

organizations through indirect assistance as a result of a genuine and independent private choice of a beneficiary, provided the religious organizations otherwise satisfy the requirements of this Part. A religious organization may receive such funds as the result of a beneficiary's genuine and independent choice if, for example, a beneficiary redeems a voucher, coupon, or certificate, allowing the beneficiary to direct where funds are to be paid, or a similar funding mechanism provided to that beneficiary and designed to give that beneficiary a choice among providers.

(Authority: 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064, 7721 note.)

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[VA133-5066a; FRL-7670-8]

#### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revisions to Regulations for General Compliance Activities and Source Surveillance; Correction

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

**ACTION:** Direct final rule; correcting amendment.

**SUMMARY:** This document corrects errors in the final rule pertaining to the chart listing Virginia regulations which EPA has incorporated by reference into the Virginia SIP.

**EFFECTIVE DATE:** June 8, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Kathleen Anderson, (215) 814-2173 or by e-mail at [anderson.kathleen@epamail.epa.gov](mailto:anderson.kathleen@epamail.epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," or "our" are used we mean EPA. On March 15, 2004 (69 FR 12074), we published a final rulemaking action announcing our approval of revisions to certain regulations updating requirements related to applicability, compliance, testing and monitoring. In that document, we inadvertently made incorrect entries to the rule chart in 40 CFR 52.2420(c). This action corrects the errors, published in the rule chart at 69 FR 12078, to the notes found in the "Explanation [Former SIP citation]" column for entries 5-10-10, 5-10-20, 5-40-20, 5-40-40, 5-40-50, 5-50-10, 5-50-20, 5-50-40, and 5-40-50. The corrections are described in the following table:

| Entry         | Column title                               | Description of correction                                                                                               |
|---------------|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| 5-10-10 ..... | General .....                              | Remove "and added new paragraph D".                                                                                     |
| 5-10-20 ..... | Terms Defined .....                        | Add: "Terms Revised: Volatile Organic Compounds".                                                                       |
| 5-40-20 ..... | Compliance .....                           | Add: "Revised paragraphs I, I.2, I.3 and I.4."                                                                          |
| 5-40-40 ..... | Monitoring .....                           | Remove D.1 and D.12 and replace with E.1 and E.12.                                                                      |
| 5-40-50 ..... | Notifications, records and reporting ..... | Add: "Revised paragraphs C.2 and C.3."                                                                                  |
| 5-50-10 ..... | Applicability .....                        | Replace D with C and remove E.                                                                                          |
| 5-50-20 ..... | Compliance .....                           | Replace first sentence with "Added new paragraph A.2, renumbered paragraphs A.3 through A.5 and revised paragraph A.3." |
| 5-50-40 ..... | Monitoring .....                           | Replace with "Revised paragraphs C and E.1 through E.8; Added new paragraph E.10."                                      |
| 5-50-50 ..... | Notification, records and reporting .....  | Replace with "Revised paragraphs A.1 through A.4, C, C.1 through C.3, D, E and F."                                      |

This action also revises the date format found in the "State effective date" column for all of the entries published in the March 15, 2004 final rulemaking notice. In this correction action, we are revising the dates from "August 1, 2002" to "8/1/02." We are also restoring the entries for 5-40-21, 5-40-22 and 5-40-41, which EPA had previously added to the table in paragraph 52.2420(c) on April 21, 2000 (65 FR 21315), but which were inadvertently removed by EPA's March 15, 2004 revisions to the entries for 9 VAC 5, Chapter 40, Part I.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely

correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

#### Statutory and Executive Order Reviews

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates

Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus

the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of May 14, 2004. 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**. This correction to 40 CFR 52.2420(c) for Virginia is not a "major rule" as defined by 5 U.S.C. 804(2).

Dated: May 27, 2004.

**James W. Newsom,**

*Acting Regional Administrator, EPA Region III.*

■ 40 CFR part 52 is amended as follows:

#### **PART 52—[AMENDED]**

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

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

#### **Subpart VV—Virginia**

■ 2. In § 52.2420, the table in paragraph (c) is amended:

■ a. Under Chapter 10 by revising the entry for 5–10–10 and the fifth entry for 5–10–20.

■ b. Under Chapter 40 by revising entries 5–40–10, 5–40–20 and 5–40–30, 5–40–40 and 5–40–50.

■ c. Under Chapter 40 by adding entries 5–40–21, 5–40–22 and 5–40–41.

■ d. Under Chapter 50 by revising entries 5–50–10, 5–50–20, 5–50–30, 5–50–40 and 5–50–50.

#### **§ 52.2420 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

#### **EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP**

| State citation (9 VAC 5)  | Title/subject                                                             | State effective date | EPA approval date                     | Explanation [former SIP citation]                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------|---------------------------------------------------------------------------|----------------------|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CHAPTER 10 .....          |                                                                           |                      | GENERAL DEFINITIONS [Part I]          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 5–10–10 .....             | General .....                                                             | 8/1/02               | 3/15/04 69 FR 12074 ...               | Revised paragraphs A, B, C.                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| * * *                     | * * *                                                                     |                      | * * *                                 | * * *                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 5–10–20 .....             | Terms Defined .....                                                       | 8/1/02               | 3/15/04 69 FR 12074 ...               | Terms Added: EPA, Initial emissions test, Initial performance test (as corrected 11/05/03 and effective 01/01/04 in the Commonwealth), Maintenance area.<br>Terms Revised: Affected facility, Delayed compliance order, Excessive concentration, Federally enforceable, Malfunction, Public hearing, Reference method, Reid vapor pressure, Stationary source, True vapor pressure, Vapor pressure, Volatile organic compounds.<br>Terms Removed: Air Quality Maintenance Area. |
| * * *                     | * * *                                                                     |                      | * * *                                 | * * *                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| CHAPTER 40 .....          |                                                                           |                      | EXISTING STATIONARY SOURCES [Part IV] |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| PART I .....              |                                                                           |                      | SPECIAL PROVISIONS                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 5–40–10 .....             | Applicability .....                                                       | 8/1/02               | 3/15/04 69 FR 12074 ...               | Revised paragraphs A, B, and C; added paragraph D.                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 5–40–20 (Except A.4) .... | Compliance .....                                                          | 8/1/02               | 3/15/04 69 FR 12074 ...               | Added new paragraph A.2 and revised renumbered paragraph A.3; added new paragraph G, revised paragraphs H, H.1, H.1.b through e; revised paragraphs I, I.2, I.3 and I.4; added new paragraph J. NOTE: New paragraph A.4. is not included in the SIP revision.                                                                                                                                                                                                                   |
| 5–40–21 .....             | Compliance Schedules                                                      | 7/1/97               | 4/21/00 65 FR 21315 ...               | Appendix N.                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 5–40–22 .....             | Interpretation of Emissions Standards Based on Process eight—Rate Tables. | 7/1/97               | 4/21/00 65 FR 21315 ...               | Appendix Q.                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 5–40–30 .....             | Emissions Testing .....                                                   | 8/1/02               | 3/15/00 69 FR 12074 ...               | Revised Paragraphs A and F.1; NOTE: Revisions to paragraph C are not included in SIP revision.                                                                                                                                                                                                                                                                                                                                                                                  |

## EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP—Continued

| State citation (9 VAC 5) | Title/subject                                        | State effective date | EPA approval date       | Explanation [former SIP citation]                                                                                                                                                      |
|--------------------------|------------------------------------------------------|----------------------|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5-40-40 .....            | Monitoring .....                                     | 8/1/02               | 3/15/00 69 FR 12074 ... | Revised paragraph B, and E.1; added paragraph E.12.                                                                                                                                    |
| 5-40-41 .....            | Emission Monitoring Procedures for Existing Sources. | 7/1/97               | 4/21/00 65 FR 21315 ... | Appendix J.                                                                                                                                                                            |
| 5-40-50 .....            | Notification, records and reporting.                 | 8/1/02               | 3/15/04 69 FR 12074 ... | Added new paragraph A.3; revised paragraphs C, C.1, C.2 and C.3., D, E and F.                                                                                                          |
| * .....                  | * .....                                              | * .....              | * .....                 | * .....                                                                                                                                                                                |
| CHAPTER 50 .....         | NEW AND MODIFIED STATIONARY SOURCES [Part V]         |                      |                         |                                                                                                                                                                                        |
| PART I .....             | SPECIAL PROVISIONS                                   |                      |                         |                                                                                                                                                                                        |
| 5-50-10 .....            | Applicability .....                                  | 8/1/02               | 3/15/04 69 FR 12074 ... | Revised paragraphs B and C, added paragraph F.                                                                                                                                         |
| 5-50-20 .....            | Compliance .....                                     | 8/1/02               | 3/15/04 69 FR 12074 ... | Added new paragraph A.2, renumbered paragraphs A.3 through A.5, and revised paragraph A.3; Added new paragraph G; revised paragraphs H, H.2, H.2a, H.3 and H.4; added new paragraph I. |
| 5-50-30 .....            | Performance Testing ...                              | 8/1/02               | 3/15/04 69 FR 12074 ... | Revised paragraphs A and F.1; NOTE: Revisions to paragraph C are not included in SIP revision.                                                                                         |
| 5-50-40 .....            | Monitoring .....                                     | 8/1/02               | 3/15/04 69 FR 12074 ... | Revised paragraphs C, and E.1 through E.8; Added new paragraph E.10.                                                                                                                   |
| 5-50-50 .....            | Notification, records and reporting.                 | 8/1/02               | 3/15/04 69 FR 12074 ... | Revised paragraphs A.1 through A.4, C, C.1 through C.3, D, E and F.                                                                                                                    |
| * .....                  | * .....                                              | * .....              | * .....                 | * .....                                                                                                                                                                                |

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MN79-3; FRL-7670-5]

### Approval and Promulgation of State Implementation Plans; Minnesota

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving a site-specific revision to the Minnesota sulfur dioxide (SO<sub>2</sub>) State Implementation Plan (SIP) for the Xcel Energy (formerly known as Northern States Power Company) Inver Hills Generating Plant located in the city of Inver Grove Heights, Dakota County, Minnesota. By its submittal dated August 9, 2002, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve Xcel's federally enforceable Title V operating permit into the Minnesota SO<sub>2</sub> SIP and remove the Xcel Administrative Order from the state SO<sub>2</sub> SIP. The state is also requesting in this submittal, that EPA rescind the Administrative Order for Ashbach Construction Company (Ashbach) from the Ramsey County particulate matter (PM) SIP. EPA proposed approval of this SIP revision

and published a direct final approval on September 2, 2003. EPA received adverse comments on the proposed rulemaking, and therefore withdrew the direct final rulemaking on October 27, 2003.

**DATES:** This rule is effective July 8, 2004.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. MN-79. All documents in the docket are listed in the index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information where disclosure is restricted by statute. Publicly available docket materials are available in hard copy at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. The Docket Facility is open during normal business hours, Monday through Friday, excluding legal holidays. We recommend that you telephone Christos Panos at (312) 353-8328, before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Christos Panos, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch, United States Environmental Protection Agency, Region 5, Mailcode AR-18J, 77 West Jackson Boulevard, Chicago, Illinois

60604. Telephone: (312) 353-8328. E-mail address: [panos.christos@epa.gov](mailto:panos.christos@epa.gov).

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

- I. Does This Action Apply to Me?
- II. What Action Is EPA Taking Today?
- III. What Is the Background for This Action?
- IV. What Public Comments Were Received and What Is EPA's Response?
- V. Statutory and Executive Order Reviews

### General Information

#### *I. Does This Action Apply to Me?*

No, it applies to a single source, Xcel Energy's Inver Hills Generating Plant located in the city of Inver Grove Heights, Dakota County, Minnesota.

#### *II. What Action Is EPA Taking Today?*

In this action, EPA is approving into the Minnesota SO<sub>2</sub> SIP certain portions of the Title V permit for Xcel Energy's Inver Hills Generating Plant (Xcel) located in the city of Inver Grove Heights, Dakota County, Minnesota. Specifically, EPA is approving into the SIP only those portions of Xcel's Title V permit cited as "Title I Condition: State Implementation Plan for SO<sub>2</sub>." In this same action, EPA is removing from the state SO<sub>2</sub> SIP the Xcel Administrative Order which had first been approved into the SO<sub>2</sub> SIP on September 9, 1994, and amended on June 13, 1995 and October 13, 1998. In addition, EPA is removing from the state