

temporary deviation, the bridge will be maintained in the closed-to-navigation position for four (4) separate five (5) day periods from 7 a.m., October 2, 2017, through 11 p.m., October 6, 2017; from 7 a.m., October 16, 2017, through 11 p.m., October 20, 2017; from 7 a.m., October 30, 2017, through 11 p.m., November 3, 2017; from 7 a.m., November 13, 2017, through 11 p.m., November 17, 2017. The alternate dates for inclement weather are from 7 a.m., October 9, 2017, through 11 p.m., October 13, 2017; from 7 a.m., October 23, 2017, through 11 p.m., October 27, 2017; from 7 a.m., November 6, 2017, through 11 p.m., November 10, 2017; from 7 a.m., November 18, 2017, through 11 p.m., November 22, 2017. The bridge will open on signal if at least 24 hours notice is given at all other times.

The Atlantic Intracoastal Waterway, Southern Branch of the Elizabeth River is used by a variety of vessels including small commercial vessels, recreational vessels and tug and barge traffic. The Coast Guard has carefully coordinated the restrictions with waterway users in publishing this temporary deviation.

Vessels able to pass through the bridge in the closed position may do so if at least 15 minutes notice is given. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by this temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of this effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 21, 2017.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2017-20564 Filed 9-25-17; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2016-0603; FRL-9968-22-Region 5]

Air Plan Approval; Minnesota; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Minnesota State Implementation Plan (SIP) submitted on October 4, 2016. EPA is approving the state's Prevention of Significant Deterioration (PSD) rules which incorporate the Federal PSD rules by reference.

DATES: This final rule is effective on October 26, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2016-0603. All documents in the docket are listed on the www.regulations.gov Web site. 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 through www.regulations.gov or 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 Rachel Rineheart, Environmental Engineer, at (312) 886-7017 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Rachel Rineheart, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7017, Rineheart.rachel@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. Comments Received and Response to Comments
- III. What action is EPA taking?

- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. Background

Section 110(a)(2)(C) of the Clean Air Act (CAA) requires that each SIP include a program to provide for the regulation of construction and modification of stationary sources, including a permit program as required by part C of subsection I of the CAA—Prevention of Significant Deterioration of Air Quality. On October 4, 2016, the Minnesota Pollution Control Agency (MPCA) submitted a request to revise the Minnesota SIP to include Minn. R. 7007.3000, which incorporates the Federal PSD rules at 40 CFR 52.21 by reference as the State's SIP approved PSD program. Further, by letter dated June 1, 2017, MPCA clarified that it will not implement the provisions at 40 CFR 52.21(g), (s), (t), and (u) because those provisions reference authorities that are retained by the EPA Administrator.

EPA proposed to approve Minnesota's PSD SIP on July 10, 2017. (82 FR 31741, July 10, 2017). EPA received comments on the proposed action from Guardian Energy, LLC, and Granite Falls Energy, LLC. Section II of this document provides a discussion of the comments received and EPA's response.

II. Comments Received and Response to Comments

EPA received comments from Guardian Energy, LLC, and Granite Falls Energy, LLC. The letters from the two commenters are identical. The first comment from both commenters expressed support for the proposed action. The second comment from the two commenters is a request for EPA to clarify how changes in the Federal PSD regulations will be addressed in the Minnesota SIP approved regulations. Minn. R. 7007.3000 incorporates 40 CFR 52.21 by reference, as amended. Both MPCA and EPA interpret this to mean that any changes to 40 CFR 52.21 will be automatically incorporated into Minn. R. 7007.3000, and will have the same effective date as the Federal rulemaking.

III. What action is EPA taking?

EPA is approving the request made by MPCA on October 4, 2016, to revise the Minnesota SIP to include Minn. R. 7007.3000 as the State's SIP approved PSD program.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation

by reference of the Minnesota Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov*, and/or at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.¹

V. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).
- 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 November 27, 2017. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 12, 2017.

Cheryl L. Newton,
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:
Authority: 42 U.S.C. 7401 *et seq.*
- 2. In § 52.1220, the table in paragraph (c) is amended by adding the entry "7007.3000" in numerical order above the table heading "Offsets" to read as follows:

§ 52.1220 Identification of plan.
* * * * *
(c) * * *

EPA—APPROVED MINNESOTA REGULATIONS

Minnesota citation	Title/subject	State effective date	EPA approval date	Comments
*	*	*	*	*

CHAPTER 7007 AIR EMISSION PERMITS

¹ 62 FR 27968 (May 22, 1997).

EPA—APPROVED MINNESOTA REGULATIONS—Continued

Minnesota citation	Title/subject	State effective date	EPA approval date	Comments
7007.3000	Prevention of Significant Deterioration of Air Quality.	11/26/2007	9/26/2017 [insert Federal Register citation].	

* * * * *

■ 3. Section 52.1234 is revised to read as follows:

§ 52.1234 Significant deterioration of air quality.

(a) The requirements of sections 160 through 165 of the Clean Air Act are met, except for sources seeking permits to locate in Indian country within the State of Minnesota.

(b) Regulations for the prevention of the significant deterioration of air quality. The provisions of § 52.21 except paragraph (a)(1) are hereby incorporated and made a part of the applicable State plan for the State of Minnesota for sources wishing to locate in Indian country; and sources constructed under permits issued by EPA.

[FR Doc. 2017–20443 Filed 9–25–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0426; FRL–9966–86–Region 9]

Finding of Failure To Submit State Implementation Plans Required for the 2008 8-Hour Ozone NAAQS; California; Sacramento Metro

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action finding that the state of California has failed to submit State Implementation Plans (SIPs) to satisfy certain requirements of the Clean Air Act (CAA) for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or “standards”). Under the CAA and EPA’s implementing regulations, states with nonattainment areas classified as Moderate, Serious, Severe or Extreme were required to submit by July 20, 2016, SIPs demonstrating reasonable further progress (RFP) and attainment of the 2008 8-hour ozone standard as expeditiously as practicable but no later

than the applicable dates established in the implementing regulations. States were also required to submit contingency plans to be triggered if attainment or RFP milestones were not met. The EPA is by this action making a finding of failure to submit attainment demonstration, attainment demonstration contingency, RFP, and RFP contingency SIPs for the Sacramento Metro nonattainment area. If the EPA has not affirmatively found that the state has submitted the required plans within 18 months, the offset sanction applies in the area. If within 6 additional months the EPA has still not affirmatively determined that the state has submitted the required plan, the highway funding sanction applies in the area. No later than 2 years after the EPA makes the finding, if the state has not submitted, and EPA has not approved, the required SIP, the EPA must promulgate a Federal Implementation Plan.

DATES: This action will be effective on October 26, 2017.

FOR FURTHER INFORMATION CONTACT: Laura Lawrence, EPA Region IX, (415) 972–3407, laura.lawrence@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

Notice and Comment Under the Administrative Procedure Act (APA)

Section 553 of the APA, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this final agency action without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submission or incomplete submissions, to meet the requirement. Thus, notice and public procedures are unnecessary.

The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

I. Background and Overview

A. Statutory Requirements

On March 27, 2008, the EPA issued its final action to revise the NAAQS for ozone to establish new 8-hour standards.¹ In that action, the EPA promulgated identical revised primary and secondary ozone standards, designed to protect public health and welfare, of 0.075 parts per million (ppm).² Those standards are met when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration is less than or equal to 0.075 ppm.³

Promulgation of a revised NAAQS triggers a requirement for the EPA to designate areas of the country as nonattainment, attainment or unclassifiable for the standards. For the ozone NAAQS, this also involves classifying any nonattainment areas at the time of designation.⁴ Ozone nonattainment areas are classified based on the severity of their ozone levels (as determined based on the area’s “design value,” which represents air quality in the area for the most recent three years). The possible classifications for ozone nonattainment areas are Marginal, Moderate, Serious, Severe, and Extreme.⁵ Nonattainment areas with a “lower” classification have ozone levels that are closer to the standard than areas with a “higher” classification.⁶

On May 21, 2012 and June 11, 2012, the EPA issued rules designating areas throughout the country as nonattainment, attainment, or unclassifiable for the 2008 ozone NAAQS, effective July 20, 2012, and establishing classifications for the

¹ 73 FR 16436.
² Since the 2008 primary and secondary NAAQS for ozone are identical, for convenience, we refer to both as “the 2008 ozone NAAQS” or “the 2008 ozone standard.”
³ 40 CFR 50.15.
⁴ CAA sections 107(d)(1) and 181(a)(1).
⁵ CAA section 181(a)(1).
⁶ See 40 CFR 51.1103 for the design value thresholds for each classification for the 2008 ozone NAAQS.