

§ 52.220 Identification of plan.

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(c) * * *

(285) * * *

(C) Bay Area Air Quality Management District.

(1) Rule 9–11, adopted on May 17, 2000.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN66–01–7291a; FRL–7206–3]

Approval and Promulgation of State Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency is approving a site-specific revision to the Minnesota Sulfur Dioxide (SO₂) State Implementation Plan (SIP) for Marathon Ashland Petroleum, LLC. (Marathon Ashland). By its submittal dated February 6, 2000, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve Marathon Ashland's Title V Operating Permit into the Minnesota SO₂ SIP and remove the Marathon Ashland Administrative Order from the state SO₂ SIP. The request is approvable because it satisfies the requirements of the Clean Air Act (Act). The rationale for the approval and other information are provided in this notice.

DATES: This direct final rule will be effective July 19, 2002, unless EPA receives adverse comment by June 19, 2002. If EPA receives adverse comments, EPA will publish a timely withdrawal of the direct final rule in the *Federal Register* informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the documents relevant to this action are available for inspection during normal business hours at the above address. (Please telephone Christos Panos at (312) 353–8328, before visiting the Region 5 office.)

A copy of the SIP revision is available for inspection at the Office of Air and Radiation (OAR) Docket and

Information Center (Air Docket 6102), Room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT:

Christos Panos, Regulation Development Section, Air Programs Branch (AR–18J), Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

I. General Information:

1. What action is EPA taking today?
2. Why is EPA taking this action?

II. Background on Minnesota Submittal

1. What is the background for this action?
2. What information did Minnesota submit, and what were its requests?
3. What is a “Title I Condition?”

III. Final Rulemaking Action

IV. Administrative Requirements

I. General Information

1. What Action Is EPA Taking Today?

In this action, EPA is approving into the Minnesota SO₂ SIP certain portions of the Title V permit for Marathon Ashland, located in the cities of St. Paul Park and Newport, Washington County, Minnesota. Specifically, EPA is only approving into the SIP those portions of the permit cited as “Title I condition: SIP for SO₂ NAAQS 40 CFR pt.50 and Minnesota State Implementation Plan (SIP).” In this same action, EPA is removing the Marathon Ashland Administrative Order from the state SO₂ SIP.

2. Why Is EPA Taking This Action?

EPA is taking this action because the state's request does not change any of the emission limitations currently in the SIP or their accompanying supportive documents, such as the SO₂ air dispersion modeling. The revision to the SIP does not approve any new construction or allow an increase in emissions, thereby providing for attainment and maintenance of the SO₂ National Ambient Air Quality Standards (NAAQS) and satisfying the applicable SO₂ requirements of the Act. The only change to the SO₂ SIP is the enforceable document for Marathon Ashland, from the Administrative Order to the federal Title V permit.

II. Background on Minnesota Submittal

1. What Is the Background for This Action?

Marathon Ashland is located in the cities of St. Paul Park and Newport,

Washington County, Minnesota. Monitored violations of the primary SO₂ NAAQS from 1975 through 1977 led EPA to designate Air Quality Control Region (AQCR) 131 as a primary SO₂ nonattainment area on March 3, 1978 (43 FR 8962). AQCR 131 includes Washington County. In response to Part D requirements of the Clean Air Act, MPCA submitted an SO₂ plan on August 4, 1980. EPA approved the Minnesota Part D SO₂ SIP for AQCR 131 on April 8, 1981 (46 FR 20996).

The promulgation of the Stack Height Rule on July 8, 1985, required MPCA to review existing emission limitations to determine if any sources were affected by the new Rule. The MPCA determined that Marathon Ashland would require additional permit revisions due to modeled violations of the SO₂ NAAQS using the reduced creditable stack heights. A SIP revision for Marathon Ashland was submitted on June 30, 1987, which MPCA later withdrew because the company could not meet one of the emission limits listed in the permit.

On December 11, 1992, the MPCA submitted an SO₂ SIP revision for the St. Paul Park/Ashland area, which included an administrative order for Marathon Ashland. Minnesota submitted a revised plan on September 30, 1994, in response to changes EPA required to the proposed SIP revision before it could be approved. EPA approved the St. Paul Park/Ashland SO₂ SIP on January 18, 1995 (60 FR 3544).

The state requested that portions of Dakota and Washington Counties (the areas surrounding Marathon Ashland) be redesignated to attainment of the SO₂ NAAQS on October 31, 1995. EPA approved the St. Paul Park Area redesignation request on May 13, 1997 (62 FR 26230).

On December 31, 1998, the MPCA submitted to EPA Amendment Four to Marathon Ashland's order as a site-specific SO₂ SIP revision. EPA determined that Amendment Four to Marathon Ashland's order provided for attainment and maintenance of the SO₂ NAAQS and approved the revised order into the state SIP on August 16, 1999 (64 FR 44408).

2. What Information Did Minnesota Submit, and What Were its Requests?

The SIP revision submitted by MPCA on February 6, 2000, consists of a Title V operating permit issued to Marathon Ashland. The state has requested that EPA approve the following:

- (1) The inclusion into the Minnesota SO₂ SIP only the portions of the NSP Riverside Plant Title V permit cited as “Title I condition: SIP for SO₂ NAAQS

40 CFR pt.50 and Minnesota State Implementation Plan (SIP)"; and,

(2) the removal from the Minnesota SO₂ SIP of the Administrative Order for Marathon Ashland previously approved into the SIP.

3. What is a "Title I Condition?"

SIP control measures were contained in permits issued to culpable sources in Minnesota until 1990 when EPA determined that limits in state-issued permits are not federally enforceable because the permits expire. The state then issued permanent Administrative Orders to culpable sources in nonattainment areas from 1991 to February of 1996.

Minnesota's Title V permitting rule, approved into the state SIP on May 2, 1995 (60 FR 21447), includes the term "Title I condition" which was written, in part, to satisfy EPA requirements that SIP control measures remain permanent. A "Title I condition" is defined as "any condition based on source-specific determination of ambient impacts imposed for the purposes of achieving or maintaining attainment with the national ambient air quality standard and which was part of the state implementation plan approved by EPA or submitted to the EPA pending approval under section 110 of the act * * *." The rule also states that "Title I conditions and the permittee's obligation to comply with them, shall not expire, regardless of the expiration of the other conditions of the permit." Further, "any title I condition shall remain in effect without regard to permit expiration or reissuance, and shall be restated in the reissued permit."

Minnesota has since resumed using permits as the enforceable document for imposing emission limitations and compliance requirements in SIPs. The SIP requirements in the permits submitted by MPCA are cited as "Title I condition: State Implementation Plan for SO₂," therefore assuring that the SIP requirements will remain permanent and enforceable. In addition, EPA reviewed the state's procedure for using permits to implement site-specific SIP requirements and found it to be acceptable under both Titles I and V of the Act (July 3, 1997 letter from David Kee, EPA, to Michael J. Sandusky, MPCA). The MPCA has committed to using this procedure if the Title I SIP conditions in the permit issued to Marathon Ashland and included in the SIP submittal need to be revised in the future.

III. Final Rulemaking Action

EPA is approving the site-specific SIP revision for Marathon Ashland, located

in the cities of St. Paul Park and Newport, Washington County, Minnesota. Specifically, EPA is approving into the SIP only those portions of Marathon Ashland's Title V permit cited as "Title I condition: SIP for SO₂ NAAQS 40 CFR pt.50 and Minnesota State Implementation Plan (SIP)." In this same action, EPA is also removing from the state SO₂ SIP the Marathon Ashland Administrative Order which had previously been approved into the SIP on January 18, 1995 and revised on August 16, 1999.

The EPA is publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse comments are filed. This rule will be effective July 19, 2002 without further notice unless we receive relevant adverse comments by June 19, 2002. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective July 19, 2002.

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

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small

entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

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 July 19, 2002. 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, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

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

Dated: March 8, 2002.

Robert Springer,

Acting Regional Administrator, Region 5.

Title 40 of the Code of Federal Regulations, chapter I, part 52, 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.

2. Section 52.1220 is amended by removing and reserving paragraphs (c)(38) and (c)(49) and adding paragraph (c)(55) to read as follows:

Sec. 52.1220 Identification of plan.

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(38) [Reserved]

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(49) [Reserved]

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(55) On February 6, 2000, the State of Minnesota submitted a site-specific revision to the Minnesota Sulfur

Dioxide (SO₂) SIP for Marathon Ashland Petroleum, LLC (Marathon Ashland), located in the cities of St. Paul Park and Newport, Washington County, Minnesota. Specifically, EPA is only approving into the SIP only those portions of the Marathon Ashland Title V Operating permit cited as “Title I condition: SIP for SO₂ NAAQS 40 CFR pt.50 and Minnesota State Implementation Plan (SIP).” In this same action, EPA is removing from the state SO₂ SIP the Marathon Ashland Administrative Order previously approved in paragraph (c)(38) and revised in paragraph (c)(49) of this section.

(i) Incorporation by reference

(A) AIR EMISSION PERMIT NO.

16300003–003, issued by the Minnesota Pollution Control Agency to Marathon Ashland Petroleum, LLC on October 26, 1999, Title I conditions only.

[FR Doc. 02–12414 Filed 5–17–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[ME–066–7015a; A–1–FRL–7171–7]

Approval and Promulgation of Air Quality Implementation Plans; Maine; New CTGs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision establishes requirements for certain facilities which emit volatile organic compounds (VOCs). The intended effect of this action is to approve these requirements into the Maine SIP. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective July 19, 2002, unless EPA receives adverse comments by June 19, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the documents

relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M–1500, 401 M Street, (Mail Code 6102), SW., Washington, D.C. and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT:

Anne E. Arnold, (617) 918–1047.

SUPPLEMENTARY INFORMATION: This section is organized as follows:

What action is EPA taking?

What are the relevant Clean Air Act requirements?

What is a control techniques guideline (CTG)?

How has Maine addressed the new CTG categories?

What are the requirements in the licenses submitted by Maine?

Why is EPA approving Maine’s submittal?

What is the process for EPA’s approval of this SIP revision?

What Action Is EPA Taking?

EPA is approving air emission licenses for the following facilities and incorporating these licenses into the Maine SIP: Bath Iron Works in Bath; Pratt & Whitney in North Berwick; and Moosehead Manufacturing’s Dover-Foxcroft and Monson plants.

What Are the Relevant Clean Air Act Requirements?

Sections 182(b)(2) and 184(b) of the Clean Air Act contain the requirements relevant to today’s action. Section 182(b)(2) requires States to adopt reasonably available control technology (RACT) rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing Control Techniques Guideline (CTG)—i.e., a CTG issued prior to the enactment of the 1990 amendments to the CAA; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG, i.e., non-CTG sources.

Pursuant to the CAA Amendments of 1990, three areas in Maine were classified as moderate ozone nonattainment. (See 56 FR 56694; November 6, 1991). These areas were, thus, subject to the section 182(b)(2) RACT requirement.

In addition, the State of Maine is located in the Northeast Ozone