

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approval date	Explanations
2010 1-hour SO ₂ Maintenance Plan for the Kentucky Portion of the Campbell-Clermont, KY-OH Area.	Campbell County portion of Campbell-Clermont, KY-OH Nonattainment Area.	2/22/2016	3/10/2017	This includes the 172(c)(1) RACM determination and the 172(c)(3) base-year emissions inventory.

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.*

■ 4. In § 81.318, the table entitled “Kentucky-2010 Sulfur Dioxide NAAQS (Primary)” is amended under “Campbell-Clermont Counties, KY-OH:”

by revising the entries for “Campbell County (part)” to read as follows:

§ 81.318 Kentucky.

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KENTUCKY—2010 SULFUR DIOXIDE NAAQS
[Primary]

Designated area	Designation	
	Date	Type
Campbell-Clermont Counties, KY-OH: ¹ Campbell County (part). That portion of Campbell County which lies south and west of the Ohio River described as follows: Beginning at geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude (NAD 1983) on the edge of the Ohio River running southwesterly to KY Highway 1566; thence continuing running southwesterly along KY Highway 1566 to KY Highway 9 (AA Highway); thence running north westerly along KY Highway 9 (AA Highway) from Hwy 1566 to Interstate 275; thence running northeasterly along Interstate 275 to Highway 2345 (John’s Hill Road), Hwy 2345 to US–27, US–27 to I–275, I–275 to the Ohio River; thence running southeasterly along the Ohio River from Interstate 275 to geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude (NAD 1983).	3/10/2017	Attainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

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[FR Doc. 2017–04781 Filed 3–9–17; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2015–0842; FRL–9958–15–Region 5]

Air Plan Approval; Minnesota; Sulfur Dioxide; Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Minnesota sulfur dioxide (SO₂) and particulate matter of less than 10 microns (PM₁₀) State Implementation Plans (SIPs) as submitted on December 11, 2015. The revision will update the Rochester SO₂ and Olmsted County PM₁₀ maintenance plans to reflect changes in available controls, operating

practices, and cleaner fuel options that have resulted in significant reductions of SO₂ and PM₁₀ emissions in the maintenance areas. EPA will also approve the removal of existing title I SO₂ SIP conditions for six facilities from the SO₂ SIP, and the state’s evaluation that such changes ensure continued attainment of the SO₂ National Ambient Air Quality Standards (NAAQS).

DATES: This direct final rule will be effective May 9, 2017, unless EPA receives adverse comments by April 10, 2017. 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–2015–0842 at <http://www.regulations.gov> or via email to blakley.pamela@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of

submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Control Strategies

Section, Air Programs Branch (AR-18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061, *acevedo.francisco@epa.gov*.

SUPPLEMENTARY INFORMATION:

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

- I. What is the background for this action?
 - A. Rochester SO₂ Maintenance Plan
 - B. Olmsted County PM₁₀ Maintenance Plan
- II. What changes have been made as part of the SIP revision?
- III. What is EPA’s analysis of the State’s submittal?
- IV. What action is EPA taking?
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

I. What is the background for this action?

A. Rochester SO₂ Maintenance Plan

A maintenance area is an area which at one time failed to meet one or more NAAQS, but is now in compliance and has an EPA approved plan for continued attainment. The City of Rochester was originally designated nonattainment for SO₂ on March 3, 1978 (43 FR 8962). On July 14, 1980, the Minnesota Pollution Control Agency (MPCA) submitted its original SO₂ SIP for the City of Rochester, which EPA approved on April 8, 1981 (46 FR 20996). The passage of the Clean Air Act (CAA) Amendments of 1990 mandated additional requirements for nonattainment area SIPs, and the MPCA worked with sources in the Rochester SO₂ nonattainment area to revise and update permits and develop dispersion modeling analyses to ensure attainment of the SO₂ NAAQS. In 1998, the MPCA submitted a SIP revision and

redesignation request for the City of Rochester seeking a designation of attainment for the SO₂ NAAQS. This SIP revision included air quality permits for seven facilities in Rochester: Rochester Public Utilities (RPU) Silver Lake Plant (Silver Lake); RPU Cascade Creek Combustion Turbine (Cascade Creek); Associated Milk Producers; St. Mary’s Hospital (St. Mary’s); Olmsted Waste-to-Energy Facility (Olmsted WTE); Franklin Heating Station (Mayo); and IBM. Only the portions of the permits cited as title I SIP conditions for SO₂ were incorporated into the SIP.¹ The SIP also included modeling data demonstrating that the applicable areas in the City of Rochester had achieved and would maintain attainment of the SO₂ NAAQS with the control measures in the SIP. Ambient air monitoring results included in the 1998 redesignation request, actually demonstrated that the area had maintained the SO₂ NAAQS since 1979. The EPA approved the SO₂ attainment demonstration and maintenance plan SIP revision and redesignation request for the City of Rochester on May 8, 2001 (66 FR 14087).

Since the City of Rochester’s redesignation to attainment, the seven facilities in the area have all considerably reduced their emissions of SO₂. The emissions reductions reflect changes in available controls, operating practices, and cleaner fuel options. On December 11, 2015, MPCA submitted to EPA a revision to the Rochester SO₂ SIP updating the Rochester SO₂ plan to reflect these changed conditions and reduced SO₂ emissions. The SIP revision specifically updates title I SO₂ SIP conditions for the RPU Silver Lake Plant, reflecting the facility’s recent

decommissioning of its coal-fired equipment and fuel switch to natural gas. The incorporation of these revised title I SO₂ SIP conditions alone, ensures enough SO₂ emissions reductions to offset the removal of the other six facilities from the SIP, and provide continued attainment of the SO₂ NAAQS. These facilities will continue to be regulated by the MPCA via its air quality permitting program.

B. Olmsted County PM₁₀ Maintenance Plan

The MPCA also seeks to update the SIP conditions associated with the Olmsted County maintenance area for the 1987 PM₁₀ NAAQS. The RPU Silver Lake Plant is the sole source in the Olmsted County PM₁₀ maintenance area, which was redesignated to attainment July 31, 1995. (60 FR 28339) The SIP revision and associated permit action for the RPU Silver Lake Plant will update title I PM₁₀ SIP conditions, similar to those for SO₂, reflecting the facility’s fuel switch from coal to natural gas and will result in significant decrease in SIP-authorized PM₁₀ emissions from the facility.

II. What changes have been made as part of the SIP revision?

Since the City of Rochester’s redesignation to attainment in 2001, facilities in the SIP have reduced SO₂ emissions well beyond the levels of control envisioned when the maintenance plan SIP was approved. The EPA-approved SIP currently authorizes up to 10,535.4 tons per year (tpy) of SO₂ from all seven facilities. However, in 2014, the seven sources together emitted approximately 58.255 tons of SO₂. (See Table 1)

TABLE 1—ROCHESTER SIP (ACTUAL) SO₂ EMISSIONS 2014

Facility name	SIP approved permit No.	2014 SO ₂ emissions (tons)
Associated Milk Producers	10900010-001	0.07
Franklin Heating Station (SIP requirements are in Mayo Medical Clinic Rochester 10900084)	1148-83-OT-1 [10900019]	12.65
IBM	10900006-001	0.07
Olmsted Waste-to-Energy Facility	10900005-002	9.91
Rochester Public Utilities—Cascade Creek	10900020-003	0.17

¹ In 1995, EPA approved into the Minnesota SIP Minnesota’s consolidated permitting regulations. (60 FR 21447, May 2, 1995). The consolidated permitting regulations included 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, in part, as “any condition based on source specific determination of ambient impacts imposed for the purpose of achieving or maintaining attainment with a national ambient air quality standards and which was part of a [SIP] approved by the EPA or

submitted to the EPA pending approval under section 110 of the act. . . .” MINN. R. 7007.1011 (2013). The regulations also state 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.” MINN. R. 7007.0450 (2007). Minnesota has initiated using the joint Title I/Title V document as the enforceable document for imposing emission

limitations and compliance requirements in SIPs. The SIP requirements in the joint Title I/Title V document 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 Title I and Title V of the Clean Air Act (CAA) (July 3, 1997 letter from David Kee, EPA, to Michael J. Sandusky, MPCA).

TABLE 1—ROCHESTER SIP (ACTUAL) SO₂ EMISSIONS 2014—Continued

Facility name	SIP approved permit No.	2014 SO ₂ emissions (tons)
Rochester Public Utilities—Silver Lake	10900011–004	0.005
St. Mary's Hospital	10900008–003	35.38
Total	58.255

The change in operations at RPU Silver Lake has been the most significant contributor to reduced SO₂ emissions in the City of Rochester. RPU Silver Lake was previously a 100-megawatt, coal-fired generating facility. Changes affecting energy generation nationwide, including coal prices, EPA requirements, and reduced energy demand, resulted in a 2012 decision by RPU to decommission the Silver Lake Plant as an energy generating unit. As of June 1, 2015, RPU Silver Lake is a steam-producing facility providing a contracted amount of steam to the Mayo Clinic campus for cogeneration needs. The fuel burned for steam production in the boilers is natural gas. In light of these emissions and operational changes, the MPCA analyzed options for reducing facility-specific SIP requirements in the City of Rochester maintenance area. The MPCA determined that title I SO₂ SIP permit conditions addressing the changed operations at RPU Silver Lake are stringent enough to ensure NAAQS compliance without continued inclusion of title I SO₂ SIP conditions for other facilities in the City of Rochester. For this reason, the MPCA is requesting that EPA approve a revision to Minnesota's SO₂ SIP for the City of Rochester, incorporating updated title I SO₂ SIP and certain PM₁₀ SIP conditions for RPU Silver Lake and removing from the SIP all title I SO₂ SIP conditions associated with RPU Cascade Creek, Associated Milk Producers, St. Mary's, Olmsted WTE, Mayo, and IBM.

The previous RPU Silver Lake permit (No. 10900011–004) contained SIP requirements necessary to ensure compliance with SO₂ and PM₁₀ NAAQS, and was approved into the SIP at 40 CFR 52.1220 on September 7, 2007. The most recent Major Amendment (DQ #5197) incorporates changes in operation and classification of the facility. Silver Lake was previously permitted to operate all four boilers (EU001–EU004) on coal and/or other fuels. The boilers were used for electrical generation and steam service. The facility ceased coal firing permanently in 2013. Two of the boilers (EU001 and EU004) have ceased

operation and were officially retired at the end of 2015. Silver Lake will no longer produce electricity for sale and will operate its remaining units on natural gas only. Due to these changes, the MPCA seeks to remove all existing SO₂ SIP requirements from the Silver Lake permit and certain PM₁₀ SIP requirements pertaining to coal-fired operations, and add new title I SIP conditions authorizing only natural gas as an acceptable fuel at the remaining boilers. Once approved by EPA, the SIP-allowable potential-to-emit (PTE) for Silver Lake will go from 6,220 tpy to 1.12 tpy of SO₂ and from 2,060 tpy to 14.2 tpy of PM₁₀. No construction or emissions increases are authorized by the permit action. The RPU Silver Lake permit (No. 10900011–005) was finalized and issued on November 25, 2015.

The MPCA also seeks to remove from the City of Rochester SO₂ maintenance SIP all incorporated title I SO₂ SIP conditions from 40 CFR part 52 subpart Y (52.1220) associated with the following facilities: RPU Cascade Creek (No. 10900020–003), Associated Milk Producers (No. 10900010–001), St. Mary's (No. 10900008–003), Olmsted WTE (No. 10900005–002), Mayo (No. 1148–83–OT–1 [10900019]), and IBM (No. 10900006–001).

III. What is EPA's analysis of the State's submittal?

Our primary consideration for determining the approvability of the Minnesota's revision to the Rochester SO₂ and Olmsted County PM₁₀ maintenance plans in the SIP is whether these revisions comply with section 110(l) of the CAA. Section 110(l) of the CAA provides that EPA cannot approve a SIP revision if that revision interferes with any applicable requirement regarding attainment and reasonable further progress or any other requirement established in the CAA.

The EPA can, however, approve a SIP revision that removes or modifies control measures in the SIP once the state makes a "noninterference" demonstration that such removal or modification will not interfere with attainment of the NAAQS, or any other

CAA requirement. Minnesota has evaluated the impacts of approving these revisions.

The current, SIP-limited PTE in the City of Rochester SO₂ maintenance area is 10,469.7 tpy. Table 2 shows the SIP-authorized PTE for the SIP facilities, as well as the unrestricted PTEs for the facilities proposed for removal. RPU Silver Lake is already operating in the capacity proposed for SIP approval (natural gas is currently approved as an allowable fuel in the SIP, and the facility is firing its two remaining boilers with natural gas), and as a result SO₂ emissions have dropped considerably. Emissions of SO₂ from 2013, the last year the RPU Silver Lake facility burned coal, were 554 tons; emissions from 2014 were less than 0.01 ton. Upon approval by EPA of the SIP revision and associated title I SO₂ SIP conditions, the facility's PTE will drop from 6,220 tpy SO₂ to 1.12 tpy SO₂.

A reduction of this magnitude (6218.88 tpy) more than offsets the amount of SIP-limited inventory from all other Rochester SIP facilities, with the current total SIP-limited PTE from all other SO₂ SIP sources totaling 4315.4 tpy. It is extremely unlikely that any of the remaining SIP facilities (or any facility in the City of Rochester) would ever seek to increase emissions to a level approaching that of the reduction resulting from the operational changes and SIP revision for RPU Silver Lake, even without title I SIP conditions included in their permits. Any facility seeking an increase in SO₂ emissions reduced by RPU Silver Lake, would trigger Prevention of Significant Deterioration (PSD) requirements, presumably including modeling, ensuring protection of the NAAQS. Additionally, though an anti-backsliding demonstration must only ensure that the emissions reductions provided by the SIP revision are equivalent or greater to the emissions reductions originally provided by control being modified, *i.e.*, account for the "SIP-creditable" emissions reductions, Table I also shows that even the facilities' unrestricted PTE would not exceed the current SIP-limited

emissions inventory. In effect, it is not possible for the facilities to emit more SO₂ than is currently approved by the

SIP. As noted in Table 1, in 2014 the seven current SIP sources together emitted approximately 58 tons of SO₂,

with St. Mary's having the highest emissions of the seven, at just over 35 tons.

TABLE 2—ROCHESTER SIP POTENTIAL TO EMIT: SIP APPROVED AND UNRESTRICTED

Facility name	SIP approved permit No.	Current SIP-approved SO ₂ PTE (tpy)	Unrestricted SO ₂ PTE (tpy)
Associated Milk Producers	10900010-001	83.4	1,452
Franklin Heating Station (SIP requirements are in Mayo Medical Clinic Rochester 10900084).	1148-83-OT-1 [10900019]	3,867	3,947
IBM	10900006-001	99.0	425.2
Olmsted Waste-to-Energy Facility	10900005-002	102.3	137.2
Rochester Public Utilities—Cascade Creek	10900020-003	98.0	405
Rochester Public Utilities—Silver Lake	10900011-004	6,220	1.12 (facility remains in the SIP with new SIP-approved PTE).
St. Mary's Hospital	10900008-003	65.7	738.8
Total	10,535.4	7,106.32

The emissions demonstration above shows that emissions reductions from RPU Silver Lake are sufficient to ensure that the original SIP attainment/maintenance emissions inventory will not be exceeded by the facilities proposed for removal even operating at unrestricted PTE levels. The facilities proposed for removal from the Rochester SO₂ SIP however, will not operate at unrestricted PTE levels and will remain under the purview of the MPCA air quality permitting program, and as such, will be regulated at the state level. The NAAQS are an applicable requirement for all air emissions permits in Minnesota, and the MPCA maintains the authority in Minn. R. 7007.0500, subp. 1(E) and subp. 2(E), and 7007.0800, to require demonstrations of NAAQS compliance through permit actions.

Further, the facilities proposed for removal from the SIP have continued to reduce SO₂ emissions through the availability of cleaner fuels and efficiency improvements not required by the SIP. For example, IBM is constructing newer, more efficient boilers to replace certain boilers authorized under the SIP. This change will reduce their total facility limited PTE to 5.89 tpy SO₂. Additionally, Mayo has been authorized to use No. 6 fuel oil as a back-up fuel when natural gas was not available for three boilers; they now use No. 2 fuel oil as a backup for these boilers. The MPCA is currently processing a permit action to incorporate these changes, which will result in a new PTE of less than 127 tpy of SO₂—a significant reduction from their current SIP-authorized PTE of 3,867 tpy.

The SIP revision will result in an overall decrease of SIP-authorized

emissions in the City of Rochester Maintenance area, and the most recent emission inventory data shows that actual emissions from the existing SIP sources are significantly lower than the SIP-authorized limits. This information, combined with the most recently available monitoring data² for the City of Rochester show that the SIP revision will not jeopardize continued attainment of the annual, 24-hour, and 3-hour SO₂ NAAQS addressed in the existing maintenance SIP, nor will it threaten attainment of the 2010 one-hour SO₂ NAAQS. The SIP revision will also result in a reduction of PM₁₀ emissions in the existing PM₁₀ maintenance SIP, thereby ensuring continued maintenance of the PM₁₀ NAAQS.

EPA also examined whether the changes outlined in the SIP revision have interfered with attainment of other air quality standards. The City of Rochester is designated attainment for all other standards including ozone and nitrogen dioxide. EPA has no reason to believe that Minnesota's revision to the Rochester SO₂ and Olmsted County PM₁₀ maintenance plans have caused or will cause the Rochester area to become nonattainment for any of these pollutants. In addition, EPA believes that the approval of Minnesota's revision to the Rochester SO₂ and Olmsted County PM₁₀ maintenance plans will not interfere with the area's

² In 2014, an SO₂ monitor was installed in the City of Rochester (EPA Air Quality System, or AQS no. 271-095-008). Monitoring data from 2014 captures the operational changes at RPU Silver Lake, and is generally reflective of the expected continued operation of the other SIP facilities in the City of Rochester. The low ambient air concentrations of SO₂ captured by the monitor indicate that the area is not likely to exceed any of the existing SO₂ NAAQS.

ability to meet any other CAA requirement. Based on the above discussion and the state's 110(l) demonstration, EPA believes that the updates to the Rochester SO₂ and Olmsted County PM₁₀ maintenance plans will not interfere with attainment or maintenance of any of the NAAQS in the Rochester, MN area and would not interfere with any other applicable requirement of the CAA, and thus, is approvable under CAA section 110(l).

IV. What action is EPA taking?

EPA is approving a revision to the Rochester SO₂ and Olmsted County PM₁₀ SIPs, as submitted by MPCA on December 11, 2015. The revision will consolidate existing permanent and enforceable SO₂ and PM₁₀ SIP conditions into the RPU Silver Lake facility's joint title I/title V SIP document. In addition, the revision will simultaneously remove all existing title I SIP conditions from the remaining six facilities (RPU Cascade Creek, Associated Milk Producers, St. Mary's, Olmsted WTE, Mayo, and IBM) from the Rochester 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 May 9, 2017 without further notice unless we receive relevant adverse written comments by April 10, 2017. 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. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective May 9, 2017.

V. 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. 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.³ 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).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive 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 CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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 May 9, 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. 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, Sulfur oxides, Particulate matter.

Dated: December 29, 2016.

Robert Kaplan,

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 (d) is amended by:

■ i. Removing the entries for "Associated Milk Producers" (10900010-001), "Franklin Heating Station" (1148-83-OT-1 [10900019]), "International Business Machine Corp., IBM—Rochester" (10900006-001), "Olmsted County, Olmsted Waste-to-Energy Facility" (10900005-002), "Rochester Public Utilities, Cascade Creek Combustion" (10900020-003), and "St. Mary's Hospital" (10900008-003).

■ ii. Revising the entry for "Rochester Public Utilities, Silver Lake Plant" to read as follows:

³ 62 FR 27968 (May 22, 1997).

§ 52.1220 Identification of plan.

(d) * * *

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EPA—APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of source	Permit No.	State effective date	EPA approval date	Comments
Rochester Public Utilities, Silver Lake Plant.	10900011-005	11/25/15	3/10/17, [Insert Federal Register citation].	Only conditions cited as "Title I Condition: 40 CFR Section 50.4, SO ₂ SIP; Title I Condition: 40 CFR pt. 52, subp. Y" and "Title I Condition: 40 CFR Section 50.6, PM ₁₀ SIP; Title I Condition: 40 CFR pt. 52, subp. Y".

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 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0399; FRL-9958-11-Region 9]

Air Plan Approval; Nevada, Lake Tahoe; Second 10-Year Carbon Monoxide Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a state implementation plan (SIP) revision submitted by the State of Nevada ("State"). On April 3, 2012, the State of Nevada submitted to the EPA a second 10-year limited maintenance plan (LMP) for the Lake Tahoe Nevada Area ("Area") for the carbon monoxide (CO) national ambient air quality standards (NAAQS or "standards"). This LMP addresses maintenance of the CO NAAQS for a second 10-year period beyond the original 10-year maintenance period. On August 26, 2016, the State amended the 2012 submittal with a supplemental SIP submittal ("2016 supplement" or "supplement"). The EPA is also approving the 2011 emissions inventory, the 2024 projected emissions inventory and the revised alternative monitoring strategy included with the 2016 supplement. We are taking these actions under the Clean Air Act (CAA or "Act").

DATES: This rule is effective on May 9, 2017 without further notice, unless the EPA receives adverse comments by

April 10, 2017. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2015-0399 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: John Kelly, Planning Office (Air-2), Air Division, Region IX, Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105, (415) 947-4151, kelly.johnj@epa.gov.

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

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I. Background

A. Lake Tahoe Nevada Area's CO Limited Maintenance Plan

Under the CAA Amendments of 1990, the Lake Tahoe Nevada Area was designated as nonattainment and classified as a "not classified" CO area. This was because the Area had been designated as nonattainment before November 15, 1990, the date of enactment, but had not violated the CO NAAQS in 1988 and 1989, prior to enactment. See 56 FR 56694 (November 6, 1991). On October 27, 2003, the State of Nevada submitted a request to the EPA to redesignate the Area from nonattainment to attainment for the CO NAAQS. Along with this request, the State submitted a CAA section 175A(a) LMP that demonstrated that the Area would maintain the CO NAAQS for 10 years following our approval of the redesignation request. A LMP is an option whereby an area's maintenance demonstration is considered to be satisfied for "not classified" areas if the monitoring data show the design value is at or below 7.65 parts per million (ppm), or 85 percent of the level of the 8-hour CO NAAQS.¹ We approved the

¹ See the EPA guidance memorandum, "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas," from Joseph Paisie, Group Leader, Integrated Policy and Strategies Group, Office of Air Quality Planning and Standards (OAQPS), to Air Branch Chiefs, October 6, 1995