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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: February 11, 2016.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2016–03894 Filed 2–24–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0075; EPA–R05–OAR–2016–0090; FRL–9942–72–Region 5]

Air Plan Approval; Indiana; Commissioner's Orders for A.B. Brown and Clifty Creek

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Indiana State Implementation Plan (SIP) submitted by the Indiana Department of Environmental Management (IDEM) to EPA on January 27, 2016, and February 5, 2016, for parallel processing. The submittal consists of orders issued by the Commissioner of IDEM that require more stringent sulfur dioxide (SO_2) emissions limits than those currently contained in the SIP for Vectren's A. B. Brown Generating Station (''A.B. Brown'') and Indiana-Kentucky Electric Corporation's Clifty Creek Generating Station (''Clifty Creek''). IDEM submitted these limits to enable the areas near these generating stations to qualify for being designated ''attainment'' of the 2010 primary SO_2 National Ambient Air Quality Standards (NAAQS), a matter that will be addressed in a separate future rulemaking. EPA's approval of these revisions to the Indiana SIP would make the Commissioner's orders' SO_2 emissions limits federally enforceable.

DATES: Comments must be received on or before March 28, 2016.

ADDRESSES: Submit your comments, identified by Docket ID Nos. EPA–R05–OAR–2016–0075 for A.B. Brown or EPA–R05–OAR–2016–0090 for Clifty Creek at *http://www.regulations.gov* or via email to *aburano.douglas@epa.gov.* For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from 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: Jenny Liljegren, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6832, *Liljegren.Jennifer@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. Why did IDEM issue these Commissioner's Orders?

On January 27, 2016, and February 5, 2016, IDEM submitted for parallel processing draft revisions to its SIP consisting of orders issued by IDEM's Commissioner that establish more stringent SO_2 emissions limits than those currently contained in the SIP for A.B. Brown and Clifty Creek. IDEM established these SO_2 emissions limits to enable the areas near A.B. Brown and Clifty Creek to qualify in the future for being designated ''attainment'' of the 2010 primary SO_2 NAAQS. Under a

Federal consent decree, EPA is required to designate, under the 2010 SO_2 NAAQS, certain areas in the United States including the areas near A.B. Brown and Clifty Creek by July 2, 2016. The history of the 2010 SO_2 NAAQS and the consent decree is explained below in order to provide a more detailed explanation of the context for IDEM's request for EPA approval of these SO_2 limits into the SIP.

On June 3, 2010, pursuant to section 109 of the Clean Air Act (CAA), EPA revised the primary (health-based) SO_2 NAAQS by establishing a new one-hour standard codified at 40 CFR 50.17 (75 FR 35520). Pursuant to section 107(d) of the CAA, EPA must designate areas as either ''unclassifiable,'' ''attainment,'' or ''nonattainment'' for the 2010 one-hour SO_2 primary NAAQS. Under Section 107(d) of the CAA, a nonattainment area is any area that does not meet the NAAQS or that contributes to a violation in a nearby area. An attainment area is any area, other than a nonattainment area, that meets the NAAQS. Unclassifiable areas are those that cannot be classified on the basis of available information as meeting or not meeting the NAAQS.

On August 5, 2013, EPA published a final rule establishing air quality designations for 29 areas in the United States for the 2010 SO_2 NAAQS, based on recorded air quality monitoring data from 2009–2011 that showed violations of the NAAQS (78 FR 47191). In that rulemaking, EPA committed to address, in separate future actions, the designations for all other areas for which EPA was not yet prepared to issue designations.

Following the initial August 5, 2013, designations, three lawsuits were filed against EPA in different U.S. District Courts, alleging EPA had failed to perform a nondiscretionary duty under the CAA by not designating all portions of the country by the June 2013 deadline. In an effort intended to resolve the litigation in one of those cases, plaintiffs Sierra Club and the Natural Resources Defense Council and EPA filed a proposed consent decree with the U.S. District Court for the Northern District of California. On March 2, 2015, the court entered the consent decree and issued an enforceable order for EPA to complete the area designations according to the court-ordered schedule.[1]

By no later than July 2, 2016, (16 months from the court's order), EPA must designate two groups of areas: (1) Areas that have newly monitored violations of the 2010 SO_2 NAAQS and (2) areas that contain any stationary sources that had not been announced as of March 2, 2015, for retirement and that according to the EPA's Air Markets Database emitted in 2012 either (i) more than 16,000 tons of SO_2 or (ii) more than 2,600 tons of SO_2 with an annual average emission rate of at least 0.45 pounds (lbs) of SO_2 per million British thermal units (MMBTU). In the consent decree, ''announced for retirement'' means any stationary source with a coal-fired unit that as of January 1, 2010, had a capacity of over 5 megawatts and otherwise meets the emissions criteria is excluded from the July 2, 2016, deadline if it had announced through a company public announcement, public utilities commission filing, consent decree, public legal settlement, final state or federal permit filing, or other similar means of communication, by March 2, 2015, that it will cease burning coal at that unit.

A.B. Brown and Clifty Creek each meet the second criterion for the July 2, 2016, deadline. That is, neither has been ''announced for retirement'' and both emitted in 2012 either (i) more than 16,000 tons of SO_2 or (ii) more than 2,600 tons of SO_2 with an annual average emission rate of at least 0.45 lbs of SO_2 per MMBTU. Specifically, A.B. Brown emitted 7,091 tons of SO_2 in 2012 and had an emissions rate of 0.521 lbs SO_2/MMBTU in 2012. Clifty Creek emitted 52,839 tons of SO_2 in 2012 and had an emissions rate of 1.767 lbs SO_2/MMBTU in 2012. In absence of new SO_2 emissions limits, A.B. Brown and Clifty Creek cannot demonstrate modeled attainment of the 2010 SO_2 NAAQS in accordance with EPA's *Draft SO_2 NAAQS Designations Modeling Technical Assistance Document.*[2] Therefore, IDEM conducted air dispersion modeling using the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) version 15181 in accordance with appendix W of part 51 of chapter 40 of the Code of Federal Regulations (CFR) to determine new, more stringent SO_2 emissions limits for A.B. Brown and Clifty Creek that should result in the areas near these generating stations showing modeled attainment of the 2010 SO_2 NAAQS.

IDEM has requested that EPA approve Commissioner's Order 2016–01 for A.B. Brown and Commissioner's Order 2016–02 for Clifty Creek into Indiana's SIP. EPA's approval of the new SO_2 emissions limits contained in these orders into Indiana's SIP would make these SO_2 emissions limits federally enforceable. Once these SO_2 emissions limits have become federally enforceable, IDEM intends to use them to demonstrate AERMOD-modeled attainment for the 2010 SO_2 NAAQS for the areas near A.B. Brown and Clifty Creek. To be clear, the purpose of this rulemaking is to take action on IDEM's request to approve these SO_2 emissions limits into the Indiana SIP and thereby make them federally enforceable. The purpose of this rulemaking is *not* to take action on whether these SO_2 emissions limits are adequate for EPA to designate attainment of the 2010 SO_2 NAAQS for the areas near A.B. Brown and Clifty Creek. EPA intends to designate the areas near the sources that meet the criteria for the first phase of the consent decree designations, including the areas near A.B. Brown and Clifty Creek, under a separate rulemaking.

EPA cannot take final action to approve the orders into Indiana's SIP until the state completes its public comment process and submits the final orders to EPA as SIP revision requests. In the meantime, Indiana requested that EPA ''parallel process'' the SIP revision to expedite action on the Commissioner's orders. Under this procedure, the state submitted a copy of the proposed revisions to EPA before completing its public comment process. EPA is publishing this proposed rulemaking in the **Federal Register** and is soliciting public comment in approximately the same timeframe during which the state is soliciting public comment. After Indiana submits the final SIP revision request, EPA will prepare a final rulemaking for the SIP revision. If changes are made to the SIP revision after EPA's proposed rulemaking, such changes must be acknowledged in EPA's final rulemaking. If the changes are significant, then EPA may need to repropose the rulemaking.

II. What are the SO_2 limits in these Commissioner's Orders?

For A.B. Brown, Indiana issued Commissioner's Order 2016–01 on January 11, 2016, with a compliance date of April 19, 2016. This order established two new limits for A.B. Brown: One limit for Unit 1 when running alone and one limit for Units 1 and 2 when running simultaneously. The emissions limits are 0.855 lbs of SO_2 per MMBTU for coal-fired boiler Unit 1 operating alone and 0.426 lbs of SO_2 per MMBTU for Units 1 and 2 operating simultaneously. These limits supplement a limit contained in a

[1] *Sierra Club et al.* v. *EPA,* No. 3:13–cv–3953–SI (N.D.Cal.)

[2] *Draft SO_2 NAAQS Designations Modeling Technical Assistance Document.* December 2013. *http://www3.epa.gov/airquality/sulfurdioxide/pdfs/SO2ModelingTAD.pdf.*

February 22, 1979, Prevention of Significant Deterioration (PSD) permit of 0.69 pounds per MMBTU for coal-fired boiler Unit 2. Note that the limit on Unit 1 emissions alone (0.855 lbs per MMBTU) is higher (less restrictive) than the limit on combined emissions from Units 1 and 2 (0.426 lbs per MMBTU). Because Unit 2 has more impact per pound of emissions than Unit 1 due to dispersion characteristics, the plant can emit more and still not cause violations of the 2010 SO_2 NAAQS when only Unit 1 is operating than when both Units 1 and 2 are operating.

For Clifty Creek, Indiana issued Commissioner's Order 2016–02 on February 1, 2016, with a compliance date of April 19, 2016. This order established a combined emission limit for the six coal-fired boilers (Units No. 1 through No. 6) located at Clifty Creek of 2,624.5 lbs of SO_2 per hour as a 720 operating hour rolling average when any of Units No.1 through No. 6, or any combination thereof, is operating.

III. By what criteria is EPA reviewing this SIP revision?

EPA is evaluating this revision on the basis of whether it strengthens Indiana's SIP. Prior to Commissioner's Order 2016–01, A.B. Brown had an SO_2 emissions limit in its operating permit of 6.0 lbs SO_2 per MMBTU for coal-fired boiler Unit 1. Prior to Commissioner's Order 2016–02 Clifty Creek had an SO_2 emissions limit in its operating permit for Units 1 through 6 not to exceed 7.52 lbs of SO_2 per MMBTU on a thirty (30) day rolling weighted average. The new SO_2 emissions limits established by IDEM in Commissioner's Order 2016–01 and Commissioner's Order 2016–02 for A.B. Brown and Clifty Creek, respectively, are more stringent than the previous limits and will therefore strengthen Indiana's SIP.

The adequacy of these limits for providing for attainment is not a prerequisite for approval of these limits. Nevertheless, the purpose of these limits is to provide for attainment, and EPA is working with Indiana to assure a proper analysis of the adequacy of these limits for this purpose. If these limits become SIP-approved and thereby federally enforceable in a timely fashion, formal evaluation of the adequacy of these limits to provide for attainment will be conducted as part of the process of rulemaking on the 2010 SO_2 NAAQS designation for these areas.

IV. What action is EPA taking?

EPA is proposing to approve the SO_2 emissions limits in Commissioner's Order 2016–01 and Commissioner's Order 2016–02 into the Indiana SIP. EPA confirms that the SO_2 emissions limits for A. B. Brown (Commissioner's Order 2016–01) and Clifty Creek (Commissioner's Order 2016–02) are more stringent than the previous SO_2 emissions limits for these sources. By approving these Commissioner's orders into the Indiana SIP, these SO_2 emissions limits will become federally enforceable and strengthen the Indiana SIP.

V. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Commissioner's Order No. 2016–01 issued to Vectren's A. B. Brown Generating Station, effective January 11, 2016, and Commissioner's Order No. 2016–02 issued to Indiana-Kentucky Electric Corporation's Clifty Creek Generating Station, effective February 1, 2016. EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** 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:

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- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
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- 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
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List of Subjects in 40 CFR Part 52

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

Dated: February 11, 2016.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2016–03893 Filed 2–24–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0438; FRL 9942–75–Region 7]

Approval and Promulgation of Air Quality Implementation Plans; State of Missouri; Emissions Inventory and Emissions Statement for the Missouri Portion of the St. Louis MO-IL Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.