Dated: August 9, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–21080 Filed 8–13–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN 48–01–7273a; FRL–6416–8]

Approval and Promulgation of State Implementation Plan; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are approving a December 31, 1998, request from the Minnesota Pollution Control Agency (MPCA) for new air pollution control requirements for the Minnesota sulfur dioxide (SO_2) State Implementation Plan (SIP) for Marathon Ashland Petroleum LLC (Marathon). These requirements were submitted in the form of an Administrative Order (Order) and include revisions associated with the addition of a new stack, revised emission limits for numerous sources, and other changes. The revisions result in an overall decrease in allowable SO_2 emissions from the facility. The new requirements have been evaluated through a computerized modeling analysis and have shown that they will attain and maintain the National Ambient Air Quality Standard (NAAQS) for SO_2.

DATES: This direct final rule is effective on October 15, 1999, without further notice, unless we receive relevant adverse written comments by September 15, 1999. If we receive adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that this rule will not take effect.

ADDRESSES: Send written comments to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Randall Robinson at (312) 353–6713 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Randall Robinson, Meteorologist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6713.

SUPPLEMENTARY INFORMATION: This Supplementary Information section is organized as follows:

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I. Introduction

What Action Is EPA Taking Today?

In this action, we are approving a revision to the Minnesota SO_2 SIP for Marathon. The revision is referred to as Amendment Four and amends the Order for Marathon to reflect revisions associated with the addition of a new stack and revised emission limits for numerous sources. Other changes included in Amendment Four are discussed later in this document and more fully in the technical review document.

Who Is Affected by This Revision?

The revision to Minnesota's SIP for SO_2 is site-specific and, thus, only affects Marathon.

What Information Did the State Submit In Its Request?

On December 31, 1998, the Minnesota Pollution Control Agency (MPCA) submitted to EPA a site-specific SO_2 SIP revision request for Marathon. The SIP revision for Marathon was submitted in the form of an Order amendment, and referred to as Amendment Four. Amendment Four revises the present Order for Marathon and replaces prior amendments, Amendment Two and Three, by incorporating changes in response to EPA comments on Amendment Two and Amendment Three. The MPCA had previously submitted Amendment Two and Amendment Three to EPA on November 26, 1996, and October 17, 1997, respectively. EPA provided comments to MPCA regarding Amendment Two and Amendment Three, but did not take any other action on those amendments to the administrative order.

The 30-day public notice for the Order amendment, Amendment Four, appeared in the St. Paul Pioneer Press on March 4, 1998. No one from the public commented on the proposed revisions or requested a public hearing.

What Are the National Ambient Air Quality Standards?

The EPA has established concentration levels for each of six pollutants, called criteria pollutants, that are protective of human health (primary standard) and welfare (secondary standard). The primary NAAQS for SO_2 is 0.03 parts per million (ppm) annual arithmetis mean, and 0.14 ppm maximum 24-hour average concentration, not to be exceeded more than once per calendar year. The secondary NAAQS for SO_2 is 0.50 ppm maximum 3-hour average concentration, not to be exceeded more than once per calendar year. See 40 CFR 50.4.

What Is an Administrative Order?

Each state is obligated by section 110(a) of the Act, 42 U.S.C. 7410, to develop a plan which provides for ''implementation, maintenance, and enforcement'' of the NAAQS promulgated by EPA. An Order is a mechanism which the state uses to enforce applicable requirements established either by State or Federal law. The Orders are used to enforce requirements needed to meet the applicable NAAQS.

How Did the State Support Its Request for Marathon?

The MPCA provided EPA with a computerized modeling attainment demonstration. The modeling analysis was required to evaluate whether the air impacts from the proposed revisions will still provide for attainment of the NAAQS for SO_2. Details of the analysis are presented below.

Air Quality Model

The analysis utilized the Industrial Source Complex Model-Short Term (ISCST3) model. (The Integrated Gaussian Model (IGM), which has been demonstrated to be equivalent to ISCST3, was used to obtain source contributions.) ISCST3 is recommended for regulatory applications for estimating short-term impacts from complicated sources (i.e., sources with special problems such as aerodynamic downwash). The ISCST3 model also contains the COMPLEX–I algorithms

which allow for the prediction of ambient air impacts at receptors above stack top (i.e., complex terrain). Additionally, the ISCST3 model automatically implements the intermediate terrain policy which requires the user to predict concentrations on an hour-by-hour basis at receptors above stack top but below plume height using both a simple terrain model (ISCST3) and a complex terrain model (COMPLEX–I) and select the highest for each hour. This option was executed for the Marathon modeling.

Modeling Inputs

The SIP submittal revision submitted by the MPCA is specific to Marathon. The total ambient air impact from the revisions at the Company is the sum of the modeled impact from Company sources, modeled background sources from the Twin Cities area, and an unmodeled background value based on monitoring data. The value of the unmodeled background concentration is based on an analysis of historic monitored concentrations and has been used and approved in previous SO_2 SIP revisions. Marathon is located in the Mississippi River valley with bluffs exceeding the height of Marathon stacks. Consequently, weather data collected on-site was used to ensure representativeness. The modeling analysis used one year of meteorological data (1988) collected from a tower located at the facility. Concentrations were calculated over a receptor grid which featured 100 meter resolution. Concentrations calculated inside the fenced property boundary were not used in the analysis.

The modeling analysis used emission estimates based on maximum allowable emission rates (pounds of sulfur dioxide/hour and pounds of sulfur dioxide/mmBTU) and maximum design capacities (mmBTUs/hour). Stacks exceeding allowable good engineering practice stack height (GEP) were modeled using the calculated GEP height. Plume downwash due to building wake effects was also included in the analysis. The modeling was conducted in accordance with the general recommendations included in the Guideline on Air Quality Models, 40 Code of Federal Regulations part 51, appendix W. The results of the modeling are presented in the table below.

HIGH-SECOND-HIGH MODELED SULFUR DIOXIDE CONCENTRATIONS

[Micrograms/cubic meter]

Averaging time	Total concentration marathon+all background	NAAQS
Annual	65.1	80
24-hour	359.4	365
3-hour	946.5	1300

How Does This Action Change the Administrative Order for Marathon?

Amendment Four includes the following primary changes: (1) installation of a new sulfur reduction unit exhaust stack and subsequent rebuilding of one of two existing tail-gas incinerators, (2) a revised table of emission limits for various process and combustion equipment.

The table below lists the Emission Unit and the new emission limits, in pounds per hour and pounds per million British thermal units (BTU's) for those sources with revised emission limits.

NEW EMISSION LIMIT

Emission unit	lb/hr	lb/mmBTU
Process Steam Boiler	1.08	0.03
Crude Charge Heater	34.0	0.2834
Crude Vacuum Heater	1.20	0.03
Distillate Unifier Heater	1.41	0.03
Naphtha Unifier Heater	1.95	0.03
Platformer Charge Heater	1.95	0.03
Platformer Interheater #1	1.68	0.03
Asphalt Oxidizer	(*)	.....
Crude Charge ...	52.2	0.90
Crude Charge Preflash A (New)	0.89	0.03
Crude Charge Preflash B (New)	0.89	0.03
Platformer Heater #2	1.08	0.03
Guard Case Reactor	1.70	0.03
Reactor Heaters #1 & 2	2.10	0.03
Reactor Heaters #4 & 4E	0.63	0.03
Reactor Heaters #3 & 4W	1.05	0.03
Reactor Charge Heater	1.38	0.03
Product Stripper Re-boiler	0.78	0.03

NEW EMISSION LIMIT—Continued

Emission unit	lb/hr	lb/mmBTU
Reformer Heaters	3.48	0.03

* Removed.

Significant decreases in the pounds per hour emission limits occur at the crude charge heater (old limit=108 lb/hr), crude vacuum heater (old limit=23.4 lb/hr), and the crude charge plus preflash (old limit=105.5 lb/hr). Minor increases, less than 1 pound per hour, occur at other sources, mainly the heaters. Overall, the total allowable pounds per hour emissions have dropped from 6325 tons per year to 5698 tons per year.

The existing SIP for Marathon included emission limits specified during periods when the Shell Claus Offgas Treatment (SCOT) unit and the amine reduction unit (ARU) were undergoing regular scheduled maintenance. These maintenance period limits have been removed in Amendment Four. The limits associated with normal operating conditions and any other New Source Performance Standard (NSPS) limits apply at all times.

Other notable changes included in Amendment Four include:

(1) A requirement to keep records of calculated SO_2 emissions in pounds per hour.

(2) The addition of a diesel engine to pump water to the Alky unit during an emergency accidental release. Maximum emissions of 0.48 pound per hour SO_2.

(3) A restriction on steam air decoking more than one emission unit at the same time.

(4) Changing fuel oil sampling from a daily sample to a requirement to sample after receiving a transfer of fuel into their fuel supply tank, and a change from a weekly analysis of heating value of the fuel oil to quarterly.

(5) *Changes to other operating limits (Exhibits 1.1 and 1.4)*

Boiler 5—36.0 mmBTU/hr
Distillate Unifier Heater—47.0 mmBTU/hr
Naphtha Unifier Heater—65.0 mmBTU/hr
Platformer Charge Heater—65.0 mmBTU/hr
Platformer Interheater—56.0 mmBTU/hr
Crude Charge—58.0 mmBTU/hr
Crude Charge Pre—29.7 mmBTU/hr
Crude Charge Pre—29.7 mmBTU/hr
Platformer Heater #2—36.0 mmBTU/hr
Reactor Heaters 3 & 4W—35.0 mmBTU/hr
Modeled heat input values were added to the maximum heat input column

(6) *Changes to stack parameters (Exhibit 1.7).*

Modeled flow rates and temperatures were added

(7) *Changes not requiring a modification of the Administrative Order.*

Language was added which would allow certain changes to be made at the facility without obtaining a modified Order. A modification to the Order is not needed if the modification does not:

(A) Exceed any of the limits in Part I of the Order,

(B) Effect the stack parameters described in Exhibit 1.7, unless the change is made to a unit that no longer will be allowed to burn fuel oil (fuel oil supply disconnected),

(C) Result in an increase of 2.28 pounds of SO_2 per hour or more at any new unit.

Based on the modeled attainment demonstration submitted with the revision, these changes should not threaten the NAAQS. The limits on modifications identified in the Order should ensure that significant changes at the facility cannot occur without additional modeling showing that the NAAQS are protected. Additionally, language in the Order states that regardless of whether a modification of the order is required, the Company shall obtain a permit amendment if required by state or Federal law.

(8) *Recordkeeping revisions.*

An additional requirement to record the time period when burning fuel oil in New Source Performance Standard (NSPS) units.

(9) Two new continuous monitoring systems were installed to determine hydrogen sulfide content of commercial gas received from Northern States Power. These systems were installed at the crude heater and the reformer heaters.

(10) Name change from Ashland Petroleum Company to Marathon Ashland Petroleum, LLC.

(11) Property access restrictions. The company is required to maintain a fence to restrict public access around it's boundaries.

Other restrictions on operations, fuel use, and fuel quality remain in effect and unchanged from the previously Federally approved Order. The general compliance methodology consists of continuous emission monitors (CEMS), continuous monitoring systems (CMS), and fuel sampling and analysis.

Why Is the Request Approvable?

After review of the SIP revision request, EPA finds that Amendment Four meets the applicable requirements of Clean Air Act section 110(a) and that the revisions in Amendment Four have been shown to be protective of the applicable NAAQS.

II. EPA Action

EPA is approving the requested revision to the Minnesota SO_2 SIP for Marathon. The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision in case written adverse comments are filed. This action will become effective without further notice unless the Agency receives relevant adverse written comments within 30 days from the date of publication. Should the Agency receive adverse comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation.

This action is not subject to E.O. 13045 because it approves a state rule implementing a previously promulgated health or safety-based Federal standard, and preserves the existing level of pollution control for the affected areas.

D. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the

requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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 rule 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 rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

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 October 15, 1999. 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, Sulfur dioxide.

Dated: July 22, 1999

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

Part 52, 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 *et seq.*

Subpart Y—Minnesota

2. Section 52.1220 is amended by adding paragraph (c)(49) to read as follows:

§ 52.1220 Identification of plan

(c) * * *

(49) Approval—On December 31, 1998, the Minnesota Pollution Control Agency submitted a request for a revision to the Minnesota sulfur dioxide (SO_2) State Implementation Plan (SIP) for Marathon Ashland Petroleum LLC (Marathon). The site-specific SIP revision for Marathon was submitted in the form of an Administrative Order (Order), and referred to as Amendment Four.

(i) Incorporation by reference.

(A) For Marathon Ashland Petroleum, LLC, located in St. Paul Park, Minnesota:

(1) Amendment Four to the administrative order, dated and effective December 22, 1998, and submitted December 31, 1998.

(ii) Additional material.

(A) A letter from Peder A. Larson to David Ullrich, dated December 31, 1998, submitting Amendment Four for Marathon Ashland Petroleum, LLC.

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BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R1–052–7211a; A–1–FRL–6417–5]

Approval and Promulgation of Air Quality Implementation Plan; Connecticut; Approval of National Low Emission Vehicle Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve State Implementation Plan (SIP) revisions submitted by the State of Connecticut on February 7, 1996 and February 18, 1999, committing that the State will accept compliance with the National Low Emission Vehicle (National LEV) program requirements as a compliance option for new motor vehicles sold in the State, which had also adopted the California Low Emission Vehicle (CAL LEV) program. Auto manufacturers have agreed to sell cleaner vehicles meeting the National LEV standards throughout these States for the duration of the manufacturers' commitments to the National LEV program. This SIP revision is required as part of the agreement between States and automobile manufacturers to ensure the continuation of the National LEV program to supply clean cars throughout most of the country, beginning with 1999 model year vehicles in