

materials and/or related violations under 39 U.S.C. 3018, and, if liability is found, shall set forth the amount of any civil penalties, clean-up costs and/or damages imposed.

(b) The Presiding Officer shall promptly send to each party a copy of his or her Initial Decision. A party may, in accordance with § 958.18, appeal an adverse Initial Decision to the Judicial Officer. Unless a party timely appeals in accordance with § 958.18, the Presiding Officer's Initial Decision, including the findings and determinations, becomes the final agency decision.

§ 958.18 Appeal of initial decision to Judicial Officer.

(a) *Notice of appeal and supporting brief.* A party may appeal an adverse Initial Decision by filing, within 30 days after the Presiding Officer issues the Initial Decision, a Notice of Appeal with the Recorder. The Judicial Officer may extend the filing period but only if the party files a request for an extension within the initial 30-day period and demonstrates good cause for such extension.

(1) The Notice of Appeal must be accompanied by a written brief specifying the party's exceptions, and any reasons for such exceptions, to the Presiding Officer's Initial Decision.

(2) Within 30 days of receiving the party's brief, the opposing party may file with the Judicial Officer a response to the specified exceptions to the Presiding Officer's Initial Decision.

(b) *Form of review.* Review by the Judicial Officer will be based entirely on the record and written submissions.

(1) The Judicial Officer may affirm, reduce, reverse, or remand any determination about a penalty or assessment by the Presiding Officer.

(2) The Judicial Officer shall not consider any argument or objection that was not raised in the hearing unless the interested party demonstrates that the failure to raise the argument or objection before the Presiding Officer was caused by extraordinary circumstances.

(3) If any party demonstrates to the satisfaction of the Judicial Officer that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present such evidence, the Judicial Officer may remand the matter to the Presiding Officer for consideration of such additional evidence.

(c) *Decision of Judicial Officer.* The Judicial Officer shall promptly serve each party to the appeal with a copy of his or her decision. The decision of the Judicial Officer constitutes final agency action and becomes final and binding on the parties.

§ 958.19 Form and filing of documents.

(a) Every pleading filed in a proceeding under this part must contain a caption setting forth the title of the action, the docket number (after assignment by the Recorder), an accurate designation of the document, and the name, address, and telephone number of the party on whose behalf the paper was filed. It shall also be signed by the party or party representative submitting the document.

(b) The original and three copies of all pleadings and documents in a proceeding conducted under this part shall be filed with the Recorder, Judicial Officer Department, United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, Virginia 22201-3078. Normal Recorder business hours are between 8:15 a.m. and 4:45 p.m., eastern standard or daylight saving time. The Recorder will transmit a copy of each document filed to the other party, and the original to the Presiding Officer.

(c) Pleadings or other document transmittals to, or communications with, the Postal Service, other than to the Recorder under paragraph (a) of this section, shall be made through the Determining Official or designated Postal Service attorney. If a notice of appearance by a representative is filed on behalf of the respondent, pleadings or document transmittals to, or communications with, the respondent shall be made through his or her representative.

§ 958.20 Service of notice of docketing and hearing, other documents.

Unless otherwise specified, service of a Notice of Docketing and Hearing or any other document under this part shall be effected by registered or certified mail, return receipt requested, or by personal delivery. In the case of personal service, the person making service shall, if possible, secure from the party or other person sought to be served, or his or her agent, a written acknowledgement of receipt, showing the date and time of such receipt. If the person upon whom service is made declines to acknowledge receipt, the person effecting service shall execute a statement, indicating the time, place and manner of service, which shall constitute evidence of service.

§ 958.21 Computation of time.

In computing any period of time provided for by this part, or any order issued pursuant to this part, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government, in

which event it includes the next business day. Except as otherwise provided in these rules or an applicable order, prescribed periods of time are measured in calendar days rather than business days.

§ 958.22 Continuances and extensions.

Continuances and extensions may be granted under these rules for good cause shown.

§ 958.23 Settlement.

Either party may make offers of settlement or proposals of adjustment at any time. The Determining Official has the exclusive authority to compromise or settle any determinations of liability for civil penalties, clean-up costs and/or damages for mailing hazardous materials and/or related violations under 39 U.S.C. 3018, without the consent of the Presiding Officer or Judicial Officer.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. E9-9376 Filed 4-23-09; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2008-0239; FRL-8896-3]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving site specific revisions to the Minnesota sulfur dioxide (SO₂) State Implementation Plan (SIP) for the Federal Cartridge Company and Hoffman Enclosures, located in the city of Anoka, Anoka County, Minnesota. On March 3, 2008, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve certain portions of joint Title I/Title V documents into the Minnesota SO₂ SIP for Federal Cartridge Company and Hoffman Enclosures. The state is also requesting in this submittal that EPA rescind the Administrative Order issued to Federal Hoffman, Inc. which is currently included in Minnesota's SIP for SO₂. The emissions units previously owned by Federal Hoffman, Inc., are now owned by Federal Cartridge Company and Hoffman Enclosures. Because the sulfur dioxide emission limits are being reduced, the air quality of Anoka County will be protected.

DATES: This direct final rule will be effective June 23, 2009, unless EPA receives adverse comments by May 26, 2009. 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: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2008-0239, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: mooney.john@epa.gov.
3. *Fax*: (312) 692-2551.
4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R05-OAR-2008-0239. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM

you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Gilberto Alvarez, Environmental Scientist, at (312) 886-6143 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Gilberto Alvarez, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6143, alvarez.gilberto@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

- I. What Is EPA Approving?
- II. What Is the Background for This Action?
- III. What Is EPA's Analysis of the State Submission?
- IV. What Are the Environmental Effects of This Action?
- V. What Action Is EPA Taking?
- VI. Statutory and Executive Order Reviews

I. What Is EPA Approving?

EPA is approving into the SO₂ SIP for Minnesota joint Title I/Title V documents for Federal Cartridge Company and Hoffman Enclosures, located in Anoka, Minnesota. This SIP amendment approval will replace the Administrative Order issued to Federal Hoffman, Inc. with the joint documents issued to Federal Cartridge Company and Hoffman Enclosures.

II. What Is the Background for This Action?

A. What Are the Revisions to the SIP?

The SIP is being amended to reflect a change in ownership of the facility and

the emissions units that are subject to SIP conditions. The Administrative Order currently approved into the SIP was issued to Federal Hoffman, Inc. The emission units previously owned by Federal Hoffman, Inc. are now owned by two companies, Federal Cartridge Company and Hoffman Enclosures. The SIP revision rescinds the Administrative Order issued to Federal Hoffman, Inc. and replaces it with Title I SIP Conditions included in the Air Emission Permit No. 00300155-001, for Hoffman Enclosures, and Permit No. 00300156-003, for Federal Cartridge Company, which serve as joint Title I/Title V documents.

Federal Cartridge Company is a manufacturer of small arms, shotgun, rimfire and centerfire ammunitions. The facility currently owns the majority of emissions units that are subject to SO₂ emission limits or operating standards under the Order issued to Federal Hoffman, Inc. The only changes to the SIP for units owned by Federal Cartridge Company are fuel restrictions for two steam boilers. Previously, they were allowed to burn natural gas and residual fuel oil. They are now limited to burning natural gas and propane, both low sulfur fuels.

Hoffman Enclosures manufactures sheet metal electrical enclosures. Hoffman Enclosures previously owned and operated a single emergency diesel generator subject to SIP conditions through the Order issued to Federal Hoffman, Inc. This unit has been decommissioned and is no longer in use, resulting in a reduction in SO₂. Hoffman Enclosures installed one other combustion unit on the site, an emergency fire pump. This unit may only burn No. 2 diesel fuel, and at maximum capacity has the potential to emit 0.29 pounds per million British Thermal Units. This unit is very small and only operates under emergency conditions. Modeling performed in support of the original SIP for Federal Hoffman, Inc., attributed the majority of SO₂ emissions to the burning of residual fuel oil in one boiler. Since this type of fuel will no longer be burned, overall ambient concentrations of SO₂ are expected to decrease.

B. What Prior SIP Actions Are Pertinent to This Action?

On December 28, 2007, MPCA issued an Air Emission Permit No. 00300156-003 to Federal Cartridge Company. The permit is a joint Title I/Title V document. The main emissions from the facility are nitrogen oxides (NO_x). The permit limits the NO_x and Hazardous Air Pollutants (HAPs) emissions of the facility such that the facility is classified

as a non-major source under Federal New Source Review. The facility is part of the SIP to reach attainment of SO₂ National Ambient Air Quality Standards (NAAQS) in the Twin Cities area. The Title I conditions contained in the permit will ultimately be included in the SIP, and will replace the Administrative Order.

On January 31, 2008, MPCA issued an Air Emission Permit No. 00300155-001 to Hoffman Enclosures. The permit is a joint Title I/Title V document. The main emissions from the facility are VOCs and HAPs. The permit limits emissions of the facility such that the facility is classified as a non-major source under federal New Source Review. The facility is part of the SIP to reach attainment of SO₂ NAAQS in the Twin Cities area. The Title I conditions contained in the permit will ultimately be included in the SIP, and will replace the Administrative Order.

C. Has Public Notice Been Provided?

MPCA published public notices for the Federal Cartridge Company and Hoffman Enclosures actions on November 27, 2007, and December 20, 2007, respectively. No comments were received during the comment period which ended on January 22, 2008. In the public notices, MPCA stated it would hold a public hearing if one were requested during the comment period. This follows the alternative public participation process EPA approved on June 5, 2006 (71 FR 32274). For limited types of SIP revisions that the public has shown little interest in, a public hearing is not automatically required. If anyone requests a public hearing during the comment period, MPCA will hold a public hearing. Because no one requested a public hearing, MPCA did not hold a public hearing for these SIP revisions.

D. What Are Title I Conditions and Joint Title I/Title V Documents?

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. MPCA then issued permanent Administrative Orders to culpable sources in nonattainment areas from 1991 to February of 1996.

MPCA's consolidated permitting regulations, which EPA approved into the state SIP on May 2, 1995 (60 FR 21447), include 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."

MPCA has initiated using joint Title I/Title V documents as the enforceable document for imposing emission limitations and compliance requirements in SIPs. The SIP requirements in joint Title I/Title V documents submitted by MPCA are cited as "Title I conditions," therefore ensuring that SIP requirements remain permanent and enforceable. EPA reviewed the state's procedure for using joint Title I/Title V documents to implement site-specific SIP requirements and found it to be acceptable under both Titles I and V of the Clean Air Act (CAA) (July 3, 1997 letter from David Kee, EPA, to Michael J. Sandusky, MPCA). Further, a June 15, 2006, letter from EPA to MPCA clarifies procedures to transfer requirements from Administrative Orders to joint Title I/Title V documents.

III. What Is EPA's Analysis of the State Submission?

Federal Hoffman, Inc., owned units included in the SO₂ SIP for the Twin Cities area. The changes made in this SIP revision are changes to the ownership of various units that are subject to SIP requirements, as well as changes to the enforceable document. The emissions units previously owned by Federal Hoffman, Inc. are now owned by Federal Cartridge Company and Hoffman Enclosures.

A modeling analysis conducted for the Federal Hoffman facility SIP revision showed that the majority of the SO₂ emissions impact came from the burning of residual fuel oil in one of the boilers. As this type of fuel will no longer be burned, the ambient concentration of SO₂ will decrease.

IV. What Are the Environmental Effects of This Action?

Ambient SO₂ levels are expected to decrease because of the SIP revisions. Thus, the Anoka County area in

Minnesota is expected to remain in attainment of the SO₂ NAAQS.

SO₂ causes breathing difficulties and aggravation of existing cardiovascular disease. It is also a precursor of acid rain and fine particulate matter formation. Sulfate particles are a major cause of visibility impairment in the United States. Acid rain damages lakes and streams, impairing aquatic life, and causes damage to buildings, sculptures, statues and monuments. SO₂ also causes the loss of chlorophyll leading to vegetation damage.

V. What Action Is EPA Taking?

EPA is approving site specific revisions to the Minnesota SO₂ SIP for the Federal Cartridge Company and Hoffman Enclosures, located in the city of Anoka, Anoka County, Minnesota. The SIP revision also rescinds the Administrative Order issued to Federal Hoffman, Inc. and replaces it with a Title I SIP Conditions included in the Air Emission Permit No. 00300155-001, for Hoffman Enclosures, and Permit No. 00300156-003, for Federal Cartridge Company, which serves as joint Title I/Title V documents.

We are 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 written comments are filed. This rule will be effective June 23, 2009 without further notice unless we receive relevant adverse written comments by May 26, 2009. 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. 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 June 23, 2009.

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, 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 action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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);
- 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 CAA; and
- Does not provide EPA with the discretionary authority to address, as

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 23, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not

affect the finality of this action 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: April 9, 2009.

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 removing the entry for “Federal Hoffman, Incorporated” and adding entries, in alphabetical order, for “Federal Cartridge Company” and “Hoffman Enclosures” 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
* * * * *				
Federal Cartridge Company	00300156–003	12/28/07	04/24/09, [Insert page number where the document begins].	Only conditions cited as “Title I condition: SIP for SO ₂ NAAQS.”
* * * * *				
Hoffman Enclosures	00300155–001	01/31/08	04/24/09, [Insert page number where the document begins].	Only conditions cited as “Title I condition: SIP for SO ₂ NAAQS.”
* * * * *				

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[FR Doc. E9-9361 Filed 4-23-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R05-OAR-2008-0240; FRL-8896-5]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is approving a site specific revision to the Minnesota sulfur dioxide (SO₂) State Implementation Plan (SIP) for the Rochester Public Utility's Cascade Creek Generating Facility (Cascade Creek), located in the city of Rochester, Olmsted County, Minnesota. On March 5, 2008, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve certain portions of a joint Title I/Title V document into the Minnesota SO₂ SIP for the Cascade Creek facility. This SIP revision includes the addition of two new oil and gas fired turbines and modification of the starter engine on the No. 1 turbine. This SIP revision will show reduced emissions of SO₂ from this facility and the SO₂ National Ambient Air Quality Standards (NAAQS) will be maintained in the area. Because the SO₂ emission limits are being reduced, the air quality of Olmsted County will be protected.

DATES: This direct final rule will be effective June 23, 2009, unless EPA receives adverse comments by May 26, 2009. 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: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2008-0240, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: mooney.john@epa.gov.
3. *Fax*: (312) 692-2551.
4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77

West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R05-OAR-2008-0240. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday

through Friday, excluding Federal holidays. We recommend that you telephone Gilberto Alvarez, Environmental Scientist, at (312) 886-6143 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Gilberto Alvarez, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6143, alvarez.gilberto@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Is EPA Approving?
- II. What Is the Background for This Action?
- III. What Is EPA's Analysis of the State Submission?
- IV. What Are the Environmental Effects of This Action?
- V. What Action Is EPA Taking?
- VI. Statutory and Executive Order Reviews

I. What Is EPA Approving?

EPA is approving into the SO₂ SIP for Minnesota a joint Title I/Title V document for the Rochester Public Utility's Cascade Creek Facility (Cascade Creek), located in Rochester, Olmsted County, Minnesota. This SIP amendment approval will replace the current Title I SIP conditions under Air Emission Permit No. 00000610-001.

II. What Is the Background for This Action?**A. What Prior SIP Actions Are Pertinent to This Action?**

Cascade Creek is an electrical generation facility consisting of three combustion turbines and a diesel starter engine. The facility was identified as a culpable source in the Rochester area at the time the area was designated as nonattainment for the SO₂ NAAQS. The facility is now part of the SIP to maintain attainment of the SO₂ NAAQS in the Rochester area. On February 7, 2008, the Minnesota Pollution Control Agency (MPCA) issued an Air Emission Permit No. 10900020-003 to Rochester Public Utilities. The permit is a joint Title I/Title V document and will replace Permit No. 00000610-001, the joint document currently approved into the SIP. Air Permit Nos. 10900020-001 and 002 were adopted at the state level, but the joint documents were not submitted to EPA for approval into the SIP. These permits authorized the modification of the existing turbine to allow for burning of natural gas and distillate fuel oil and established facility-wide Federally-enforceable