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[FR Doc. 01-5852 Filed 3-8-01; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[MN61-01-7286a; MN62-01-7287a; FRL-6901-1]

**Approval and Promulgation of Implementation Plans; Minnesota Designation of Areas for Air Quality Planning Purposes; Minnesota****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency is approving a State Implementation Plan (SIP) revision for Olmsted County, Minnesota, for the control of sulfur dioxide (SO<sub>2</sub>) emissions in the city of Rochester. EPA is also approving a request to redesignate the Rochester nonattainment area to attainment of the SO<sub>2</sub> National Ambient Air Quality Standards (NAAQS). In conjunction with these actions, EPA is also approving the maintenance plan for the city of Rochester, Olmsted County nonattainment area, which was submitted to ensure that attainment of the NAAQS will be maintained. The SIP revision, redesignation request and maintenance plan were submitted by the Minnesota Pollution Control Agency (MPCA) on November 4, 1998, and are approvable because they satisfy the requirements of the Clean Air Act (Act). The rationale for the approval and other information are provided in this notice.

**DATES:** This action is effective on May 8, 2001 without further notice, unless EPA receives relevant adverse comments by April 9, 2001. 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:** Written comments may be mailed to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the documents relevant to this action are available for inspection during normal business hours at the above address. (Please telephone Christos Panos at (312) 353-8328, before visiting the Region 5 office.)

**FOR FURTHER INFORMATION CONTACT:**

Christos Panos, Regulation Development Section, Air Programs Branch (AR-18J), Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328.

**SUPPLEMENTARY INFORMATION:** This supplemental information section is organized as follows:

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**I. General Information****1. What Action Is EPA Taking Today?**

In this action, EPA is approving into the Minnesota SO<sub>2</sub> SIP for the city of Rochester, Olmsted County, certain portions of the five permits and two permit amendments that MPCA submitted to EPA as a SIP revision. Specifically, EPA is only approving into the SIP those portions of the permits cited as "Title I condition: State Implementation Plan for SO<sub>2</sub>." EPA is also approving the SO<sub>2</sub> redesignation request submitted by the State of Minnesota for Olmsted County to redesignate the Rochester SO<sub>2</sub> nonattainment area to attainment of the SO<sub>2</sub> NAAQS. Finally, EPA is approving the maintenance plan submitted for this area.

**2. Why Is EPA Taking This Action?**

EPA is taking this action because the state's submittal for the Rochester SO<sub>2</sub> nonattainment area is fully approvable. The SIP revision provides for attainment and maintenance of the SO<sub>2</sub> NAAQS and satisfies the requirements of part D of the Act applicable to SO<sub>2</sub> nonattainment areas. Further, EPA is approving the maintenance plan and redesignating the Rochester SO<sub>2</sub> nonattainment area to attainment because the state has met the redesignation and maintenance plan

requirements of the Act. A more detailed explanation of how the state's submittal meets these requirements is contained in EPA's July 28, 2000 Technical Support Document (TSD).

**II. Background on Minnesota Submittal****1. What Is the Background for This Action?**

On March 3, 1978, at 43 FR 8962, EPA designated the city of Rochester as a primary SO<sub>2</sub> nonattainment area based on monitored violations of the primary SO<sub>2</sub> NAAQS in the area between 1975 and 1977. EPA approved an SO<sub>2</sub> SIP revision for the city of Rochester on April 8, 1981 (46 FR 20996), consisting of an SO<sub>2</sub> control plan and emission limitations contained in operating permits for Rochester Public Utilities—Silver Lake Plant, Rochester Public Utilities—Broadway Plant, Rochester State Hospital, and Associated Milk Producers.

On July 8, 1985 (50 FR 27892), EPA promulgated a Good Engineering Practice stack height rule that resulted in a July 31, 1986 revision and a subsequent July 31, 1989 modification to the Rochester SO<sub>2</sub> SIP. In these submittals the MPCA requested EPA approval of new permit conditions for the facilities previously included in the SO<sub>2</sub> SIP and redesignation of the city of Rochester to attainment for SO<sub>2</sub>. Approval of the Part D plan for Olmsted County was delayed pending the passage of the 1990 Amendments to the Act. EPA determined, however, that the 1989 submittal did not supply sufficient information to allow EPA to consider redesignating the Rochester SO<sub>2</sub> area to attainment.

The state informed EPA in a letter dated February 24, 1992, that it was in the process of revising several SIP submittals and redesignation requests and was therefore withdrawing them from EPA review. This included the SO<sub>2</sub> SIP and redesignation requests for Rochester submitted in 1986 and 1989.

**2. What Information Did Minnesota Submit, and What Were Its Requests?**

The SIP revision submitted by MPCA on November 4, 1998, consists of five permits and two permit amendments issued to the following facilities: Rochester Public Utilities—Silver Lake Plant, Rochester Public Utilities—Cascade Creek Combustion Turbine, Associated Milk Producers, St. Mary's Hospital, Olmsted Waste-to-Energy Facility, Franklin Heating Station, and IBM. The Rochester Public Utilities—Broadway Plant, and the three boilers at the Rochester State Hospital that were part of the 1981 SIP, no longer exist.

The state has requested that EPA approve the following:

(1) the removal from the Rochester SO<sub>2</sub> SIP of all emission limits and other conditions approved in the 1981 SIP related to the Rochester Public Utilities Broadway Plant, since this facility no longer exists;

(2) the removal from the Rochester SO<sub>2</sub> SIP of all emission limits and other conditions approved in the 1981 SIP related to the Rochester State Hospital, since the boilers that were part of the approved SIP no longer exist; and,

(3) the inclusion into the Rochester SO<sub>2</sub> SIP only the portions of the permits cited as "Title I condition: State Implementation Plan for SO<sub>2</sub>."

### 3. What Is a "Title I Condition?"

SIP control measures were contained in permits issued to culpable sources in Minnesota until 1990 when EPA determined that limits in state-issued permits are not federally enforceable because the permits expire. The state then issued permanent Administrative Orders to culpable sources in nonattainment areas from 1991 to February of 1996.

Minnesota's Title V permitting rule, approved into the state SIP on May 2, 1995 (60 FR 21447), includes the term "Title I condition" which was written, in part, to satisfy EPA requirements that SIP control measures remain permanent. A "Title I condition" is defined as "any condition based on source-specific determination of ambient impacts imposed for the purposes of achieving or maintaining attainment with the national ambient air quality standard and which was part of the state implementation plan approved by EPA or submitted to the EPA pending approval under section 110 of the act \* \* \*". The rule also states that "Title I conditions and the permittee's obligation to comply with them, shall not expire, regardless of the expiration of the other conditions of the permit." Further, "any title I condition shall remain in effect without regard to permit expiration or reissuance, and shall be restated in the reissued permit."

Minnesota has since resumed using permits as the enforceable document for imposing emission limitations and compliance requirements in SIPs. The SIP requirements in the permits submitted by MPCA are cited as "Title I condition: State Implementation Plan for SO<sub>2</sub>," therefore assuring that the SIP requirements will remain permanent and enforceable. In addition, EPA has found the state's procedure for using permits to implement site-specific SIP requirements to be acceptable. The MPCA has committed to using this

procedure if the Title I SIP conditions in the permits included in the Rochester SO<sub>2</sub> SIP submittal need to be revised in the future.

## III. State Implementation Plan Approval

### 1. What Requirements Do SO<sub>2</sub> Nonattainment Areas Have To Meet?

The part D SIP requirements for SO<sub>2</sub> nonattainment areas are contained in section 172(c) of the Act, and pertain to: Reasonably Available Control Measures; Reasonable Further Progress; Inventory; Identification and Quantification; Permits for New and Modified Major Stationary Sources; Other Measures; Compliance with section 110(a)(2); Equivalent Techniques; and, Contingency Measures.

### 2. How Does the State's SIP Revision Meet the Requirements of the Act?

With this submission, Minnesota will have a fully approvable SO<sub>2</sub> SIP. As described below, Minnesota's submitted revision to its SO<sub>2</sub> SIP for the Rochester nonattainment area, fully complies with the part D requirements, as set forth in section 172(c) of the Act.

A. *Reasonably Available Control Measures (RACM)*. The plan complies with the requirements to implement RACM by providing for immediate attainment of the SO<sub>2</sub> NAAQS through the emission limits and operating restrictions imposed on the culpable sources by their permits.

B. *Reasonable Further Progress*. Reasonable further progress is achieved due to the immediate effect of the emission limits required by the plan.

C. *Inventory*. An inventory of the SO<sub>2</sub> emissions in the Rochester nonattainment area was provided by the state and has been found to be acceptable.

D. *Identification and Quantification*. This information is unnecessary because the area has not been identified as a zone for which economic development should be targeted.

E. *Permits for New and Modified Major Stationary Sources*. Any new or modified sources constructed in the area must comply with a state submitted and federally approved New Source Review program. Minnesota's Offset Rule (Minn. R. 7007.4000-4030) contains the state's federally approved program. (See 59 FR 21939).

F. *Other Measures*. The plan provides for immediate attainment of the SO<sub>2</sub> NAAQS through the emission limitations, operating requirements, and compliance schedules that are set forth within the permits.

G. *Compliance with section 110(a)(2)*. This submission complies with section

110(a)(2). All of the applicable provisions of section 110(a)(2) are already required by the statutory provisions discussed in this plan, or they have already been met by Minnesota's original 1971 SIP submission to the EPA.

H. *Equivalent Techniques*. The modeling for this SIP submittal was conducted using EPA's "Guideline on Air Quality Models (Revised)." No equivalent techniques were used for modeling, emission inventory, or planning procedures.

I. *Contingency Measures*. Section 172(c)(9) of the CAA defines contingency measures as measures in a SIP which are to be implemented if an area fails to make RFP or fails to attain the NAAQS by the applicable attainment date and shall consist of other control measures that are not included in the control strategy. However, the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, (57 FR 13498), states that SO<sub>2</sub> measures present special considerations because they are based upon what is necessary to attain the NAAQS. Because SO<sub>2</sub> control measures are well established and understood, they are far less prone to uncertainty. It would be unlikely for an area to implement the necessary emissions control yet fail to attain the SO<sub>2</sub> NAAQS. Therefore, for SO<sub>2</sub> programs, contingency measures mean that the state agency has the ability to identify sources of violations of the SO<sub>2</sub> NAAQS and to undertake an aggressive follow-up for compliance and enforcement. The MPCA has the necessary enforcement and compliance programs, as well as the means to identify violators, thus satisfying the contingency measures requirement.

## IV. Redesignation Evaluation

### 1. What Are the Criteria Used To Review Redesignation Requests?

Section 107(d)(3)(E) of the Act establishes the requirements to be met before an area may be redesignated from nonattainment to attainment. Approvable redesignation requests must meet the following conditions: the area has attained the applicable NAAQS; the area has a fully approved SIP under section 110(k) of the Act; the air quality improvement in the area is due to permanent and enforceable emission reductions; the maintenance plan for the area has met all the requirements of section 175A of the Act; and, the state has met all the requirements applicable to the area under section 110 and part D of the Act.

## 2. How Are These Criteria Satisfied for the City of Rochester?

A. *Demonstrated Attainment of the NAAQS.* Minnesota's submittal includes ambient air monitoring data showing that there have been no exceedances of the SO<sub>2</sub> NAAQS in the city of Rochester since 1979.

Dispersion modeling is commonly used to demonstrate attainment of the SO<sub>2</sub> NAAQS. The state's modeling analysis was initially submitted in 1986 and last updated in 1998. The modeling demonstrates that, under all the operating scenarios allowed for in the SIP, the SO<sub>2</sub> emission limits for the culpable sources in the Rochester area are adequate to show attainment and maintenance of the SO<sub>2</sub> standards. A more detailed discussion of the modeling evaluation is included in appendix A of the TSD.

B. *Fully Approved SIP.* The SIP for the area must be fully approved under section 110(k) of the Act and must satisfy all requirements that apply. The SIP revision included as part of the state's submittal meets the part D requirements of the Act, as discussed in other sections of this rulemaking. Therefore, both the SIP revision and the redesignation request for Olmsted County comply with the section 110(k) requirements of the Act.

C. *Permanent and Enforceable Reductions in Emissions.* The city of Rochester was designated nonattainment of the SO<sub>2</sub> NAAQS based on violations that occurred between 1975 and 1977. Air quality improvement in the Rochester SO<sub>2</sub> nonattainment area is attributed to SO<sub>2</sub> emission limits and operating restrictions imposed on the facilities that contribute to the nonattainment status in Rochester. These limits are permanent and enforceable by means of non-expiring Title I conditions set forth in the state permits. Emissions from these sources were modeled with all the control measures in place. The data submitted by the state shows modeled attainment of the SO<sub>2</sub> NAAQS in the city of Rochester.

D. *Fully Approved Maintenance Plan.* EPA has concluded that the SO<sub>2</sub> emissions limitations contained in the plan submitted by the state will assure maintenance of the SO<sub>2</sub> standards. EPA is approving the maintenance plan in today's action as discussed below.

E. *Part D and Other Section 110 Requirements.* Section 107(d)(3)(E)(v) of the Act states that the Administrator may not redesignate an area to attainment unless the area has met the applicable requirements under section 110 and part D. The requirements under

section 110 and part D are met with the approval of the SIP revision submitted simultaneously with this redesignation request.

## V. Maintenance Plan

### *What Are the Maintenance Plan Requirements?*

Section 175A of the Act requires states to submit a SIP revision which provides for the maintenance of the NAAQS in the area for at least 10 years after approval of the redesignation. Consistent with the Act's requirements, EPA developed procedures for redesignation of nonattainment areas that are contained in a September 4, 1992, memorandum from John Calcagni, EPA, titled, "Procedures for Processing Requests to Redesignate Areas to Attainment." This EPA guidance document contains a number of maintenance plan provisions that a state should consider before it can request a change in designation for a federally designated nonattainment area. The basic components needed to ensure proper maintenance of the NAAQS are: attainment inventory, maintenance demonstration, verification of continued attainment, ambient air monitoring network, and a contingency plan.

A. *Attainment Inventory.* The air dispersion modeling included in the state's submittal contains the emission inventory of SO<sub>2</sub> sources for the city of Rochester.

B. *Maintenance Demonstration and Verification of Continued Attainment.* Operating permits were issued to seven culpable sources in the city of Rochester. Results from the modeling were used for establishing the SO<sub>2</sub> emissions limits in the permits. Conditions cited as "Title I condition" in the permits do not expire and automatically become part of any reissued permit, therefore providing for maintenance of the SO<sub>2</sub> NAAQS for at least 10 years.

The air dispersion modeling shows there is approximately a 1 or 2 percent growth margin of the ambient standards. Growth in the area will be monitored by MPCA by keeping track of new permit applications, keeping track of requests for permit amendments, and observing the annual emission inventories that all facilities with permits must submit to the MPCA. Future SO<sub>2</sub> emissions are not likely to exceed the ambient standards because of Minnesota's permitting program and the state's requirements for dispersion modeling. Further, MPCA staff believe incentives to reduce emissions such as Minnesota's Clean Fuels Project and the state's "registration permit" rule, will provide

for continued attainment of the SO<sub>2</sub> NAAQS in the city of Rochester.

C. *Monitoring Network.* In a letter dated March 17, 1998, EPA clarified Region 5's position regarding the need for continued SO<sub>2</sub> monitoring in the Rochester area. In that letter EPA stated that if Minnesota can show attainment of the NAAQS through EPA approved air dispersion modeling, has an approvable SIP revision showing that the control strategies have been implemented, and shows that it can continue to attain the standard for a period of 10 years following the redesignation, then an SO<sub>2</sub> monitoring network does not need to be maintained. Because the MPCA has met the requirements as outlined in that letter, a monitoring network does not need to be maintained in the city of Rochester.

D. *Contingency Plan.* Section 175A of the CAA requires that the maintenance plan include contingency provisions to correct any violation of the NAAQS after redesignation of the area. Section 175A of the Act also requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. These contingency measures are distinguished from those generally required for nonattainment areas under section 172(c)(9). As mentioned before, however, the General Preamble to the 1990 Amendments to the Act (57 FR 13498) states that SO<sub>2</sub> provisions require special considerations. A primary reason is that SO<sub>2</sub> control methods are well established and understood, resulting in less uncertainty in the modeled attainment demonstrations. It is considered unlikely that an area would fail to attain the standards after it has demonstrated, through modeling, that attainment is reached after the limits and restrictions are fully implemented and enforced.

Therefore, contingency measures for SO<sub>2</sub> need only consist of a comprehensive program to identify sources of violations of the SO<sub>2</sub> NAAQS and to undertake an aggressive follow-up for compliance and enforcement. The MPCA has the necessary enforcement and compliance programs, as well as means by which to identify violators.

## VI. Final Rulemaking Action

EPA is approving the SIP revision for the control of SO<sub>2</sub> emissions in the city of Rochester, located in Olmsted County, Minnesota, as requested by the state on November 4, 1998. EPA is also approving a request to redesignate the Rochester nonattainment area to

attainment of the SO<sub>2</sub> NAAQS. In conjunction with these actions, EPA is also approving the maintenance plan for the Olmsted County nonattainment area, which was submitted to ensure that attainment of the NAAQS will be maintained. The SIP revision, redesignation request and maintenance plan meet the applicable requirements of the Act.

The EPA is 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 comments are filed. This rule will be effective May 8, 2001 without further notice unless relevant adverse comments are received by April 9, 2001. If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 8, 2001.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

## VII. Administrative Requirements

### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

### B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of

the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

### C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

### D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

### E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base

its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

#### F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

#### G. Submission to Congress and the Comptroller General

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 rule 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). This rule will be effective May 8, 2001 unless EPA receives adverse written comments by April 9, 2001.

#### H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

#### I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Reporting and recordkeeping requirements, Sulfur dioxide.

##### 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: October 27, 2000.

**Gary Gulezian,**

*Acting Regional Administrator, Region 5.*

Title 40, Chapter I, of the Code of Federal Regulations, is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

2. Section 52.1220 is amended by adding paragraph (c)(56) to read as follows:

#### § 52.1220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(56) On November 4, 1998, the State of Minnesota submitted a SIP revision for Olmsted County, Minnesota, for the control of emissions of sulfur dioxide (SO<sub>2</sub>) in the city of Rochester. The state also submitted on that date a request to redesignate the Rochester nonattainment area to attainment of the SO<sub>2</sub> National Ambient Air Quality Standards. The state’s maintenance plan is complete and the submittals meet the SO<sub>2</sub> nonattainment area SIP and redesignation requirements of the Clean Air Act.

(i) Incorporation by reference

(A) Air Emission Permit No.

10900011–001, issued by the Minnesota Pollution Control Agency (MPCA) to City of Rochester—Rochester Public Utilities—Lake Plant on July 22, 1997, Title I conditions only.

(B) Air Emission Permit No.

00000610–001, issued by the MPCA to City of Rochester—Rochester Public Utilities—Cascade Creek Combustion on January 10, 1997, Title I conditions only.

(C) Air Emission Permit No.

10900010–001, issued by the MPCA to Associated Milk Producers, Inc. on May 5, 1997, Title I conditions only.

(D) Air Emission Permit No.

10900008–007 (989–91–OT–2, AMENDMENT No. 4), issued by the MPCA to St. Mary’s Hospital on February 28, 1997, Title I conditions only.

(E) Air Emission Permit No.

10900005–001, issued by the MPCA to Olmsted County—Olmsted Waste-to-Energy Facility on June 5, 1997, Title I conditions only.

(F) Amendment No. 2 to Air Emission Permit No. 1183–83–OT–1 [10900019], issued by the MPCA to Franklin Heating Station on June 19, 1998, Title I conditions only.

(G) Air Emission Permit No.

10900006–001, issued by the MPCA to International Business Machine Corporation—IBM—Rochester on June 3, 1998, Title I conditions only.

#### PART 81—[AMENDED]

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

**Authority:** 42 U.S.C. 7401–7671q

2. Section 81.324 is amended by revising the entry for Olmsted County in the table entitled “Minnesota—SO<sub>2</sub>” to read as follows:

#### § 81.324 Minnesota.

\* \* \* \* \*

MINNESOTA—SO<sub>2</sub>

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be Classified	Better than national standards
Olmsted County .....	.....	.....	.....	X

\* \* \* \* \*

[FR Doc. 01-5850 Filed 3-8-01; 8:45 am]

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