part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Regulatory Flexibility Act Certification: The Secretary certifies that these proposed priorities and requirements would not have a significant economic impact on a substantial number of small entities. The small entities that this proposed regulatory action would affect are LEAs, including charter schools that operate as LEAs under State law; institutions of higher education; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations. We believe that the costs imposed on applicants by the proposed priorities and requirements would be limited to paperwork burden related to preparing an application and that the benefits would outweigh any costs incurred by applicants.

Participation in the Technical Assistance on State Data Collection program is voluntary. For this reason, the proposed priorities and requirements would impose no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for Technical Assistance on State Data Collection program funds, an eligible entity would evaluate the requirements of preparing an application and any associated costs and weigh them against the benefits likely to be achieved by receiving a Technical Assistance on State Data Collection program grant. An eligible entity probably would apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that these proposed priorities and requirements would not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of the proposed action. That is, the length of the applications those entities would submit in the absence of the proposed regulatory action and the time needed to prepare an application would likely be the same.

This proposed regulatory action would not have a significant economic impact on a small entity once it receives a grant because it would be able to meet the costs of compliance using the funds provided under this program. We invite comments from eligible small entities as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, request evidence to support that belief.

Paperwork Reduction Act of 1995

These proposed priorities and requirements contain information collection requirements that are approved by OMB under OMB control number 1820–0028. The proposed priorities and requirements do not affect the currently approved data collection.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Glenna Wright-Gallo,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2024–03631 Filed 2–21–24; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2024–0027; FRL–11418–01–R3]

Air Plan Approval; Virginia; Revision Listing and Implementing the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard for the Giles County Nonattainment Area

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 Commonwealth of Virginia (Commonwealth or Virginia). This revision consists of an amendment to the list of Virginia nonattainment areas to include a newly designated sulfur dioxide (SO_2) nonattainment area. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before March 25, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2024–0027 at *www.regulations.gov,* or via email to *Gordon.Mike@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: Serena Nichols, Planning &

Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2053. Ms. Nichols can also be reached via electronic mail at *Nichols.Serena@epa.gov.*

SUPPLEMENTARY INFORMATION: On August 9, 2023, the Virginia Department of Environmental Quality (VADEQ) submitted a revision to its SIP amending an existing regulation in the SIP by adding a sulfur dioxide section for the newly designated SO_2 nonattainment area in a portion of Giles County. This revision is needed for the Commonwealth to implement the 2010 primary SO_2 National Ambient Air Quality Standard (NAAQS).

I. Background

On June 2, 2010, the EPA Administrator signed a final rule that revised the primary SO_2 NAAQS (75 FR 35520, June 22, 2010) after review of the existing primary SO_2 standards promulgated on April 30, 1971 (36 FR 8187). The EPA established the revised primary SO_2 NAAQS at 75 parts per billion (ppb) which is attained when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations of SO_2 does not exceed 75 ppb.

On March 26, 2021 (86 FR 16055), the EPA promulgated initial air quality designations for the 2010 primary sulfur dioxide NAAQS. The EPA has determined that a portion of Giles County is not meeting the SO_2 NAAQS and has designated it as a nonattainment area in 40 CFR 81.347. 40 CFR 81.347 refers to this newly designated SO_2 nonattainment area as ''Giles County (part)'' and the rest of the county which is designated attainment/unclassifiable as ''Giles County (remainder).'' For the ''Giles County (part),'' 40 CFR 81.347 also sets forth the geographic coordinates specifying the nonattainment area boundary.

II. Summary of SIP Revision and EPA Analysis

VADEQ's August 9, 2023 SIP submittal proposes to revise Virginia's SIP to include amendments to an existing regulation in the SIP which add a sulfur dioxide section for the newly designated SO_2 nonattainment area in a portion of Giles County. The amendments revise a provision in the Virginia Administrative Code (VAC), specifically 9VAC5–20–204 ''Nonattainment areas'' Subsection A, with a state effective date of February 15, 2023, which geographically defines the nonattainment areas by locality for the criteria pollutants indicated. The amendments are necessary for implementing the 2010 primary SO_2 NAAQS. The added subdivision at 9VAC5–20–204 A 5, refers to the area as ''Giles County Sulfur Dioxide Nonattainment Area (part),'' and defines it as that part of Giles County bounded by the lines connecting the coordinate points as designated in 40 CFR 81.347.[1] There are also two minor changes—(1) a non-substantive wording change to the introductory language of 9VAC5–20–204 A which replaced the word ''below'' with ''in this subsection'' so that the phrase ''Nonattainment areas are geographically defined below'' now reads as ''Nonattainment areas are geographically defined in this subsection'' and (2) shifting ''All other pollutants'' from 9VAC5–20–204 A 5 to 9VAC5–20–204 A 6.

III. Proposed Action

The EPA is proposing to approve the Virginia SIP revision adding the ''Giles County Sulfur Dioxide Nonattainment Area (part)'' to Virginia's list of nonattainment areas, which VADEQ submitted to the EPA on August 9, 2023. The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity Law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, the EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because the EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, the EPA may at

[1] Under 9VAC5–20–21 B and E 1.a.(17) the applicable date for 40 CFR 81.347 in 9VAC5–20–204 is July 1, 2022. Virginia's August 9, 2023 SIP revision submittal does not mention 9VAC5–20–21 nor does Virginia's SIP include the version of 9VAC5–20–21 at 40 CFR 52.2420(e)(2) with the July 1, 2022 CFR applicability date.

any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

V. Incorporation by Reference

In this document, the 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, the EPA is proposing to incorporate by reference the VADEQ regulation amending 9VAC5–20–204 to add a new sulfur dioxide nonattainment area and two other minor changes as discussed in section II of this document, ''Summary of SIP Revision and EPA Analysis.'' The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 3 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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); 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;

The SIP is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule amending the list of Virginia nonattainment areas to include a newly designated sulfur dioxide (SO_2) nonattainment area does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 VADEQ did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

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

Adam Ortiz,

Regional Administrator, Region III.

[FR Doc. 2024–03616 Filed 2–21–24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2020–0055; FRL–11687–01–R5]

Air Plan Approval; Ohio; Withdrawal of Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to correct the November 19, 2020, removal of the Air Nuisance Rule (ANR) from the Ohio State Implementation Plan (SIP). This action is in response to a February 10, 2023, decision by the United States Court of Appeals for the Sixth Circuit to remand without vacatur EPA's removal of the ANR from the Ohio SIP. Because the Court did not vacate EPA's removal of the ANR, the ANR is currently not in Ohio's SIP. After reevaluating EPA's November 19, 2020, rulemaking, as directed by the Court, EPA is proposing to determine that its November 2020 final action was in error, and to correct that action by reinstating the ANR as part of the Ohio SIP.

DATES: Comments must be received on or before March 25, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2020–0055 at *https://www.regulations.gov,* or via email to *arra.sarah@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, EPA may publish any comment received to its public docket. Do not submit electronically any