

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R05-OAR-2005-MN-0002; FRL-7969-7]

Approval and Promulgation of Implementation Plan; MN

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: The EPA is approving State Implementation Plan (SIP) revisions to the sulfur dioxide (SO₂) requirements for Flint Hills Resources, L.P. (Flint Hills) of Dakota County, Minnesota. Flint Hills operates a petroleum refinery in Rosemont, Minnesota. The requested revision will allow the refinery to begin producing ultra low sulfur diesel fuel. This expansion will add five sources and will increase SO₂ emissions. An analysis was conducted on the new sources. The analysis indicates that the air quality of Dakota County, Minnesota will remain in compliance with the National Ambient Air Quality Standards (NAAQS) for SO₂. Thus, the public health and welfare in Minnesota will be protected.

DATES: This final rule is effective on October 19, 2005.

ADDRESSES: EPA has established a docket for this action under Regional Material in EDocket (RME) Docket ID No. R05-OAR-2005-MN-0002. All documents in the docket are listed in the RME index at <http://docket.epa.gov/rmepub/>, once in the system, select "quick search," then key in the appropriate RME Docket identification number. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Environmental Protection Agency, Region 5, Air and

Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886-6524 before visiting the Region 5 office.

This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, rau.matthew@epa.gov.

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I. General Information

A. Does This Action Apply To Me?

This action applies to a single source, Flint Hills Resources, L.P. of Dakota County, Minnesota.

B. How Can I Get Copies of This Document and Other Related Information?

1. The Regional Office has established an official public rulemaking file for this action that is available both electronically and in hard copy form at the Regional office. The electronic public rulemaking file can be found under RME ID No. R05-OAR-2005-MN-0002. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include CBI or other information whose disclosure is restricted by statute. The hard copy version of the official public rulemaking file is available for public viewing at the Air Programs Branch, Air and Radiation Division, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. EPA requests that if at all

possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

II. Background

Minnesota submitted a request to revise its SO₂ State Implementation Plan (SIP) on June 17, 2004. The revision allows Flint Hills to install new equipment at a new production line. EPA published a proposed and a direct final rule to approve the requested revisions in the July 1, 2005 **Federal Register** (70 FR 38025-28, 38071-73). EPA received adverse comment from the Leech Lake Band of Ojibwe. The Band is concerned about the increase in SO₂ emissions from the Flint Hills facility. EPA published a withdrawal of the direct final rule in the August 24, 2005 **Federal Register** (70 FR 49498-99) since an adverse comment was received.

III. What Is the EPA Approving?

EPA is approving revisions to the Minnesota SO₂ SIP for the Flint Hills refinery. Flint Hills is installing equipment to begin producing ultra low sulfur diesel fuel. It is adding a Hydrocracker Charge Heater (unit 29H-1), a Hydrocracker Fractionator Heater (29H-2), a charge heater for the #4 Hydrogen Plant (30H-1), an emergency diesel generator (EE-29-401), and an emergency diesel powered cooling water pump (81P 450) to its refinery.

IV. What Is the EPA's Analysis of the Requested Revisions?

Flint Hills conducted air dispersion modeling to assess the effect of its proposed new equipment and operating plan on ambient air quality. The modelers used the ISCST3 dispersion model in the regulatory default mode, with five years of meteorological data from the Minneapolis-St. Paul International Airport. The SO₂ emissions from other nearby companies were included. When the modeling was performed, Flint Hills had not finalized the locations of the new boilers and heaters. It modeled the new sources concurrently at three potential locations, with each source at its full emission rate. The modeled results are more conservative because of this

multiple counting. Flint Hills' proposed revisions include an option of reducing the firing duty of some existing heaters and boilers. To conservatively account for this possibility, the modeling included those boilers and heaters at their current SO₂ emission rates, but at reduced stack exit velocities representative of their new usage scenario. This rulemaking action concerns only the new sources for producing ultra-low sulfur diesel. The modeling also includes the impacts from portable diesel equipment. The sulfur dioxide emissions from these sources were combined and modeled as from an representative average engine located near the facility fence line, where previous modeling analyses had shown high ambient impacts to occur. This also should produce a conservative result. The final results of the Flint Hills modeling, including background SO₂ concentrations, were below the 3-hour, 24-hour, and annual SO₂ NAAQS. The maximum predicted SO₂ concentrations, the modeled plus background concentrations, are 242 µg/m³ compared to the 365 µg/m³ 24-hour primary standard and 45 µg/m³ compared to the 80 µg/m³ annual primary standard. The maximum predicted 3-hour SO₂ concentration of 688 µg/m³ is below the secondary standard of 1300 µg/m³. The primary standards protect public health and the secondary standard guards the public welfare including protection of wildlife and vegetation.

V. What Are the EPA's Responses to the Comments?

The Leech Lake Band of Ojibwe expressed several concerns about the revisions at the Flint Hills facility. The first concern is the transport of emissions to the Leech Lake Reservation airshed. The Band is also concerned about the 125.7 TPY increase in SO₂ emissions and its effect on acid rain and vegetation damage. Further concern was raised about the uncertainty of the exact locations of the units within the Flint Hills facility in the modeling analysis.

The distance from Flint Hills to the Leech Lake Reservation air shed is beyond the limits of the modeling analysis, so the specific impact cannot be quantified. The modeled SO₂ concentrations were highest at the fenceline of the Flint Hills facility. The fenceline SO₂ concentrations are below the NAAQS. The SO₂ plume will disperse as it moves away from its source, resulting in lower concentrations further away from the facility. Therefore, any impact on the Leech Lake Reservation airshed is not

expected to threaten the public health or welfare of area residents.

The analysis of the Flint Hills revisions show that concentrations near the facility will remain below the primary and secondary SO₂ NAAQS. Therefore, public health and public welfare including vegetation in Dakota County and rest of Minnesota are expected to be protected. EPA's Acid Rain Program guards against increases in acidified precipitation. The Program covers power plants and other facilities that emit SO₂. It has achieved a 38% reduction in SO₂ emissions from 1980 emissions level. This has led to a 45% reduction in ambient SO₂ levels from 1989–91 to 2001–03. Wet sulfate deposition, which can acidify lakes, streams, and soil, has dropped 36% over the same period.

The new sources were modeled at different locations because at the time the modeling analysis was done the company had not made its final decision on the layout of the new ultra low sulfur diesel production area. The sources were modeled at three different potential locations concurrently. The SO₂ concentrations predicted by the modeling analysis for these sources exceed the actual impact because each new source counted three times. The actual SO₂ emissions will be lower than what was modeled. The model results showed that this revision is anticipated to protect air quality because SO₂ concentration are below the NAAQS.

VI. What Action Is EPA Taking Today?

EPA is approving revisions to the Minnesota sulfur dioxide SIP for the Flint Hills refinery. Flint Hills is adding equipment to begin producing ultra low sulfur diesel fuel. The five new emission sources will cause an increase in SO₂ emissions from the refinery. Flint Hills conducted air dispersion modeling to gauge the impact of the new sources on ambient air quality. The modeling analysis shows that the SO₂ concentrations will remain below the NAAQS.

VII. Statutory and Executive Order Review

Executive Order 12866: Regulatory Planning and Review

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.

Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant energy action," 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).

Regulatory Flexibility Act

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.*).

Unfunded Mandates Reform Act

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).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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).

Executive Order 13132: Federalism

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.

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

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.

National Technology Transfer Advancement Act

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.

Paperwork Reduction Act

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.*).

Congressional Review Act

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

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 November 18, 2005. 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 oxides.

Dated: September 7, 2005.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ 40 CFR 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 *et seq.*

Subpart Y—Minnesota

■ 2. In § 52.1220 the table in paragraph (d) is amended by revising the entry for "Flint Hills Resources, L.P." to read as follows:

§ 52.1220 Identification of plan.

* * * * *
(d) * * *

EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of source	Permit No.	State effective date	EPA approval date	Comments
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Flint Hills Resources, L.P. (formerly Koch Petroleum).		06/14/04	06/05/03, 68 FR 33631 Amendment Seven to Findings and Order
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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA-7780]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities that are participating and suspended from the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of properties located in the communities listed below.

EFFECTIVE DATES: The effective date for each community is listed in the fourth column of the following tables.