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 [FR Doc. 2010-19819 Filed 8-11-10; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2010-0035; FRL-9187-5]

Approval and Promulgation of Air Quality Implementation Plans; MN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving Minnesota's request to amend its State Implementation Plan (SIP) for sulfur dioxide (SO₂). The Minnesota Pollution Control Agency (MPCA) submitted the SIP revision request to EPA on November 23, 2009, and supplemented it on March 3, 2010. EPA's approval revises SIP requirements applicable to Saint Mary's Hospital, located in Rochester, Minnesota, by adding a 2500 kilowatt (KW) reciprocating internal combustion engine (RICE) electric generator and reducing the allowable diesel fuel sulfur content for two existing RICE electric generators. The revision also includes administrative changes in the identification of emissions units. These revisions are included in a joint Title I/Title V document for Saint Mary's Hospital, which replaces the document currently approved into the SIP for the facility. These revisions will result in reducing the SO₂ impact in the Rochester area, and strengthen the existing SO₂ SIP.

DATES: This direct final rule will be effective October 12, 2010, unless EPA receives adverse comments by September 13, 2010. 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-2010-0035, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. *E-mail:* bortzer.jay@epa.gov.
3. *Fax:* (312) 629-2054.
4. *Mail:* Jay Bortzer, Chief, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Jay Bortzer, Chief, 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-2010-0035. 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 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 Charles Hatten, Environmental Engineer, at (312) 886-6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, hatten.charles@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. General Information
- II. What revision did the State request be incorporated into the SIP?
- III. What is EPA's analysis of the State submission?
- IV. What action is EPA taking?
- V. Statutory and Executive Order Reviews

I. General Information

A. Does this action apply to me?

This action applies only to the Saint Mary's Hospital, located at 1216 Second St., Rochester, Minnesota (Olmsted County).

B. Has public notice been provided?

Minnesota published a public notice of the revisions to the SIP on August 22, 2009. The comment period began on August 23, 2009, and ended on September 23, 2009. In the public notice, Minnesota 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. Because no one requested a public hearing, Minnesota did not hold a public hearing.

Background

Saint Mary's Hospital is a tertiary care hospital which includes several buildings located on a 49 acre campus. The Saint Mary's Hospital is owned and operated by the Mayo Foundation. The facility is a culpable source located in the Rochester area's nonattainment plan for the SO₂ National Ambient Air Quality Standard (NAAQS). However, the area currently meets the NAAQS for SO₂, and was officially redesignated as attainment on May 8, 2001. (66 FR 14087)

The primary emission units at the facility are three identical fossil fuel-

fired boilers (Nos. 1, 2, and 3), which exhaust through a common stack; one cogeneration turbine; and two emergency RICE generators. Each boiler burns natural gas as fuel with distillate oil as a backup fuel. The cogeneration turbine burns only natural gas. One of the RICE generators burns only distillate oil; the other can burn distillate oil or operate in a dual-fuel mode (95% natural gas and 5% distillate oil/very low sulfur diesel).

Saint Mary's Hospital is planning to make a physical change to the facility by adding a new RICE electric generator. The facility will also be required to reduce the allowable diesel fuel sulfur content for two existing emergency RICE electric generators. The State provided a modeling analysis of the effect of the changes at the facility on local SO₂. Below, in Section III, a more detailed discussion of the modeling analysis and its results can be found.

II. What revision did the State request be incorporated into the SIP?

The State has requested that EPA approve, as a revision to the Minnesota SIP, a new joint Title I/Title V document that incorporates: (1) Administrative changes in the identification of emission units, (2) the installation a 2500 KW RICE electric generator, and (3) a reduction in the allowable diesel fuel sulfur content for two existing RICE electric generators.

A. What prior SIP actions are pertinent to this action?

The facility has been subject to a federally enforceable permit incorporated into Minnesota's SIP as a joint Title I/Title V document, containing requirements for ensuring the attainment of the NAAQS for SO₂. As a result, the facility is subject to fuel usage limitations to restrict the total facility SO₂ emissions.

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

Minnesota's consolidated permitting regulations, approved into the 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 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 (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?

This SIP revision replaces the joint Title I/Title V document currently approved into the SIP for Saint Mary's Hospital with a new joint Title I/Title V document, Air Permit No. 10900008-003. The new joint document includes administrative changes in the identification of emission units, adds a 2500 KW RICE electric generator, and reduces the allowable diesel fuel sulfur content for two existing RICE electric generators.

Administrative Changes

The new joint document reflects administrative changes in how the emission units are described. Boilers 1, 2, and 3 were listed in the joint document previously issued to Saint Mary's Hospital and identified as EU038, EU039, and EU040. In the new joint document, Air Permit No. 10900008-003, these boilers are now identified as EU001, EU002, and EU003. Correspondingly, the two existing emergency RICE generators, which were

previously identified as EU0041 and EU0042, are now identified as EU005 and EU006.

New Electric Generator

The amendment to the SIP allows the installation of a new RICE electric generator. The new RICE generator, identified as EU012, is a 2500 kilowatt non-emergency compression ignition diesel engine subject to 40 CFR part 60, subpart III, for 2007 model year engines with displacement less than 10 liters per cylinder. In § 60.4207 of 40 CFR part 60, subpart III, the new electric generator is subject to a requirement to burn only diesel fuel with a sulfur content of less than 500 parts per million (ppm) by weight. This represents a limit of 0.05% sulfur by weight. Further, as of October 1, 2010, this diesel fuel oil limit will decrease to 15 ppm by weight (0.0015% sulfur by weight). This new diesel fuel oil limit is imposed by 40 CFR 80.510 upon owners or operators of new engines subject to 40 CFR part 60, subpart III, and is listed as a SIP condition to ensure that it will not exceed this Federal standard.

In addition to the above said requirements, the SO₂ emissions for new RICE generator will be limited to 1.52 tons per year based upon an operational restriction of 2045 hours per year.

Reduced SO₂ Limits

The existing boilers, cogeneration turbine, and generators are subject to fuel sulfur limits in order to comply with the NAAQS requirements for SO₂. As noted above, the cogeneration turbine burns only natural gas, and therefore is not subject to any Title I SIP conditions for SO₂. The SO₂ SIP emission limits for the boilers are unchanged. The boilers must burn only natural gas and low-sulfur distillate fuel, less than 0.5% sulfur by weight.

The existing generators have been subject to a requirement to burn distillate oil with sulfur content less than 0.41% by weight. In order to add the new generator and ensure that the emissions from the facility remain at or below current SIP levels, Saint Mary's Hospital agreed to align the fuel sulfur requirements of the existing generators with the new generator. Thus, the existing generators will be subject to the same requirements as the new generator; namely, a requirement to burn only diesel fuel with a sulfur content of less than 500 ppm by weight. This new limit of 0.05% sulfur by weight is considerably lower than the old limit of 0.41% sulfur by weight, resulting in a decrease in the amount of SO₂ emissions from the existing generators

by a factor of 8.2 (0.41/0.05). Further, the diesel fuel oil limit for the existing generators will decrease to 15 ppm by weight (0.0015% sulfur by weight) as of October 1, 2010, which is the same as the limit imposed on the new generator by 40 CFR 80.510.

Modeling

The SIP revision does not include any increases in SO₂ emission limits but, because some of the changes being made

to the facility may affect the release and dispersion of SO₂ emissions, Saint Mary's Hospital performed an air quality analysis to address the facility's impact on the SO₂ NAAQS. The facility was modeled both with and without the new generator. The modeling was done with the AERMOD air dispersion model using meteorological data from 1986 to 1990, and included flagpole receptors in downtown Rochester. The high-first-

high results for each standard averaging time (1 hour, 3 hour, 24 hour, and annual) were compared for the two scenarios at each receptor. With the addition of the 500 ppm by weight fuel oil sulfur content for the two existing generators, the results showed equivalent or decreased ambient impacts from the facility at each receptor, even after the installation of the new generator.

TABLE—HIGH-SECOND-HIGH AMBIENT SO₂ CONCENTRATION FROM FACILITY

Averaging time	Modeled concentration (µg/m ³)						Background	Total	Standard
	1986	1987	1988	1989	1990	Max			
Facility Prior to Modification									
1-hour	328	318	337	317	336	337	26	363	1300
3-hour	244	253	249	269	250	269	13	282	1300
24-hour	124	134	110	127	132	134	5	139	365
Annual	21	21	20	21	20	21	3	24	60
Facility After Modification									
1-hour	301	300	320	303	319	320	26	346	1300
3-hour	237	245	242	262	238	262	13	275	1300
24-hour	109	117	94	121	125	125	5	130	365
Annual	15	15	14	14	13	15	3	18	60

The modeling shows that the high-second-high impacts from the facility will decrease due to the changes from this SIP revision: the installation of the new generator and the decreased fuel oil sulfur limits on the two existing generators. This assures that ambient air quality will be protected.

IV. What action is EPA taking?

EPA is approving the revision to Minnesota's SIP to replace the joint Title I/Title V document currently approved into the SIP for Saint Mary's Hospital with a new joint Title I/Title V document, Air Permit No. 10900008-003. The new joint document includes administrative changes in the identification of emission units, adds a 2,500 KW RICE electric generator, and reduces the allowable diesel fuel sulfur content for two existing RICE electric generators. In approving this joint Title I/Title V document, EPA is incorporating into the SIP only those requirements in the joint document labeled as "Title I Condition: SIP for SO₂ NAAQS."

Since this SIP revision will decrease SO₂ impacts in the Rochester area, Saint Mary's revision will strengthen the existing SO₂ SIP.

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 October 12, 2010 without further notice unless we receive relevant adverse written comments by September 13, 2010. 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 October 12, 2010.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act 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 Clean Air Act. 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 Clean Air Act; 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 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 12, 2010. 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 dioxide.

Dated: August 2, 2010.

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 “Saint Mary’s Hospital” 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
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
St. Mary’s Hospital	10900008–003	03/01/10	08/12/10, [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. 2010–19822 Filed 8–11–10; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1987–0002; FRL–9188–8]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List: Deletion of the Rogers Road Municipal Landfill Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is publishing a direct final notice of deletion of the Rogers Road Municipal Landfill Superfund Site (Site), located near Jacksonville, Pulaski County, Arkansas

from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Arkansas, through the Arkansas Department of Environmental Quality (ADEQ), because EPA has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final rule will be effective October 12, 2010 unless EPA receives adverse comments by September 13, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the

direct final notice of deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1987–0002 by one of the following methods:

http://www.regulations.gov (Follow the on-line instructions for submitting comments)

E-mail: walters.donn@epa.gov.

Fax: 214–665–6660

Mail: Donn Walters, Community Involvement, U.S. EPA Region 6 (6SF–TS), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–6483 or 1–800–533–3508.

Hand Delivery: Donn Walters, Community Involvement, U.S. EPA Region 6 (6SF–TS), 1445 Ross Avenue, Dallas, TX 75202–2733. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.