

(2) [Reserved]

(e) *Regulations.*

(1) In accordance with the general regulations in 165.23 of this part, entry into or movement within this zone by any person or vessel is prohibited unless authorized by the COTP, Sector Northern New England or the COTP's designated representative.

(2) Vessel operators desiring to enter or operate within the safety zones may contact the COTP or the COTP's designated representative at telephone number 207-767-0303 or designated representative on VHF Channel 13 (156.7 MHz) or VHF channel 16 (156.8 MHz) to seek permission to do so. If permission is granted, all persons and vessels must comply with the instructions provided by the COTP or the COTP's designated representative.

Dated: May 20, 2008.

**J.E. Rendon,**

*Captain, U.S. Coast Guard, COTP Northern New England.*

[FR Doc. E8-12175 Filed 5-30-08; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2007-1132; FRL-8573-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Interstate Transport of Pollution

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Minnesota State Implementation Plan (SIP) for ozone and particulate matter (PM) which address the "good neighbor" provisions of the Clean Air Act (CAA). These provisions require each state to submit a SIP that prohibits emissions that adversely affect another state's air quality. The Minnesota Pollution Control Agency (MPCA) has adequately addressed the four distinct elements related to the impact of interstate transport of air pollutants. These include prohibiting significant contribution to nonattainment of the National Ambient Air Quality Standards (NAAQS) in another state, interference with maintenance of the NAAQS in another state, interference with plans in another state to prevent significant deterioration of air quality, and interference with plans in another state to protect visibility.

**DATES:** This rule is effective on August 1, 2008, unless EPA receives adverse written comments by July 2, 2008. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2007-1132 by one of the following methods:

<bullet> <http://www.regulations.gov>: Follow the online instructions for submitting comments.

<bullet> *E-mail:*

[aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov).

<bullet> Fax: (312) 886-5824.

<bullet> *Mail:* Douglas Aburano, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

<bullet> *Hand Delivery:* Douglas Aburano, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R05-OAR-2007-1132. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your

name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886-6031 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, [hatten.charles@epa.gov](mailto:hatten.charles@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

**Table of Contents**

- I. Background
- II. What is being addressed in this document?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

**I. Background**

On July 18, 1997, EPA promulgated revised NAAQS for ozone and PM. For ozone, EPA adopted a standard of 0.08 ppm over an 8-hour averaging period (62 FR 38856). For PM, EPA added new 24-hour and annual standards for particles less than or equal to 2.5 micrometers in diameter (PM<sub>2.5</sub>) (62 FR 38652). Section 110(a)(1) of the CAA requires states to submit new SIPs that provide for the implementation, maintenance, and enforcement of a new or revised standard within three years

after promulgation of such standard, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that such new SIPs must address, including section 110(a)(2)(D)(i), which applies to interstate transport of certain emissions. While section 110(a)(1) imposes the obligation upon states to make a SIP submission for a new or revised NAAQS, the contents of that submission may vary depending upon the facts and circumstances related to the specific NAAQS.

On April 25, 2005, EPA made a finding that states had failed to submit SIPs to satisfy the requirements of section 110(a)(2)(D)(i) of the CAA for the 8-hour ozone and PM<sub>2.5</sub> NAAQS. See 70 FR 21147. This finding started a 2-year clock for promulgation by EPA of a Federal Implementation Plan (FIP), in accordance with section 110(c)(1), for any state that did not submit a SIP meeting the requirements of section 110(a)(2)(D)(i) for both the 8-hour ozone and PM<sub>2.5</sub> NAAQS. If, prior to that time, a state made a submission to meet the requirements of section 110(a)(2)(D)(i) and EPA approved the submission, EPA would not be required to promulgate a FIP for that state.

## II. What is being addressed in this document?

EPA is approving the SIP revision submitted by MPCA on October 23, 2007, to address the requirements of section 110(a)(2)(D)(i) of the CAA. This section requires each state to submit a SIP which prohibits emissions that could adversely affect the air quality in another state. The SIP must prevent sources in the state from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in another state, (2) interfere with maintenance of the NAAQS in another state, (3) interfere with the plans in another state to prevent significant deterioration of air quality, and (4) interfere with the plans of another state to protect visibility.

EPA issued a guidance memorandum (Interstate Transport Guidance) on August 15, 2006, relating to SIP submissions to meet the requirements of section 110(a)(2)(D)(i) for the 8-hour ozone and PM<sub>2.5</sub> NAAQS.<sup>1</sup> As discussed below, Minnesota's analysis of its SIP with respect to the statutory

requirements is consistent with this guidance.

The MPCA addressed the first two elements, relating to monitor interference with attainment and maintenance of the NAAQS, by asserting that Minnesota is covered by the FIP for the Clean Air Interstate Rule (CAIR). In the CAIR, EPA concluded that states meet their section 110(a)(2)(D)(i) obligations to address the "significant contribution" and "interference with the maintenance" requirements by complying with the CAIR requirements, either by submitting an approvable CAIR SIP or relying on the CAIR FIP.<sup>2</sup> Consequently, Minnesota will not need to submit a separate SIP revision to satisfy the section 110(a)(2)(D)(i), since they are relying on the CAIR FIP. Minnesota is covered by the CAIR due solely to its influence on PM<sub>2.5</sub> nonattainment in Chicago (Illinois), and was not determined by EPA to impact ozone nonattainment in any area.

The third element MPCA addressed was prevention of significant deterioration (PSD) of air quality in another state. All new sources in Minnesota are subject to the federal PSD permitting program. Minnesota has a delegated PSD program and therefore has been given the authority by EPA to implement and enforce the federal PSD program. The PSD program satisfies the requirement of section 110(a)(2)(D)(i) prohibiting interference with measures required to meet the implementation plan for any other state related to PSD. It should be noted that the entire state of Minnesota is attaining both the 8-hour ozone and PM<sub>2.5</sub> NAAQS.

The fourth required element, relating to Minnesota's impact on visibility impairment in another state, will be addressed by Minnesota's regional haze SIP. MPCA concurs with EPA in concluding that it is currently premature to determine whether or not SIPs for 8-hour ozone or PM<sub>2.5</sub> contain adequate provisions to prohibit emissions that interfere with measures in SIPs developed by other states to address visibility impairment.<sup>3</sup> MPCA is currently accepting comments on a separate SIP revision that will fulfill Minnesota's requirements under EPA's regional haze rule and address the section 110(a)(2)(D)(i) requirement with respect to visibility. The State is on a schedule to submit this revision to EPA in July of 2008. Until this SIP is submitted, an accurate assessment

regarding the impact of emissions and control measures on other states' SIPs cannot be made. When EPA takes action on Minnesota's regional haze SIP, EPA will also make a determination regarding the adequacy of the SIP in addressing section 110(a)(2)(D)(i) with respect to visibility.

Minnesota placed the section 110(a)(2)(D)(i) SIP on notice on September 4, 2007, and offered the opportunity for a public hearing. No public hearing was requested and no comments were received.

With this action, the non-regulatory text in 40 CFR 52.1220(e) is revised to reflect that MPCA addressed the elements of the CAA section 110(a)(2)(D)(i) submittal.

## III. What action is EPA taking today?

EPA is approving this revision submitted by Minnesota and is revising 40 CFR 52.1220(e) to reflect that the MPCA has adequately addressed the required elements of the CAA section 110(a)(2)(D)(i) SIP. Please note that if EPA receives adverse comments on part of this rule, and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

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 August 1, 2008 without further notice unless we receive relevant adverse written comments by July 2, 2008. 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. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective August 1, 2008.

## IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP

<sup>1</sup> See memorandum from William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, U.S. EPA, entitled "Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards," dated August 15, 2006.

<sup>2</sup> See page 4 in EPA's Interstate Transport Guidance, referenced in Footnote 1.

<sup>3</sup> See pages 9 and 10 in EPA's Interstate Transport Guidance, referenced in Footnote 1.

submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act.

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:

- <bullet> Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- <bullet> Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- <bullet> 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.*);

- <bullet> 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);

- <bullet> Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- <bullet> Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- <bullet> Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- <bullet> Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because

application of those requirements would be inconsistent with the Clean Air Act; and

- <bullet> 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 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 August 1, 2008.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Particulate matter, and Volatile organic compounds.

Dated: May 21, 2008.

**Walter W. Kovalick, Jr.**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 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 *et seq.*

**Subpart Y—Minnesota**

■ 2. In Section 52.1220 the table in paragraph (e) is amended by adding an entry in alphabetical order for "CAA 110(a)(2)(D)(i) SIP-Interstate Transport" to read as follows:

**§ 52.1220 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**EPA-APPROVED MINNESOTA NONREGULATORY PROVISIONS**

Name of Nonregulatory SIP Provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Comments
CAA 110(a)(2)(D)(i) SIP-Interstate Transport .....	Statewide .....	10/23/07	06/02/08 [insert FR page number where the document begins].	