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.

Subpart N—Idaho

2. In §52.670, amend the table in paragraph (e), under the heading “Chapter VIII—Nonattainment Area Plans,” by removing the two entries entitled “Fine Particulate Matter Attainment Plan” and adding an entry at the end of the table entitled “Cache Valley Fine Particulate Matter Attainment Plan” to read as follows:

§52.670 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED IDAHO NON-REGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

<table>
<thead>
<tr>
<th>Name of SIP provision</th>
<th>Applicable geographic or nonattainment area</th>
<th>State submittal date</th>
<th>EPA approval date</th>
<th>Comments</th>
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81


Air Plan Approval and Designation of Areas; FL; Source-Specific \(\text{SO}_2\) Permit Limits & Redesignation of the Hillsborough-Polk 2010 1-Hr \(\text{SO}_2\) Nonattainment Area to Attainment & Mulberry Unclassifiable Area to Attainment/Unclassifiable

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve state implementation plan (SIP) revisions and two redesignation requests provided by the State of Florida, through the Florida Department of Environmental Protection (FDEP), related to the 2010 1-hour sulfur dioxide (\(\text{SO}_2\)) primary national ambient air quality standard (NAAQS or standard).

Specifically, EPA is approving a December 1, 2017, SIP revision (as supplemented through an October 9, 2019, SIP revision discussed below) that includes \(\text{SO}_2\) multi-unit permit limits and associated compliance and monitoring parameters for Mosaic Fertilizer LLC’s New Wales facility (Mosaic New Wales) and Bartow facility (Mosaic Bartow), both located in Polk County, Florida. The December 1, 2017, SIP revision also includes a modeling analysis to demonstrate that the Hillsborough-Polk \(\text{SO}_2\) nonattainment area (hereinafter referred to as the “Hillsborough-Polk Area”) attains the \(\text{SO}_2\) NAAQS with these permit limits. EPA is also approving an October 9, 2019, request to redesignate the Hillsborough-Polk Area to attainment for the 1-hour \(\text{SO}_2\) NAAQS and associated SIP revision containing the State’s plan for maintaining attainment of the standard in the Hillsborough-Polk Area. The October 9, 2019, SIP submittal also revises the modeling analysis and some permit conditions in the 2017 SIP revision, contains a base-year emissions inventory for the Hillsborough-Polk Area, and certifies that the Hillsborough-Polk Area meets nonattainment new source review (NNSR) requirements. In addition, EPA is approving an October 9, 2019, request to redesignate the Mulberry Unclassifiable Area (hereinafter referred to as the “Mulberry Area”) to attainment/unclassifiable for the 2010 1-hour \(\text{SO}_2\) NAAQS.

FDEP submitted a draft version of the October 9, 2019, redesignation requests and SIP revisions on February 15, 2019, and EPA proposed to approve those requests and revisions through parallel processing at the State’s request.

DATES: This rule will be effective March 23, 2020.

ADDRESS: EPA has established a docket for this action under Docket Identification No. EPA–R–04–OAR–2018–0510. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information may not be publicly available, i.e., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Madolyn Sanchez, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Sanchez may be reached by phone at (404) 562–9644 or via electronic mail at sanchez.madolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What is the background for the actions?

On June 2, 2010, EPA revised the primary \(\text{SO}_2\) NAAQS, establishing a new 1-hour \(\text{SO}_2\) standard of 75 parts per billion (ppb). See 75 FR 35520 (June 22, 2010). Under EPA’s regulations at 40 CFR part 50, the 2010 1-hour \(\text{SO}_2\) NAAQS is met at a monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb (based on the rounding convention in 40 CFR part 50, appendix T). See 40 CFR 50.17.

Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. A year meets data completeness requirements when all four quarters are complete, and a...
quarter is complete when at least 75 percent of the sampling days for each quarter have complete data. A sampling day has complete data if 75 percent of the hourly concentration values, including state-flagged data affected by exceptional events which have been approved for exclusion by the Administrator, are reported.\(^1\)

Upon promulgation of a new or revised NAAQS, the Clean Air Act (CAA) requires EPA to designate as nonattainment any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS. Effective on April 9, 2018, EPA designated the Hillsborough-Polk Area as unclassifiable for the 2018, EPA designated the Hillsborough-Polk Area as unclassifiable for the 2018 SO\(_2\) NAAQS.\(^2\) See 83 FR 1098 (January 9, 2018). Under the CAA, SO\(_2\) nonattainment areas must attain the NAAQS as expeditiously as practicable but not later than five years after the April 9, 2018, effective date of the designation. See CAA section 192(a).

Therefore, the Hillsborough-Polk Area’s applicable attainment date is no later than April 9, 2023.

EPA’s nonattainment designation for the Hillsborough-Polk Area triggered an obligation for Florida to develop a nonattainment plan. The SIP revision addressing certain requirements under CAA title I, part D, subpart 1 (hereinafter “Subpart 1”), and to submit that SIP revision to EPA in accordance with the deadlines in title I, part D, subpart 5 (hereinafter “Subpart 5”).\(^3\) Subpart 1 contains the general requirements for nonattainment areas for criteria pollutants, including requirements to develop a SIP that: Provides for the implementation of reasonably available control measures (RACM); requires reasonable further progress (RFP); includes base-year and attainment-year emissions inventories, a SIP-approved NNSR permitting program that accounts for growth in the area, enforceable emission limitations and other such control measures; and provides for the implementation of contingency measures. This SIP revision was due within 18 months following the April 9, 2018, effective date of the unclassifiable designation for the Mulberry Area.

\(^1\) See 40 CFR part 50, appendix T, section 3(b).


\(^3\) No requirements were triggered as a result of the unclassifiable designation for the Mulberry Area.
Area will have attained the 2010 SO2 NAAQS as a result of compliance with the multi-unit permit limits at Mosaic New Wales and Bartow; (5) approve Florida’s plan for maintaining the 2010 1-hour SO2 NAAQS in the Hillsborough-Polk Area through 2032 and incorporate it into the SIP pursuant to section 175A of the CAA; (6) redesignate the Hillsborough-Polk Area to attainment for the 2010 1-hour SO2 NAAQS; and (7) redesignate the Mulberry Area from unclassifiable to attainment/unclassifiable for the 2010 1-hour SO2 NAAQS based on air quality modeling.

Florida’s October 9, 2019, final SIP submission demonstrates compliance with the SO2 emissions limits for Mosaic New Wales and Bartow based on SO2 hourly emissions data from August 1, 2019 through September 24, 2019.10 EPA proposed to determine that the modeling analysis provided in the SIP revisions demonstrates that the Hillsborough-Polk and Mulberry Areas will attain the 2010 1-hour standard as a result of compliance with the 24-hour SO2 emissions limits at Mosaic New Wales and Bartow.11 The modeling resulted in a highest predicted 99th percentile daily maximum 1-hour concentration of 74.4 ppb with no modeled violations of the 1-hour SO2 NAAQS in ambient air locations in the Hillsborough-Polk or Mulberry Areas. Because there are no air quality monitors in these areas, EPA’s proposed approval of the redesignation request and maintenance plan SIP for the Hillsborough-Polk Area and the redesignation request for the Mulberry Area was based, in part, on these modeling results.12 Because Mosaic New Wales and Bartow are required to comply with the permit limits that air quality modeling shows will maintain the standard, this modeling shows that the areas will continue to maintain the 2010 1-hour SO2 standard through 2032, the final year of the submitted 10-year maintenance plan for the Hillsborough-Polk Area. The details of Florida’s submittal and the rationale for EPA’s actions are further explained in the NPRM, including the modeled attainment demonstration to determine attainment with the 2010 1-hour SO2 NAAQS.

On October 9, 2019, Florida submitted final redesignation requests for the Hillsborough-Polk and Mulberry Areas and a final SIP submission. EPA reviewed the final submission and it contains no substantive changes to Florida’s February 15, 2019, draft SIP submission that EPA proposed for parallel processing in the NPRM. The only changes are minor clarifications, typographical corrections, a demonstration that Mosaic New Wales and Bartow are meeting their respective 24-hour block average permitted SO2 emissions limits13 that EPA is incorporating into Florida’s SIP as part of this final rulemaking,14 and a demonstration that Mosaic New Wales has completed the ambient air boundary improvements15 discussed in the NPRM. Based on the information and analysis in the NPRM and on Florida’s compliance demonstration, the final multi-unit SO2 emissions limits at Mosaic New Wales and Bartow provide for modeled attainment of the 1-hour SO2 NAAQS in ambient air locations in the Hillsborough-Polk and Mulberry Areas. Comments on EPA’s September 9, 2019, proposed rulemaking were due on or before October 9, 2019.

II. Response to Comments

EPA received three sets of comments on the proposed rulemaking—one set that generally supports the proposed rulemaking and two sets that are adverse. These comments are available in the docket for this action. Summaries of the comments and EPA’s responses are provided below.

Comment 1: The Commenter asserts that the adjustment factors used in the development of the 24-hour SO2 emission limits for Mosaic New Wales and Bartow are on the order of 0.99 to 1.0, indicating in the Commenter’s view that, historically, the emission units operate consistently without much if any variability and are much higher than default values discussed in EPA’s guidance. The Commenter then questions the need for flexibility allowed by the 24-hour emissions limits, claiming that if the emissions are not fluctuating there is no need to establish a limit other than a 1-hour limit. The Commenter contends that the 24-hour limits allow for increases in hourly emissions well above historical hourly emissions and that these greater hourly emissions by way of 24-hour averaging does not demonstrate compliance with the 1-hour NAAQS.

Response 1: Prior to the issuance of the 1-hour SO2 NAAQS in 2010, EPA’s guidance recommended that the averaging time of emission limits should not exceed the averaging time of the applicable NAAQS. However, after the creation of 1-hour SO2 standard, EPA received many comments expressing concern for extending this approach (i.e., not allowing averaging of emission limits to show compliance with the 1-hour standard) as overly conservative and potentially burdensome for a facility with variable emissions and/or operations. After consideration of these comments, EPA issued guidance recommending a method to derive a comparably stringent emission limit with a longer averaging time (up to 30 days). As expressed on page 24 of the EPA’s April 23, 2014 “Guidance for 1-hour SO2 Nonattainment Area SIP Submissions” (SO2 Guidance), “[t]he EPA believes that making this option available to states could reflect an appropriate balance between providing a strong assurance that the NAAQS will be attained and maintained, while still acknowledging the necessary variability in source operations and the impairment to source operations that would occur under what could be in some cases an unnecessarily restrictive approach to constraining that variability.”

The process used by Florida to develop adjustment factors for the limits included at Mosaic New Wales and Bartow was described in Florida’s SIP submission and evaluated in EPA’s Hillsborough-Polk Longer Term Averaging TSD document, which was part of the NPRM docket (see page 6 of the TSD). This process generally followed the guidance laid out in the SO2 Guidance, which can be used by permitting authorities to establish longer-term SO2 emission limits in lieu of shorter-term (1-hour or 3-hour) limits at facilities they believe would benefit from the added flexibility. Although Mosaic’s operations do not have a high level of variability, there are still some emission peaks that occasionally occur. Recent emissions data indicate that up to 1.5 percent of the time, emissions exceed the critical emissions value

See Appendix N of Florida’s final October 9, 2019, SIP submission in the docket for this rulemaking.

See Section VII.C of the NPRM and the associated Air Modeling TSD.

See Section VII.C of the NPRM for a discussion regarding the nature of an attainment determination for SO2.

As discussed in the NPRM, the 24-hour SO2 emissions limits of 1.090 lb/hr and 1.100 lb/hr for Mosaic New Wales and Bartow, respectively, provide an appropriate alternative to establishing a 1-hour average emission limit for each unit at these facilities. See Section VI of the NPRM and EPA’s Longer Term Averaging SO2 Technical Support Document entitled U.S. Environmental Protection Agency Technical Support Document (TSD) for the Longer Term Average Sulfur Dioxide (SO2) Permit Limits for the Mosaic New Wales and Bartow Fertilizer Facilities.

Florida’s October 9, 2019, final SIP submission demonstrates compliance with the SO2 emissions limits for Mosaic New Wales and Bartow based on SO2 emissions data from August 1, 2019 through September 24, 2019. See Appendix N of Florida’s final October 9, 2019, SIP submission in the docket for this rulemaking.

See Appendix M of Florida’s final October 9, 2019, SIP submission in the docket for this rulemaking.
(CEV) while still maintaining permitted emissions limits (1.5 percent for New Wales and less than 1 percent for Bartow). If the Mosaic facilities were required to comply with a 1-hour emission limit all the time (i.e., no averaging), the operation of the facility would have to be restricted to ensure those occasional periods of higher emissions never exceeded the 1-hour permit limit. At sulfuric acid plants (SAPs), \( \text{SO}_2 \) is a process material rather than a byproduct, where \( \text{SO}_2 \) is converted to sulfuric acid. Residual \( \text{SO}_2 \) emissions from SAPs are controlled by the process itself rather than with an add-on pollution control device, as the catalyst bed cannot be turned off, disabled, or bypassed. [ . . . ] The catalyst degrades over time and will need to be replaced every few years; however, there is little fluctuation in emissions over any given 24-hour period. A consequence of this stability over a 24-hour period is the relatively high (close to 1.0) adjustment factors for the individual units (see Table 3).” The relative stability of the sulfuric acid plant operations explains why the adjustment factors are relatively close to one. The \( \text{SO}_2 \) Guidance describes a process for a permitting authority to develop a longer-term emission limit that is protective of the NAAQS. In the case of the sulfuric acid plants at Mosaic New Wales and Bartow facilities, EPA believes that Florida has followed the \( \text{SO}_2 \) Guidance to develop adjustment factors that are appropriate for the sulfuric acid plant operation based on an analysis of facility data and to establish 24-hour emission limits that are protective of the NAAQS.

EPA disagrees with the Commenter’s contention that the 24-hour limits will result in hourly emissions increases that will not provide for compliance with the 1-hour NAAQS. EPA acknowledges the concern that occasional spikes of emissions above the CEV can occur when a longer-term limit is established. This concern has been addressed in the NPRM and TSD for this action (see pages 2–4 of the Longer Term Averaging TSD). Additionally, as discussed in the NPRM and the associated technical support documents, Florida provided a modeling analysis demonstrating that compliance with the 24-hour emissions limits provides for attainment of the 1-hour \( \text{SO}_2 \) NAAQS. EPA’s April 23, 2014 “Guidance for 1-hour \( \text{SO}_2 \)” Nonattainment Area SIP Submissions” allows States to establish permitted emissions limits with averaging times up to 30 days provided that the limits meet certain recommended criteria.

After careful review of these limits, Florida’s compliance demonstration, and the criteria recommended in the guidance document, EPA believes that the 24-hour emissions limits selected by the State require average emissions to be lower than the level that would otherwise have been required by 1-hour average limits and provide for attainment of the NAAQS. EPA also notes that the comment lacks information indicating that the 24-hour emissions limits would not result in compliance with the NAAQS.

Comment 2: The Commenter questions EPA’s preliminary determination that the combination of fencing and natural barriers (e.g., wetlands, canals, industrial ponds) are adequate to preclude public access to the area where receptors were excluded from the air quality modeling performed by Florida. The Commenter does not understand how EPA equates wetlands with a physical barrier and thus qualifies those areas to be exempted from the modeling. The Commenter mentions that Florida’s tourism industry involves airboat tours, that the boats used in those tours travel over marshes and swamps, and that EPA did not identify wetlands as a physical barrier in its draft “Revised Policy On Exclusions from ‘Ambient Air.’” The Commenter concludes by asserting that EPA should not approve this action until all ambient air areas are properly modeled.

Response 2: EPA disagrees with the Commenter’s assertion that adequate barriers do not exist to preclude public access within the ambient air boundary used in the modeling. Florida’s February 15, 2019, draft SIP submittal contains information supporting its finding that the combination of fencing and natural barriers are adequate to preclude public access to areas within the Mosaic New Wales property that were excluded from the modeling (i.e., the property area within the ambient air boundary), and EPA summarized this information in Section 1.4 of EPA’s Technical Support Document for the Air Quality Modeling Analysis (Modeling TSD) associated with the proposed rulemaking. When Florida submitted the draft SIP revision, Mosaic was in the process of installing additional fencing along the perimeter of the newly acquired land. In its October 9, 2019, final SIP submittal, Florida documents the completion of Mosaic’s fencing construction and provides 22 pages of additional information supporting the State’s conclusion that the combination of fencing and natural barriers in this specific instance is adequate to preclude public access to these areas of the source’s property. The submittal describes the natural barriers as densely vegetated ditches and canals with steep banks, forested and herbaceous wetlands, canals, industrial ponds) are adequate to preclude public access to the area where receptors were excluded from the air quality modeling performed by Florida. The Commenter does not understand how EPA equates wetlands with a physical barrier and thus qualifies those areas to be exempted from the modeling. The Commenter mentions that Florida’s tourism industry involves airboat tours, that the boats used in those tours travel over marshes and swamps, and that EPA did not identify wetlands as a physical barrier in its draft “Revised Policy On Exclusions from ‘Ambient Air.’” The Commenter concludes by asserting that EPA should not approve this action until all ambient air areas are properly modeled.

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airboats or other similar means of transport.

Regarding the Commenter’s reference to EPA’s November 2018 draft “Revised Policy On Exclusions from ‘Ambient Air’” and the claim that the document does not expressly mention wetlands, it first should be noted that natural barriers are physical barriers. The focus of the guidance was to communicate that, in addition to physical barriers addressed by the existing policy, non-physical barriers may be sufficient (by themselves or in combination with physical barriers) to preclude public access in some circumstances. EPA did not attempt to list in the guidance every type of acceptable barrier (whether a physical barrier or otherwise). Instead, the guidance provided examples of “non-physical” measures that may be effective in some circumstances to preclude public access to source property, other than by “fences and other physical barriers.” Moreover, the effectiveness of any natural physical obstruction in precluding public access, so that it may serve as an ambient air boundary, should be evaluated on a case-by-case basis due to the variability in circumstances among stationary sources.

EPA believes that Florida has provided sufficient information, including descriptions, maps, and photographs of the measures being relied upon, to support its conclusion that the combination of fencing and natural barriers effectively precludes public access from the areas within the source property that were excluded from the modeling demonstration. The Commenter did not provide any information supporting its position that the natural barriers in combination with fencing at the Mosaic New Wales facility are insufficient or that the affected wetlands are accessible to airboat tours or that other types of public access are allowed by the source or could in fact occur there.

Comment 3: The Commenter generally agrees with EPA’s proposed action, stating that it is encouraging to see Florida’s plan to limit SOx emissions at Mosaic New Wales and Bartow. The Commenter then argues that these businesses should face a hefty fine if they exceed the proposed SOx emissions limits, and if such exceedances become frequent the sources should have their business licenses suspended until they can show emissions that are consistent with the proposed limits.

Response 3: Actual SOx emissions at Mosaic New Wales and Bartow must remain below the permitted emissions limits identified by the Commenter. These limits are state-enforceable and are federally-enforceable through the SIP via this final action and through the title V permits for these facilities. As discussed in the NPRM, FDEP has an active compliance and enforcement program to address any violations of these emissions limits and has committed to verify compliance with these limits and with continued attainment of the SOx NAAQS in the Hillsborough-Polk Area using, among other things, emissions data from the mandatory annual operating reports submitted by these facilities. FDEP has also committed to undertake an aggressive follow-up for compliance and enforcement and to implement contingency measures within 18–24 months of non-compliance with the SOx emissions limits. EPA believes that these commitments and the enforcement authorities available to the Agency and to Florida are sufficient to address any violation of the SOx emissions limits at Mosaic New Wales and Bartow.

III. What are the effects of these actions?

Approval of the redesignation request changes the legal designation of the Hillsborough-Polk Area, found at 40 CFR 81.310, from nonattainment to attainment for the 2010 1-hour SOx NAAQS. Approval of Florida’s associated SIP revision also incorporates a plan into the SIP for maintaining the 2010 1-hour SOx NAAQS in the Hillsborough-Polk Area as described in the NPRM. The CAA section 175A maintenance plan also establishes contingency measures to remedy any future violations of the 2010 1-hour SOx NAAQS and procedures for evaluation of potential violations. The Hillsborough-Polk Area is required to implement this maintenance plan and the prevention of significant deterioration program for the 2010 1-hour SOx NAAQS. The approved maintenance plan can only be revised if the revision meets the requirements of CAA section 110(l) and, if applicable, CAA section 193. Approval of the redesignation request for the Mulberry Area changes the legal designation of this area from unclassifiable to attainment/unclassifiable for the 2010 1-hour SOx NAAQS. Finally, approval of the SIP revision incorporates into the SIP certain permitting conditions applicable to Mosaic New Wales and Bartow, making them permanent and federally enforceable.

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 into Florida’s SIP the following conditions from Air Permit No. 1050046–050–AC issued by FDEP to Mosaic Bartow with an effective date of July 3, 2017, related to an SOx permitted limit at the facility and associated compliance monitoring, recordkeeping, and reporting requirements: (1) Section III, Subsection A, Specific Condition 3 (as administratively corrected by Permit No. 1050046–063–AC with an effective date of January 11, 2019); (2) Section III, Subsection A, Specific Condition 4; and (3) Section III, Subsection A, Specific Condition 5. In accordance with requirements of 1 CFR 51.5, EPA is also finalizing the incorporation by reference into Florida’s SIP the following conditions from Air Permit No. 1050050–106–AC issued by FDEP to Mosaic New Wales with an effective date of October 30, 2017, related to an SOx permitted limit at the facility and associated compliance monitoring, recordkeeping, and reporting requirements: (1) Section III, Subsection A, Specific Condition 3 (as administratively corrected by Permit No. 1050050–114–AC with an effective date of January 11, 2019); (2) Section III, Subsection A, Specific Condition 4; and (3) Section III, Subsection A, Specific Condition 5. EPA is finalizing the incorporation by reference into Florida’s SIP the following conditions from Air Permit No. 1050046–050–AC issued by FDEP to Mosaic New Wales with an effective date of January 11, 2019; (2) Section III, Subsection A, Specific Condition 4; and (3) Section III, Subsection A, Specific Condition 5. EPA is also finalizing the incorporation by reference into Florida’s SIP the following conditions from Air Permit No. 1050050–106–AC issued by FDEP to Mosaic New Wales with an effective date of October 30, 2017, related to an SOx permitted limit at the facility and associated compliance monitoring, recordkeeping, and reporting requirements: (1) Section III, Subsection A, Specific Condition 3 (as administratively corrected by Permit No. 1050050–114–AC with an effective date of January 11, 2019); (2) Section III, Subsection A, Specific Condition 4; and (3) Section III, Subsection A, Specific Condition 5.

16 The final revised ambient air guidance was signed by the Administrator on December 2, 2019.

17 See the “Verification of Continued Attainment” section of the NPRM at 84 FR 47227–28.

18 See the “Contingency Measures in the Maintenance Plan” section of the NPRM at 84 FR 47228–29.

19 See Section VI of the NPRM for information regarding these permit conditions.

20 This provision states: “SOx Emissions Limit: The following emission limit applies to the Sulfuric Acid Plant (SAP) Nos. 4, 5 & 6: a. When all five SAPs are in operation within the same 24-hour block averaging period, a cap of 1,100 lb SOx/hour, 24-hour block average (6:00 a.m. to 6:00 a.m.) is applicable; and, b. The cap of 1,100 lb SOx/hour, 24-hour block average (6:00 a.m. to 6:00 a.m.) applies in scenarios when any combination of any number of the SAPs are not in operation and when any number of the SAPs are in operation. [Rules 62–4.030, General Prohibition, F.A.C.; Rule 62–4.210, Construction Permits, F.A.C.; Application No. 1050046–050–AC; and, Administrative Permit Correction Application No. 1050046–063–AC].”

21 This provision states: “Initial Compliance: These emission units shall use certified SOx CEMS data to demonstrate initial compliance with the new SOx emission limit. [Rules 62–4.070(14)(3), Reasonable Assurance, F.A.C.; and, Application No. 1050046–050–AC].”

22 This provision states: “Recordkeeping: The permittee shall keep records of the initial compliance demonstration. The records shall include the SOx CEMS data along with the sulfuric acid production rate (TPH, tons per hour) during the demonstration. Any reports shall be prepared in accordance with the applicable requirements specified in Appendix D (Common Testing Requirements) of this permit. [Rule 62–297.310(10), F.A.C.; and, Application No. 1050046–050–AC].”
date of January 11, 2019); 23 (2) Section III, Subsection A, Specific Condition 4; 24 and (3) Section III, Subsection A, Specific Condition 5. 25 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 in the next update to the SIP compilation. 26 EPA has determined, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the FOR FURTHER INFORMATION CONTACT section of this preamble for more information).

V. Final Actions

EPA is taking final actions regarding Florida’s request to redesignate the Hillsborough-Polk Area to attainment for the 2010 1-hour SO2 NAAQS and associated SIP revisions. EPA is determining that the Hillsborough-Polk Area has attained the 2010 1-hour SO2 NAAQS. EPA is also approving the SIP revision containing the State’s plan for maintaining attainment of the 2010 1-hour SO2 standard, the base-year emissions inventory for the Hillsborough-Polk Area, and a certification regarding NNSR. EPA is approving Florida’s redesignation request regarding the Hillsborough-Polk Area and redesignating this area to attainment for the 2010 1-hour SO2 NAAQS. EPA is also approving Florida’s redesignation request regarding the Mulberry Area and redesignating this area to attainment/unclassifiable for the 2010 1-hour SO2 NAAQS. Finally, EPA is incorporating the aforementioned permit conditions for Mosaic New Wales and Bartow into the SIP. As mentioned above, approval of the redesignation request changes the official designation of the Hillsborough-Polk Area from nonattainment to attainment and the Mulberry Area from unclassifiable to attainment/unclassifiable, as found in 40 CFR part 81.

VI. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E), as well as the redesignation of an area to attainment/unclassifiable, are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment or to attainment/unclassifiable does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. See 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, these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these actions:

• Are not significant regulatory actions 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);
• Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because they are not significant regulatory actions under Executive Order 12866;
• Do not impose information collection burdens under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
• Are 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.);
• Do not contain any unfunded mandate or significantly affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
• Do not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
• Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
• Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
• Are 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
• Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

These actions are 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 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 April 20, 2020. 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

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxide, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control.


Mary S. Walker, Regional Administrator, Region 4.

40 CFR parts 52 and 81 are 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.

EPA-APPROVED FLORIDA SOURCE-SPECIFIC REQUIREMENTS

<table>
<thead>
<tr>
<th>Name of source</th>
<th>Permit No.</th>
<th>State effective date</th>
<th>EPA approval date</th>
<th>Explanation</th>
</tr>
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<tbody>
<tr>
<td>Mosaic Fertilizer, LLC—Bartow Facility.</td>
<td>Air Permit No. 1050046–050–AC.</td>
<td>7/3/2017</td>
<td>2/20/2020 [Insert citation of publication].</td>
<td></td>
</tr>
<tr>
<td>Mosaic Fertilizer, LLC—New Wales Facility.</td>
<td>Air Permit No. 1050059–106–AC.</td>
<td>10/30/2017</td>
<td>2/20/2020 [Insert citation of publication].</td>
<td></td>
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EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

<table>
<thead>
<tr>
<th>Provision</th>
<th>State effective date</th>
<th>EPA approval date</th>
<th>Federal Register, notice</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010 1-hour SO$_2$ Maintenance Plan for the Hillsborough-Polk Area.</td>
<td>10/9/2019</td>
<td>2/20/2020</td>
<td>[Insert citation of publication].</td>
<td></td>
</tr>
</tbody>
</table>

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

FLORIDA—2010 SULFUR DIOXIDE NAAQS [Primary]

<table>
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<th>Designated area</th>
<th>Date</th>
<th>Type</th>
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<tr>
<td>Hillsborough-Polk County, FL</td>
<td>3/23/2020</td>
<td>Attainment.</td>
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FLORIDA—2010 SULFUR DIOXIDE NAAQS—Continued

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<th>Designated area</th>
<th>Designation</th>
<th>Date ¹</th>
<th>Type</th>
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<tbody>
<tr>
<td>Mulberry, FL</td>
<td>* * * *</td>
<td>3/23/20</td>
<td>Attainment/Unclassifiable.</td>
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<tr>
<td>Mulberry, FL Area⁴</td>
<td>* * * *</td>
<td>3/23/20</td>
<td>Attainment/Unclassifiable.</td>
</tr>
</tbody>
</table>

¹ This date is 4/9/2018, unless otherwise noted.

³ Includes any Indian country in each county or area, unless otherwise specified. The EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

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Environmental Protection Agency

40 CFR Part 62

[FR Doc. 2020–02606 Filed 2–19–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIROnMENTAL PROTECTION AGENCY

40 CFR Part 62

[FR Doc. 2020–02606 Filed 2–19–20; 8:45 am]

BILLING CODE 6560–50–P

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Delaware; Control of Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a Clean Air Act (CAA) section 111(d) plan submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC). This plan was submitted to fulfill the requirements of the CAA and in response to EPA’s promulgation of Emissions Guidelines and Compliance Times for Municipal Solid Waste Landfills. The Delaware plan establishes emission limits for existing MSW landfills, and provides for the implementation and enforcement of those limits.

DATES: This final rule is effective on March 23, 2020. The incorporation by reference of certain material listed in the rule is approved by the Director of the Federal Register as of March 23, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2019–0160. All documents in the docket are available on https://www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., 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 through https://www.regulations.gov or please contact the person identified in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Mike Gordon, Permits Branch (GAD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2039. Mr. Gordon can also be reached via electronic mail at gordon.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 2019 (84 FR 31279), EPA published a notice of proposed rulemaking (NPRM) for the State of Delaware. In the NPRM, EPA proposed approval of a Clean Air Act (CAA) section 111(d) plan submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC). The formal State Plan was submitted by Delaware on October 10, 2017.

II. Summary of State Plan and EPA Analysis

EPA has reviewed the Delaware section 111(d) plan submittal in the context of the requirements of 40 CFR part 60, subparts B and Cf, and part 62, subpart A. In this action, EPA is determining that the submitted section 111(d) plan meets the above-cited requirements. Included within the section 111(d) plan are regulations under the Delaware Administrative Code, specifically DE Admin. Code 1120 (Section 30), entitled “Standards of Performance for Municipal Solid Waste Landfills After July 11, 2017,” Section 30 of DE Admin. Code 1120, which is included in the Plan, applies to each municipal solid waste landfill, open or closed, that commenced construction, reconstruction, or modification after July 17, 2014 or that has accepted waste after November 8, 1987 or that has additional capacity available to accept waste. While Delaware has chosen to regulate new and existing landfills under the same State regulation, for purposes of this action, the Plan applies to any Delaware “designated facility,” which in the context of the Emissions Guidelines means each existing MSW landfill for which construction, reconstruction, or modification was commenced on or before July 17, 2014,