facilities were less than 20,000 tpy during most of the years between 2013 and 2019, as shown in Table 3 of Tennessee's section 110(I) demonstration. The two facilities that exceeded 20,000 tpy during certain years, TVA Johnsonville and Gallatin, subsequently either retired their coal-burning units or added SO₂ emission controls.⁸

Three of the seven EGUs, TVA John Sevier, Johnsonville and Allen, have retired their coal-fired units or replaced them with natural gas combined cycle plants in 2012, 2017, and 2018, respectively. As shown in Table 3 of Tennessee's section 110(I) demonstration, SO₂ emissions from these facilities have been extremely low following these changes.

The other four EGUs, TVA Bull Run, Kingston, Cumberland, and Gallatin, still operate coal-fired units, but actual SO₂ emissions from all four of these sources show a declining trend and that emissions were well below the 20,000 tpy threshold from 2016 through 2019.⁹ These facilities are all subject to an SO₂ emission limit of 0.20 lb/MMBtu pursuant to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for coal and oil-fired EGUs at 40 CFR part 63 Subpart UUUUU. TDEC notes that compliance with 40 CFR part 63 Subpart UUUUU limits emissions from Bull Run, Kingston, and Gallatin to less than 20,000 tpy based on the sources' allowable SO₂ emissions at nominal heat input (*i.e.*, heat input capacity by design).¹⁰

Noting that TVA Cumberland has allowable SO₂ emissions greater than 20,000 tpy despite the limitations of 40 CFR part 63 Subpart UUUUU, Tennessee reviewed long-term emission trends of this facility to assess the likelihood that its emissions would ever exceed the threshold. The long-term SO₂ emission trends for TVA Cumberland from 1995 through 2019 show that the source's SO₂ emissions have not exceeded 20,000 tpy since 1998 and that emissions have been below 10,000 tpy

most years since 2011, and only slightly above 10,000 tpy in two years during this time period.¹¹ Cumberland's 2020 and 2021 actual SO₂ emissions continue to be below 10,000 tpy.¹²

The Eastman and Resolute FP, Inc. (Resolute) facilities are fuel-burning installations and are the only existing non-EGU emission sources that would potentially have to comply with paragraph 1200-03-14-.01(6)(b)(1) to be eligible to request termination of their requirement to operate an SO₂ monitor.¹³ The permitted allowable emissions of both facilities are limited to less than 20,000 tpy, as described below. Eastman, however, would not meet the criteria for termination under 1200-03-14-.01(6)(b) at this time because it is located in an SO₂ nonattainment area (see Section II.C.2. for further discussion of Eastman).¹⁴

The Resolute facility is a paper mill in Calhoun (McMinn County), Tennessee. Tennessee's June 1, 2021, SIP revision indicates that SO₂ emissions from Resolute's power boilers F1, F2, and F3 are limited to 4,562 tons (total for all three boilers) during any period of 12 consecutive calendar months and that the multi-fuel boiler is limited to 489.7 tpy. Resolute's permitted allowable emission limits are also below the 20,000 tpy threshold proposed for removal at subparagraph 1200-03-14-.01(6)(b)(1), and the facility ceased burning coal in 2013, which further indicates that the facility's potential to exceed the 20,000 tpy threshold is unlikely in the future. For the two non-EGU fuel burning installations, Eastman and Resolute, allowable emissions are limited to less than 20,000 tpy, and recent add-on controls and additional planning considerations indicate the sources are not expected to exceed the emission threshold in the future.

TDEC's review of sources subject to 1200-03-14-.01(6) indicates that enforceable SO₂ emission reduction measures have resulted in a consistent downward trend of actual and/or allowable SO₂ emissions that are well below the 20,000 tpy threshold at of

1200-03-14-.01(6)(b)(1). The emission reduction measures include federal emission standards and emission limits based on repowering to natural gas. EPA's review of 2020 and 2021 actual SO₂ emissions data for the seven TVA sources also confirms a continuous declining trend in recent years.

In the future, any new or modified fuel burning installations constructed in Tennessee that would meet the applicability criteria of 1200-03-14-.01(6) would be subject to pre-construction permitting requirements and, potentially, New Source Performance Standards that would limit SO₂ emissions. It is expected that many of these larger new or modified sources would be subject to major new source review (major NSR) and, in this process, would be required to show that their emissions will not interfere with the NAAQS, or if subject to nonattainment new source review, obtain offsetting emission reductions. In addition, the demonstration required under 1200-03-14-.01(6)(a) that SO₂ emissions from these sources will not interfere with attainment or maintenance of the SO₂ NAAQS, either alone or in combination with other SO₂ sources, is still required for all subject sources.

In summary, of the ten facilities Tennessee has identified as either affected by the proposed revisions to paragraph 1200-03-14-.01(6): three (TVA John Sevier, Johnsonville and Allen) have retired their coal-fired units or replaced them with natural gas combined cycle plants and have extremely low SO₂ emissions; three (TVA Bull Run, Kingston, and Gallatin) have allowable SO₂ emissions less than 20,000 tpy based on compliance with 40 CFR part 63 Subpart UUUUU; one (TVA Cumberland) is also subject to 40 CFR part 63 Subpart UUUUU and has demonstrated actual SO₂ emissions below or near 10,000 tpy since 2011; two (Eastman and Resolute) have permitted allowable emissions less than 20,000 tpy; and one (Nyrstar) is not subject to the 20,000 tpy threshold criterion. In addition, nine of these facilities have already removed their monitors. For these reasons and based on the supporting information stated earlier in this preamble, EPA preliminarily concurs that the proposed removal of the 20,000 tpy emission threshold criteria at subparagraph 1200-03-14-.01(6)(b)(1) will not result in an increase in actual SO₂ emissions or deteriorate the current air quality in the vicinity of the applicable sources. Therefore, EPA proposes to find that Tennessee's section 110(I) non-interference demonstration adequately shows that the proposed changes at

¹¹ See Figure 1 in Tennessee's section 110(I) demonstration.

¹² See <https://campd.epa.gov/>.

¹³ The Nyrstar facility, a zinc refinery in Clarksville, Tennessee, is not a fuel-burning installation and is not affected by subparagraph (b)(1) because it only applies to fuel burning installations.

¹⁴ TDEC's 110(I) demonstration also includes information showing that Eastman's emissions are currently well below 20,000 tpy. TDEC points to a combined emissions limit and replacing coal-fired boilers with natural gas boilers at the B-253 boiler house resulting in an SO₂ emission decrease from 21,246 tpy in 2012 to 4,510 tpy in 2019.

⁸ TVA Johnsonville's actual emissions where above 20,000 tpy in 2015, but all coal-fired units were retired by December 31, 2017. SO₂ emissions for 2018 and 2019 were 2 and 3 tpy, respectively. Additionally, TVA Gallatin's actual emissions where above 20,000 tpy in 2013, but SO₂ controls were installed at Gallatin Fossil Plant in 2016. Gallatin is subject to an SO₂ emission limit of 0.20 lb/MMBtu (40 CFR part 63 Subpart UUUUU).

⁹ See Table 3 in Tennessee's section 110(I) demonstration.

¹⁰ See Table 4 in Tennessee's section 110(I) demonstration.

1200–03–14–.01(6)(b)(1) will not interfere with any requirement concerning attainment or maintenance of the SO₂ NAAQS, RFP, or any other CAA requirement in the State.

2. CAA Section 110(I) Demonstration for Proposed Addition of Subparagraph 1200–03–14–.01(6)(d)

Tennessee's June 21, 2021, SIP revision, at new subparagraph 1200–03–14–.01(6)(d), proposes to update the State's SO₂ monitoring requirements by exempting any fuel burning installation or process emission source from the requirement to install an SO₂ monitor if the source is located "in an area in which the Technical Secretary operates one or more ambient sulfur dioxide air quality monitors in the area under the influence of the source's emissions." EPA understands that any SO₂ air quality monitor operated by the Technical Secretary in lieu of an industrial monitor otherwise required by subparagraph 1200–03–14–.01(6)(b) must meet the requirements of 40 CFR part 58, *Ambient Air Quality Surveillance*, and would be a state and local air monitoring station (SLAMS) as defined at 40 CFR 58.1.¹⁵

As discussed earlier in this preamble, owners and operators of certain fuel-burning or process emission sources are directly affected by paragraph 1200–03–14–.01(6). Table 1 in Tennessee's June 1, 2021, SIP revision lists all the EGUs and process emission sources subject to 1200–03–14–.01(6). This list includes Eastman, and Eastman is the only source on the list that is located in a nonattainment area and therefore would not meet the eligibility criteria for termination of a monitor pursuant to 1200–03–14–.01(6)(b)(2).

To characterize SO₂ concentrations in the Sullivan County nonattainment area around Eastman, Tennessee began operating four SLAMS SO₂ monitors¹⁶ in the vicinity of Eastman, within the 3-km SO₂ nonattainment area boundary, from 2016 through 2019 in accordance with an EPA-approved quality assurance project plan and EPA's regulatory requirements at Appendix D to 40 CFR part 58. Specifically, 40 CFR part 58 establishes the monitoring requirements for state or local air pollution control agencies and owners or operators of proposed sources,

¹⁵ See emails dated November 4, 2022, included in the docket for this proposed action.

¹⁶ The four SLAMS monitors include Ross N. Robinson (AQS ID: 47–163–6001), on September 1, 2016; Skyland Drive (AQS ID: 47–163–6002) on September 1, 2016; Happy Hill (AQS ID: 47–163–6004) in October 2018 and Andrew Johnson Elementary School (AQS ID: 47–163–6003) in January 2019.

including minimum network requirements (e.g., number and placement of monitors), operating schedules and methodology, and quality assurance procedures.

As explained in the June 1, 2021, submittal, TDEC has determined that because these requirements are more stringent than the requirements established in Eastman's title V operating permit, the proposed exemption at 1200–03–14–.01(6)(d) will not interfere with attainment or maintenance of a NAAQS and RFP, or any other applicable requirement of the CAA. Additionally, Tennessee concludes that it does not expect any increase in SO₂ emissions because of the proposed change.

Nyrstar is a zinc refinery in Clarksville, Tennessee, and is the only existing SO₂ emitting source in the State that currently monitors SO₂ emissions pursuant to 1200–03–14–.01(6). TDEC does not operate a monitor in the vicinity of Nyrstar.

EPA believes Tennessee's existing SLAMS SO₂ network in Sullivan County is properly sited and operated under an approved quality assurance project plan and in accordance with 40 CFR part 58, which provides prescriptive and technically credible methods for characterizing SO₂ ambient air concentrations around the Eastman facility. Therefore, EPA has preliminarily determined that the current SO₂ monitoring network near Eastman provides an acceptable alternative to the monitoring otherwise required under 1200–03–14–.01(6)(b) and thus preliminarily concurs with Tennessee's non-interference demonstration that the proposed addition of subparagraph 1200–03–14–.01(6)(d) will not interfere with attainment or maintenance in the Sullivan County area.

More generally, any SO₂ air quality monitor operated by the Technical Secretary in lieu of an industrial monitor otherwise required by subparagraph 1200–03–14–.01(6)(b) must meet the requirements of 40 CFR part 58, *Ambient Air Quality Surveillance*, and would be a state and local air monitoring station (SLAMS) as defined at 40 CFR 58.1.¹⁷ EPA believes that SLAMS monitors provide an acceptable alternative to the monitoring otherwise required under 1200–03–14–.01(6)(b), and notes that EPA approves state monitoring plans annually, which includes the placement of SLAMS

¹⁷ See emails dated November 4, 2022, included in the docket for this proposed action.

monitors.¹⁸ Thus, EPA is proposing to approve the addition of subparagraph (d) to 1200–03–14–.01(6).

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as described in Section I through III of this preamble, EPA is proposing to incorporate by reference TAPCR 1200–03–14–.01, *General Provisions*, state effective on May 31, 2021, into the Tennessee SIP. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Proposed Action

For the reasons provided in this preamble, EPA is proposing to approve Tennessee's June 1, 2021, SIP submission revising paragraph 1200–03–14–.01(6). The SIP revision changes Tennessee's SO₂ regulations that require applicable sources to demonstrate that the source's SO₂ emissions will not interfere with attainment or maintenance and to install and maintain or terminate SO₂ ambient air monitors near these large SO₂ emitting sources. The SIP submittal also includes a CAA section 110(I) non-interference demonstration that the proposed rule changes will not interfere with attainment or maintenance of the NAAQS.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission

¹⁸ EPA's monitoring requirements are specified in 40 CFR part 58 and are applicable to the state, and where delegated, to local air monitoring agencies that operate criteria pollutant monitors. Part 58 establishes specific requirements for operating air quality surveillance networks to measure ambient concentrations of SO₂, including requirements for measurement methods, network design, quality assurance procedures, and the minimum number of monitoring sites designated as SLAMS. Appendix D to part 58 addresses SO₂ monitoring and calls for the overall SLAMS network to be designed to meet a minimum of six basic ambient air monitoring site types including, among other things, determining the highest concentrations expected to occur in the area covered by the network, determining representative concentrations in areas of high population density, and determining the impact on ambient pollution levels of significant sources or source categories on air quality. SLAMS produce data that are eligible for comparison with the NAAQS, and therefore, the monitor must be an approved federal reference method, federal equivalent method, or approved regional method monitor.

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 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);

- 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: November 29, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022-26331 Filed 12-2-22; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[EPA-HQ-OW-2021-0791; FRL-8599-01-OW]

RIN 2040-AG17

Water Quality Standards Regulatory Revisions To Protect Tribal Reserved Rights

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing revisions to the Federal Clean Water Act (CWA) water quality standards (WQS) regulation to clarify and prescribe how WQS must protect aquatic and aquatic-dependent resources reserved to tribes through treaties, statutes, executive orders, or other sources of Federal law, where applicable.

DATES: Comments must be received on or before March 6, 2023. Comments on the information collection provisions submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) are best assured of consideration by OMB if OMB receives a copy of your comments on or before January 4, 2023. *Public Hearing:* EPA will hold two online public hearings during the public comment period. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public hearings.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OW-2021-0791, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.

- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Water Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday through Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

EPA is offering two online public hearings on this proposed rulemaking. Refer to the **SUPPLEMENTARY INFORMATION** section below for additional information.

FOR FURTHER INFORMATION CONTACT: Jennifer Brundage, Office of Water, Standards and Health Protection Division (4305T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566-1265; email address: brundage.jennifer@epa.gov. Additional information is also available online at <https://www.epa.gov/wqs-tech/protecting-tribal-reserved-rights-in-WQS>.

SUPPLEMENTARY INFORMATION: This proposed rule is organized as follows:

- I. Public Participation
 - A. Written Comments
 - B. Public Hearings
- II. General Information
 - A. Does this action apply to me?
- III. Background
 - A. Clean Water Act Requirements
 - B. Tribal Reserved Rights
 - C. Tribal Reserved Rights and Water Quality Standards
- IV. Proposed Revisions to the Federal WQS Regulation
 - A. Why is EPA proposing these revisions?
 - B. What is EPA proposing?
 - C. How would the proposed regulatory revisions be applied?
 - D. EPA's Role
 - E. How would the proposed regulatory revisions apply to States in the Great Lakes system?
 - F. Role of Other WQS Provisions in Protecting Tribal Reserved Rights