

River, extending the entire width of the river between mile markers 0.6 and 0.8 on the Allegheny River. These markings are based on the USACE's *Allegheny River Navigation Charts* (Chart 1, January 2004).

(b) *Periods of Enforcement.* This rule will only be enforced from 5:30 p.m. through 6:45 p.m. on December 31, 2010. The Captain of the Port Pittsburgh or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Pittsburgh.

(2) Persons or vessels requiring entry into or passage through a safety zone must request permission from the Captain of the Port Pittsburgh or a designated representative. They may be contacted on VHF-FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1-800-253-7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel includes Commissioned, Warrant, and Petty Officers of the U.S. Coast Guard.

Dated: December 6, 2010.

**R.V. Timme,**

*Commander, U.S. Coast Guard, Captain of the Port Pittsburgh.*

[FR Doc. 2010-32511 Filed 12-27-10; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2009-0808; FRL-9243-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Sulfur Dioxide SIP Revision for Marathon Petroleum St. Paul Park

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** On October 6, 2009, Minnesota submitted a request for a sulfur dioxide State Implementation Plan revision for Marathon Petroleum in St. Paul Park. This submittal updates the State Implementation Plan to reflect the installation of new boilers and a sulfur recovery unit and changes to three existing heaters. Overall, this

update represents a decrease in sulfur dioxide emissions. EPA is approving these revisions under the Clean Air Act.

**DATES:** This direct final rule will be effective February 28, 2011, unless EPA receives adverse comments by January 27, 2011. 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-2009-0808, by one of the following methods:

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

2. *E-mail:* [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov).

3. *Fax:* (312)408-2279.

4. *Mail:* Douglas Aburano, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Douglas Aburano, Chief, Control Strategies 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's 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-2009-0808. 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 Mary Portanova, Environmental Engineer, at (312) 353-5954 before visiting the Region 5 office.

#### FOR FURTHER INFORMATION CONTACT:

Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5954, [portanova.mary@epa.gov](mailto:portanova.mary@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. Background
- II. What has changed in the SIP?
- III. Air Quality Analysis
- IV. What action is EPA taking?
- V. Statutory and Executive Order Reviews

#### I. Background

On October 6, 2009, Minnesota submitted a site-specific sulfur dioxide (SO<sub>2</sub>) State Implementation Plan (SIP) revision request for Marathon Petroleum Co, LLC, (Marathon) in the Saint Paul Park area of Minneapolis-St. Paul, Minnesota. This area had been designated as nonattainment of the SO<sub>2</sub> National Ambient Air Quality Standards (NAAQS) in 1979, but was redesignated to attainment for SO<sub>2</sub> on May 13, 1997 (62 FR 26230), after meeting the requirements of the Clean Air Act and

measuring eight quarters of monitored air quality data below the SO<sub>2</sub> NAAQS. The October 6, 2009 submittal serves to update the SO<sub>2</sub> maintenance plan for St. Paul Park.

Minnesota places its SIP conditions in joint Title I/Title V documents, in the form of State Air Emission Permits. The SIP conditions are listed in the State's documents as Title I conditions, which refers to Title I of the Clean Air Act. The documents also contain Title V permit conditions for the affected facilities. The most recently approved Title I SIP conditions for this Marathon facility (previously known as Marathon Ashland Petroleum LLC) were those which were placed in Minnesota's Air Emission Permit No. 16300003-003. These SIP conditions were Federally approved into Minnesota's SO<sub>2</sub> SIP on May 20, 2002 (67 FR 35437).

The October 6, 2009, SO<sub>2</sub> SIP revision request accounts for several changes since 2002 at the Marathon Petroleum refinery, including the installation of a new sulfur recovery unit, physical changes to three existing heaters, and the installation of two new boilers. These changes were set forth in Air Emission Permits 16300003-006 and 16300003-016. The State requested that EPA approve into the SIP only the permit conditions labeled "Title I Condition: State Implementation Plan for SO<sub>2</sub> NAAQS," and remove all non-SIP-related "Title I Conditions" from the SIP.

## II. What has changed in the SIP?

Marathon has planned or implemented several changes to SO<sub>2</sub>-emitting units at the St. Paul Park facility since 2002. The company has installed a new sulfur recovery unit at the facility, made changes to three of its heaters, and installed two new boilers. SIP conditions have been altered to represent these new or modified units.

Minnesota's permit action 16300003-006, issued November 5, 2002, authorized Marathon to install a new sulfur recovery unit (SRU) and a Shell Claus off-gas treating (SCOT) tail gas unit. Allowable SO<sub>2</sub> emissions from the new Number 3 SRU are restricted to 15 lb/hr (on a 3-hour average) and 39 tons per year (tpy). A continuous emissions monitor (CEM) will be used to measure SO<sub>2</sub> emissions from the units.

Under the same permit action, Marathon made physical changes to two heaters. Changes to the Hot Oil Heater (EU016, 5-34-B-2) only affected its stack dispersion characteristics, but did not change its SO<sub>2</sub> emission limit. Changes to the Number 2 Crude Charge Heater (EU006, 5-2-B-3) included the replacement of its burners with low-

nitrogen oxides burners and the replacement of its convection sections and stack. These changes removed the heater's ability to burn refinery fuel oil. Permit action 16300003-006 primarily discussed reductions in the emissions of nitrogen oxides from this heater and did not address the effect on SO<sub>2</sub> of removing refinery fuel oil. The revised permit allows only natural gas and refinery fuel gas for this heater, but the SO<sub>2</sub> limits for the Number 2 Crude Charge Heater remain unchanged at 34 lb/hr and 0.2834 lb/MMBTU.

In 2007, Marathon replaced the burner in the Heavy Distillate Hydrotreater Charge Heater (EU017). With the new burner, this heater can no longer combust refinery fuel oil. In permit action 16300003-016, issued on September 11, 2009, EU017 was restricted to natural gas and refinery fuel gas only, and its SO<sub>2</sub> SIP emission limit was reduced accordingly, from 66.6 lb/hr to 2.97 lb/hr. This represents a 279 tpy reduction in allowable SO<sub>2</sub> emissions. In addition, some former SIP testing and recordkeeping requirements relating to the use of refinery fuel oil have been removed for this heater.

Permit action 16300003-016 also allows two new boilers to be installed at the Marathon facility. The new boilers, Boiler 92 (EU092) and Boiler 93 (EU093), are limited to 0.025 lb/MMBtu of SO<sub>2</sub>, and are only permitted to use natural gas or refinery fuel gas. The new boilers' 7.2 lb/hr (31.5 tpy) emissions increase will be offset by the shutdown of three other boilers at the facility: Boiler 5 (EU001), Boiler 4 (EU020) and Boiler 6 (EU021). The permit provides that Boilers 4, 5, and 6 must be shut down 180 days after the new boilers begin operating or 60 days after both new boilers achieve maximum operating rate, whichever comes first. Boilers 92 and 93 are not allowed to begin operating until EPA has approved their SIP limits. Boilers 4 and 6 are allowed to use either natural gas, refinery fuel gas, or refinery fuel oil. Boiler 5 can only use natural gas or refinery fuel gas. Their shutdown will bring a 323 tpy reduction in allowable SO<sub>2</sub> emissions.

## III. Air Quality Analysis

The SO<sub>2</sub> source configuration and emission limit changes in permits 16300003-006 and 16300003-016 were evaluated using air dispersion modeling. Modeling analyses were performed when the Number 3 SRU and Boiler 92 and 93 installations were originally permitted (2002 and 2009). These analyses were submitted as part of the October 6, 2009 SIP revision request. Because EPA's air quality modeling recommendations have

changed since 2002, the analyses were not both performed using the same dispersion model.

Modeling for the Number 3 SRU installation and the physical changes to heaters EU006 and EU016 was performed in 2002, using the ISCST3 model, which was the EPA-recommended model at the time. The predicted SO<sub>2</sub> concentrations for the Marathon facility and neighboring SO<sub>2</sub> sources, including a background concentration, were below the SO<sub>2</sub> NAAQS.

Modeling for the Boiler 92 and 93 installation and the emission limit reductions for heater EU017 was performed in 2009, using the EPA recommended dispersion model, AERMOD, version 07026. This modeling included all sources at the Marathon facility, and served to replace the 2002 modeling analysis. Both the new boilers (EU092 and EU093) and the existing boilers (EU001, EU020, and EU021) were included in the modeling, although Marathon's permit requires the three existing boilers to be shut down 180 days after the two new boilers begin operating. SO<sub>2</sub> emissions from neighboring facilities were also included in the modeling. The 2009 AERMOD dispersion modeling used five years of meteorological data from 1986-1990. Surface meteorological data was measured at Minneapolis-St. Paul, MN, and upper air data was measured at St. Cloud, MN. The modeling used a receptor grid with 100 meter resolution. The resulting modeled SO<sub>2</sub> concentrations, including a representative background SO<sub>2</sub> concentration, were below the SO<sub>2</sub> NAAQS.

On June 22, 2010, EPA published final revisions to the SO<sub>2</sub> NAAQS, which added a one-hour standard (75 FR 35520). The SIP actions for the Marathon facility and the accompanying air quality analyses were finalized and the SIP revision request was submitted to EPA before EPA had proposed the new SO<sub>2</sub> NAAQS (December 8, 2009; 74 FR 64810). Given the timing of this SIP revision request, and the fact that it represents an overall decrease in SO<sub>2</sub> emissions, EPA finds that the October 6, 2009 submittal is complete and will not adversely affect Minnesota's ability to attain and maintain the one-hour SO<sub>2</sub> standard.

## IV. What action is EPA taking?

EPA is approving Minnesota's October 6, 2009 site-specific SO<sub>2</sub> SIP revision request for Marathon Petroleum Co, LLC, in the Saint Paul Park area of Minneapolis-St. Paul, Minnesota. 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 February 28, 2011 without further notice unless we receive relevant adverse written comments by January 27, 2011. 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 February 28, 2011.

**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 February 28, 2011. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 15, 2010.

**Susan Hedman**,  
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 updating the entry for "Marathon Ashland Petroleum, LLC" 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
*	*	*	*	*
Marathon Petroleum, LLC.	16300003-016	09/11/09	12/28/10, [Insert page number where the document begins].	Only conditions cited as "Title I condition: SIP for SO <sub>2</sub> NAAQS."
*	*	*	*	*

\* \* \* \* \*

[FR Doc. 2010-32482 Filed 12-27-10; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[WV103-6041; FRL-9240-1]

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Update to Materials Incorporated by Reference****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; administrative change.

**SUMMARY:** EPA is updating the materials submitted by West Virginia that are incorporated by reference (IBR) into the State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the West Virginia Department of Environmental Protection and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC and the Regional Office.

**DATES:** *Effective Date:* This action is effective December 28, 2010.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, EPA Headquarters Library, Room Number 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460, and NARA. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566-1742; or NARA. For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford, (215) 814-2108 or by e-mail at [frankford.harold@epa.gov](mailto:frankford.harold@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

The SIP is a living document which the State revises as necessary to address its unique air pollution problems. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations to make them part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997 **Federal Register** document. On February 10, 2005 (70 FR 7024), EPA published a **Federal Register** beginning the new IBR procedure for West Virginia. On February 28, 2007 (72 FR 8903) and February 10, 2009 (74 FR 6542), EPA published updates to the IBR material in West Virginia.

Since the publication of the last IBR update, EPA has approved the following regulatory changes to the IBR materials in paragraph 52.2520(c):

1. Addition of Regulation 45 CSR 39.
2. Revisions to the following regulations: 45 CSR 6, 45 CSR 8, 45 CSR 40, and 45 CSR 41.
3. Removal of the following regulations: 45 CSR 1, 45 CSR 9, 45 CSR 12, and 45 CSR 26.

**II. EPA Action**

In this document, EPA is doing the following:

1. Announcing the update to the IBR material as of November 1, 2010.
2. Making corrections to the following entries listed in the paragraph 52.2520(c) chart, as described below:
  - a. 45 CSR 6—removing text from the "Additional explanation/citation at 40 CFR § 52.2565" column.
  - b. 45 CSR 7—revising the dates in the State effective date column so that the date format is consistent with that found throughout the paragraph.
  - c. 45 CSR 21—reinstating section 45 CSR 45-21-36, which had been inadvertently removed from this paragraph. On February 1, 1995, (60 FR 6022), EPA approved 45 CSR 21, Section 36 as part of the West Virginia SIP.
  - d. 45 CSR 39—Correcting the regulation title of section 45-39-15 in the "Title/subject" column.
  - e. 45 CSR 41—correcting the regulation title to read "Control of Annual Sulfur Dioxides Emissions."
3. In paragraph 52.2420(e), correcting the date format in the "EPA approval date column" for the entry entitled

"State of West Virginia Transportation Conformity Requirements."

EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation, and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and correcting non-substantive errors in the table entries.

**III. Statutory and Executive Order Reviews***A. General Requirements*

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the 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