

List of Subjects in 40 CFR Part 52

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

Note: Incorporation by reference of the State Implementation Plan for the State of Montana was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: March 24, 1994.

William P. Yellowtail,
Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart BB—Montana

2. Section 52.1370 is amended by adding paragraph (c)(31) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(31) The Governor of Montana submitted a portion of the requirements for the moderate nonattainment area PM₁₀ State Implementation Plan (SIP) for Columbia Falls, Montana with letters dated November 25, 1991 and May 6, 1992, with technical corrections dated June 15, 1993. The submittals were made to satisfy those moderate PM₁₀ nonattainment area SIP requirements due for Columbia Falls on November 15, 1991.

(i) Incorporation by reference.

(A) Stipulation signed November 15, 1991 between the Montana Department of Health and Environmental Sciences, the Flathead County Commission, and the Kalispell City Council and the Columbia Falls City Council, which delineates responsibilities and authorities between the MDHES and Flathead County.

(B) Board order issued on November 15, 1991 by the Montana Board of Health and Environmental Sciences approving the Flathead County Air Pollution Control Program.

(C) Flathead County Board of Commissioners Resolution No. 867, adopting the Flathead County Air Pollution Control Program and Flathead County Air Pollution Control Regulations, with the exception of rules 501 through 506, signed October 3, 1991.

(ii) Additional material.

(A) Montana Department of Health and Environmental Sciences Air Quality Permit # 2667-M, with a final modification date of January 24, 1992, for Plum Creek Manufacturing, Inc. Columbia Falls Operations.

(B) Montana Smoke Management Plan, effective April 28, 1988, which addresses prescribed burning requirements.

(C) Federal tailpipe standards, which provide an ongoing benefit due to fleet turnover.

[FR Doc. 94-8965 Filed 4-13-94; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 52

[MN12-1-6110; FRL-4858-4]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: The USEPA is approving revisions to Minnesota's State Implementation Plan (SIP) for sulfur dioxide (SO₂) for the Air Quality Control Region (AQCR) 131 area (excluding the Pine Bend area of Dakota County and the St. Paul Park/Ashland area), which were submitted to USEPA on May 29, 1992. These SIP revisions were submitted by the State of Minnesota as a means of demonstrating attainment of the National Ambient Air Quality Standards (NAAQS) for SO₂. The USEPA proposed to disapprove the originally submitted SIP revisions on September 13, 1993. However, that notice of proposed rulemaking stated that if the issues identified within were satisfactorily addressed by the State by the end of the 30-day comment period, and if no other significant adverse comments were received, USEPA would proceed with a final approval. The issues were adequately addressed by the State and submitted to the USEPA on July 12, 1993. No comments were received on the September 13, 1993, proposed action. Consequently, the USEPA is fully approving the SO₂ SIP revisions for AQCR 131.

EFFECTIVE DATE: This final rule becomes effective on May 16, 1994.

ADDRESSES: Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone Randy Robinson, (312) 353-6713, before visiting the Region 5 Office.)

U.S. Environmental Protection Agency, Region 5, Air and Radiation

Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of today's revision to the Minnesota SIP is available for inspection at:

U.S. Environmental Protection Agency, Air Docket, 6102, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Randy Robinson, Air Enforcement Branch, Regulation Development Section (AE-17J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353-6713.

SUPPLEMENTARY INFORMATION:**I. Background**

On May 29, 1992, the Minnesota Pollution Control Agency (MPCA) submitted to the United States Environmental Protection Agency (USEPA), revisions to the State Implementation Plan (SIP) for sulfur dioxide (SO₂) in Air Quality Control Region (AQCR) 131. The seven-county metropolitan area (AQCR 131) has been designated, by the USEPA, as nonattainment for SO₂. This submittal was intended to demonstrate attainment of the National Ambient Air Quality Standards (NAAQS) for SO₂ in AQCR 131, excluding an area surrounding the SO₂ emission sources at Ashland Petroleum Company, and an area surrounding the SO₂ emission sources at and near Koch Refining Company, located in Dakota County. These two sources and the surrounding areas were subject to separate submittals and are addressed in separate rulemakings.

On September 13, 1993, a document was published in the **Federal Register** (58 FR 47840) which proposed disapproval of the SO₂ SIP revision for AQCR 131. The proposed notice discussed the State submittal, including background information, attainment demonstration, specific aspects of each administrative order, USEPA comments regarding the administrative orders, comparison of submittal with sections 110 and 172 requirements, and proposed rulemaking action. The disapproval was based on the issues which had been identified in the notice by the USEPA. However, the action also stated that if the issues were satisfactorily addressed by the end of the 30-day comment period, and if no adverse comments were received, the USEPA would proceed with a final approval. This final rule will present a brief summary of the State submittal, detail how the USEPA identified issues were addressed, and present our recommendation for final approval.

II. Submittal Summary

The SO₂ SIP revisions submitted by the MPCA for the AQCR 131 area consisted primarily of administrative orders issued to five facilities: (1) Minneapolis Energy Center, Inc.; (2) Northern States Power Company; (3) FMC and U.S. Navy (FMC has since changed its name to Armament Systems Division of United Defense, L.P.); (4) GAF Corporation; and (5) Federal-Hoffman, Incorporated. The administrative orders contained emission limits, operating restrictions, compliance methodologies, and reporting and recordkeeping requirements. Technical support was also submitted which justified the limits and restrictions in the administrative orders as well as explained the methodology used to demonstrate attainment.

Attainment Demonstration

Section 172(c)(6) requires that revisions include enforceable emission limitations and other control measures, means or techniques, necessary to provide for attainment of the applicable NAAQS. The State submittal demonstrated attainment through the use of air dispersion modeling. The primary guidance for such demonstrations is the Guideline on Air Quality Models, which specifies the criteria for selection of dispersion models and for estimation of emissions and other model inputs. In accordance with that guidance, the dispersion modeling conducted for the five administrative orders in this submittal was performed using the Industrial Source Complex Short-term (ISCST) model (version 90346) for calculation of the 24-hour and 3-hour concentrations. The analysis used urban dispersion coefficients, five years of National Weather Service meteorological data (surface data from the Minneapolis/St. Paul airport and upper air data from St. Cloud), regulatory default parameters, and receptors spaced at 100 meter intervals at areas of maximum impact. The emissions used in the modeling demonstration were based on the maximum emissions allowed at each facility. The annual impacts were calculated in the original 1987 submittal using the Climatological Dispersion Model (CDM 2.0). The modeled concentrations, plus background concentrations and growth margins, showed attainment with the 3-hour, 24-hour, and annual NAAQS.

Compliance

The administrative orders for the five facilities each contain sections detailing

how compliance is to be determined. The methods used include continuous emissions monitors (CEMS), stack testing conducted in accordance with Reference Methods 1 through 4, 6, 6a, or 6b, and regular fuel sampling and fuel supplier certification. The USEPA has determined, based on guidance in the "General Preamble for Future Proposed Rulemakings," published in the **Federal Register** on April 16, 1992 (57 FR 13498), that these compliance methods are adequate to provide for SO₂ compliance monitoring at the affected facilities.

III. State Responses to USEPA Comments

The following are the administrative order revisions made by the State and submitted to USEPA on July 12, 1993, in response to USEPA comments detailed in the notice of proposed rulemaking. In addition, the administrative order for FMC Corporation and U.S. Navy was again revised on March 26, 1993 and an official SIP revision package was sent to the USEPA at that time. Those revisions will also be discussed in this section.

Federal Hoffman, Inc.

(1) A formula was added to the administrative order which calculates an emission rate in pounds of sulfur dioxide per million British Thermal Units (lbs/mmBtu) from information on percent sulfur, density of the fuel oil, theoretical sulfur to sulfur dioxide availability, and the heating value.

(2) It was made clear in the administrative order that the emission limits on emission points 82, 83, and 84, apply to each point and not the group.

(3) The method used to determine the sulfur content of fuel oil is now clearly identified as an approved American Society for Testing and Materials (ASTM) method.

FMC and U.S. Navy

(1) In response to a concern about monthly analysis of fuel oil for waste oil or waste solvents, the administrative order was changed so that every time the Company adds waste oil or waste solvents to the fuel oil, the resulting fuel oil will be sampled and analyzed.

(2) The method used to determine sulfur content of the fuel oil is now clearly identified as an approved ASTM method.

(3) A formula was added to the administrative order which calculates an emission rate in lbs/mmBtu from information on percent sulfur, fuel oil coefficients for the type of fuel being burned, and the heating value.

Additional changes to the FMC and U.S. Navy order were requested in a March 26, 1993, SIP revision package submitted by the State. The changes included the addition, in Exhibit 1 of the administrative order, of distillate oil as a fuel type for boilers 1 through 13 (these boilers are also allowed to burn residual oil), three diesel generators were added as emission points to Exhibit 1 (these diesel generators were included in the modeled attainment demonstration), name changes for boilers 1A, 1B, and 2A, and associated changes to Part I.C.E of the administrative order which specifies operating restrictions during the decommission of boilers 1 through 17 and their replacement with three new boilers.

GAF Building Materials Corporation

(1) The administrative order increases the sampling and analyzing frequency of the mixture of No. 6 fuel oil and knockout oil (a petroleum based by-product) from a monthly to a weekly basis. If, after six months, the sulfur content of the mixture is less than 1.3 percent, monthly sampling will be considered sufficient.

(2) The administrative order now contains a formula for use in calculating an emission rate in lbs/mmBtu from the recorded sulfur content and heating value information.

(3) The method used to determine sulfur content of the fuel oil and asphalt are specifically identified as approved ASTM methods. A revision was also made to the recordkeeping section of the administrative order requiring the Company to keep records on the mixture of fuel oil and knockout oil.

Northern States Power

(1) The annual emission limit on emission point t3 has been revised and is now based on a daily, 365-day rolling average.

(2) Minor language changes were made to clarify that testing conditions and operating capacities may be specified by the MPCA and/or the USEPA, and that the company shall obtain a permit amendment if required by State or Federal regulation.

(3) A comment regarding the need for a formula in the order was addressed by the use of continuous emission monitors (CEMS) at the facility. The CEMS provide emissions data in lbs/mmBtu and lbs/hour. The section in the administrative order discussing the operation and maintenance of the CEMS was revised to reflect a new date for beginning stack flow monitoring. This was requested by the Company due to

equipment installation problems and subsequent delays.

(4) An additional revision was made to the administrative order limiting the types of fuel the Company is authorized to burn.

Minneapolis Energy Center, Inc.

(1) In response to an USEPA comment regarding emission limits on operating scenarios not included in the original administrative order, the State has revised the order to include limits on all possible operating scenarios at the facility. Dispersion modeling was submitted to support the additional limits. Also, information was included in the administrative order for determining compliance when an operating scenario changes in the middle of an averaging period.

(2) A formula was added to the administrative order to be used for calculating sulfur dioxide emissions in lbs/hr based on data regarding fuel flow, fuel density and percent sulfur.

(3) The administrative order was revised to require recordkeeping during periods of time when natural gas supplies are interrupted and the Facility is burning distillate oil.

(4) The emission units for emission point number 1 were changed to correctly reflect Boilers 1, 2, and 3.

(5) An emergency diesel generator was added to the emission units included in the administrative order. The generator is limited to 0.5 lbs of sulfur dioxide/mmBtu. The generator was included in the supplementary dispersion modeling attainment demonstration noted in 1) above.

IV. Public Comment/USEPA Response

There were no comments received on the notice of proposed rulemaking published on September 13, 1993.

V. Rulemaking Action

The SO₂ SIP revisions submitted to USEPA for AQCR 131 (except the Pine Bend area of Dakota County and the St. Paul Park/Ashland area) dated May 29, 1992, and the supplemental amendments dated, March 26, 1993, and July 12, 1993, satisfy the general requirements for implementation plans as detailed in section 110(a)(2) of the Clean Air Act and also the nonattainment area plan requirements listed in subpart 1 of part D of title I of the Clean Air Act. The July 12, 1993, submittal satisfactorily addressed the issues identified in the September 13, 1993, notice of proposed rulemaking. Consequently, given that no other comments on the proposed rulemaking were received, USEPA is taking final action to approve Minnesota's SO₂ SIP

revision submittals for the above specified area of AQCR 131.

The enforceable element of the State's submittals are the administrative orders for five facilities in AQCR 131. The codification portion of this document identifies the effective dates of the administrative orders and the names and locations of the facilities covered. This final action incorporates into the SIP and makes federally enforceable the administrative orders for: (1) FMC Corporation and U.S. Navy; (2) Federal Hoffman, Incorporated; (3) Northern States Power-Riverside Plant; (4) GAF Corporation; and (5) Minneapolis Energy Center, Incorporated.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action makes final the action proposed at 58 FR 47840. As noted elsewhere in this action, USEPA received no adverse public comment on the proposed action. Consequently, this action has been reclassified from Table 2 to Table 3 by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214-2225). A

revision to the SIP processing review tables was approved by the Acting Assistant Administrator for Office of Air and Radiation on October 4, 1993 (Michael Shapiro's memorandum to Regional Administrators). A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the waiver until such time as it rules on USEPA's request. This request continued in effect under Executive Order 12866 which superceded Executive Order 12291 on September 30, 1993.

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 June 13, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Reporting and recordkeeping requirements, Sulfur oxides.

NOTE: Incorporation by reference of the State Implementation Plan for the State of Minnesota was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: March 21, 1994.

Valdas V. Adamkus,
Regional Administrator.

Part 52, 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. 7401-7671q.

Subpart Y—Minnesota

2. Section 52.1220 is amended by adding paragraph (c)(30) to read as follows.

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(30) On June 4, 1992, March 30, 1993, and July 15, 1993, the State of Minnesota submitted revisions to its State Implementation Plans (SIPs) for sulfur dioxide for Air Quality Control Region (AQCR) 131 (excluding the Dakota County Pine Bend area and an area around Ashland Refinery in St. Paul Park).

(i) Incorporation by reference.

(A) An administrative order, received on June 4, 1992, for FMC Corporation and U.S. Navy, located in Fridley, Anoka County, Minnesota. The administrative order became effective on May 27, 1992. Amendment One, which was received on March 30, 1993, became effective on March 5, 1993. Amendment Two, which was received on July 15, 1993, became effective on June 30, 1993.

(B) An administrative order, received on June 4, 1992, for Federal Hoffman, Incorporated, located in Anoka, Anoka County, Minnesota. The administrative order became effective on May 27, 1992. Amendment one, received on July 15, 1993, became effective on June 30, 1993.

(C) An administrative order, received on June 4, 1992, for GAF Building Materials Corporation (Asphalt Roofing Products Manufacturing Facility) located at 50 Lowry Avenue, Minneapolis, Hennepin County, Minnesota. The administrative order became effective on May 27, 1992. Amendment One, received on July 15, 1993, became effective on June 30, 1993.

(D) An administrative order, received on June 4, 1992, for Northern States Power Company—Riverside Generating Plant, located in Minneapolis, Hennepin County, Minnesota. The administrative order became effective on May 27, 1992. Amendment One, received on July 15, 1993, became effective on June 30, 1993.

(E) An administrative order for Minneapolis Energy Center, received on July 15, 1993, Inc.'s Main Plant, Baker Boiler Plant, and the Soo Line Boiler Plant all located in Minneapolis, Hennepin County, Minnesota. The administrative order became effective on June 30, 1993.

(ii) Additional material.

(A) A letter from Charles Williams to Valdas Adamkus dated May 29, 1992, with enclosures providing technical support (e.g., computer modeling) for the revisions to the administrative orders for five facilities.

(B) A letter from Charles Williams to Valdas Adamkus dated March 26, 1993, with enclosures providing technical support for an amendment to the

administrative order for FMC Corporation and U.S. Navy.

(C) A letter from Charles Williams to Valdas Adamkus dated July 12, 1993, with enclosures providing technical support for amendments to administrative orders for four facilities and a reissuance of the administrative order to Minneapolis Energy Center, Inc. [FR Doc. 94-8813 Filed 4-13-94; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 52**[MN22-2-6114; FRL-4859-1]****Approval and Promulgation of Implementation Plans; Minnesota**

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving the removal of a transportation control measure (TCM) as a revision to Minnesota's State Implementation Plan (SIP) for carbon monoxide (CO). USEPA's action is based upon a revision request which was submitted by the State.

EFFECTIVE DATE: This final rule becomes effective on May 16, 1994.

ADDRESSES: Copies of the requested SIP revision, and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone William Jones at (312) 886-6058, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Region 5, Chicago, Illinois 60604.

A copy of this SIP revision is available for inspection: Air Docket, 6102, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: William Jones, Regulation Development Section, Air Enforcement Branch (AE-17), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-6058.

SUPPLEMENTARY INFORMATION: The CO SIP for the Duluth area was approved at 45 FR 40579 (June 18, 1980). The Duluth area was redesignated to attainment for CO, see 51 FR 45319 (December 18, 1986), and 52 FR 6548 (March 4, 1987). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, codified at 42 U.S.C. 7401-7671q. Pursuant to section 107(d)(4)(A), the City of Duluth was designated nonattainment for CO as a result of monitored violations of the CO National

Ambient Air Quality Standards (NAAQS) during the 1988-1989 time period, see 56 FR 56694, November 6, 1991. On October 30, 1992, the State of Minnesota requested the removal of a TCM from the CO State Implementation Plan for Duluth. This TCM is an improved truck turning radius. On September 24, 1993, USEPA proposed to approve the requested SIP revision, see 58 FR 49052. The State also requested on that date that a maintenance plan for the area be approved and that the area be redesignated to attainment of the CO NAAQS. Action on the maintenance plan and redesignation request is in a separate notice.

The State Implementation Plan Revision

The State submitted rollback modeling that shows that the revision would not interfere with attainment of the CO NAAQS.

USEPA believes that the State has shown through rollback modeling of concentrations, air quality trends, and information on the effect of the construction of I-35 on the amount of truck traffic that would be rerouted, that I-35 provides an equivalent or greater reduction in emissions than the improved truck turning radius TCM.

All of the transportation control measures with the exception of the improved truck turning radius have been implemented. This turning radius would have made it easier for trucks to turn at 14th Avenue and 3rd Street east (Trunk Highway 61). The City of Duluth discovered that enlarging the turning radius would require significant rerouting of utilities, which probably was not legally feasible, since utility companies have equal eminent domain authority. In some cases, trucks were using East 1st Street, which was not a designated truck route, to avoid the turn on 14th Avenue East and 3rd Street East. The City erected a sign on 1st Street directing through truck traffic to 3rd Street East so that trucks would not hamper movements on both 1st and 3rd Streets East.

Currently, a truck heading northeast from the southwestern part of Duluth would pass Duluth's downtown on I-35 unless it had a delivery downtown. Construction on I-35 was completed on October 28, 1992. All through truck traffic will now use I-35, eliminating permanently any need to widen the turning radius at the intersection of 14th Avenue East and 3rd Street.¹ Truck

¹ Although I-35 is not a measure in the SIP, it is a complete⁴ measure that provides permanent emission reductions. Therefore, USEPA believes the