

regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined to be a significant regulatory action under the Executive Order.

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532 that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

#### List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: August 27, 2007.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

■ Accordingly, the interim final rule amending 38 CFR part 3 that was published at 71 FR 75669 on December 18, 2006, is adopted as a final rule without change.

[FR Doc. E7-23545 Filed 12-4-07; 8:45 am]

**BILLING CODE 8320-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-1021; FRL-8501-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Minnesota

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions to sulfur dioxide (SO<sub>2</sub>) requirements for Northern States Power Company, doing business as Xcel Energy, Inver Hills Generating Plant (Inver Hills), located in Inver Grove Heights, Dakota County, Minnesota. The revisions make the limits of the sulfur content in its fuel and its sulfur dioxide emissions more stringent, and prohibit the burning of residual fuel oil. The revisions allow the facility to use simpler methods to analyze the sulfur content of its fuel. Because the sulfur dioxide emission limits are being reduced, the air quality of Dakota County will be protected.

**DATES:** This direct final rule will be effective February 4, 2008, unless EPA receives adverse comments by January 4, 2008. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the *Federal Register* informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-1021, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: mooney.john@epa.gov.
3. *Fax*: (312) 886-5824.
4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: John M. Mooney, 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-2006-1021. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](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 [www.regulations.gov](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 [www.regulations.gov](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 [www.regulations.gov](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 am to 4:30 pm, Monday

through Friday, excluding legal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886-6524 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, [rau.matthew@epa.gov](mailto:rau.matthew@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

- I. What is EPA Approving?
- II. What is the Background for this Action?
- III. What is EPA’s Analysis of the State Submission?
- IV. What are the Environmental Effects of this Action?
- V. What Action is EPA Taking?
- VI. Statutory and Executive Order Reviews

**I. What is EPA Approving?**

EPA is approving into the SO<sub>2</sub> SIP for Minnesota revised conditions from the Inver Hills joint Title I/Title V document. The revisions lower the allowable sulfur content of its fuel and reduce the allowable limits of its SO<sub>2</sub> emissions. The revisions also allow a simplified method to analyze fuel sulfur content. EPA is also removing from the SIP any non-SIP related Title I conditions that were previously mistakenly incorporated into the SIP for Inver Hills.

EPA is incorporating only the conditions in the joint Title I/Title V document labeled as “Title I Condition: State Implementation Plan for SO<sub>2</sub> NAAQS” into the Minnesota SIP. The joint Title I/Title V document is the Minnesota Air Emission Permit Number 03700015-003.

**II. What is the Background for This Action?**

*A. What are the Revisions to the SIP?*

Xcel Energy’s Inver Hills facility is a 440 Megawatt peak demand electrical generation plant. The plant has six generation units, turbines EU 001-EU 006, which can fire both natural gas and distillate fuel oil. The facility is located in the Pine Bend portion of the Minneapolis-Saint Paul SO<sub>2</sub> maintenance area.

The SIP revisions reduce the limit for SO<sub>2</sub> emissions from the six turbines from 0.67 pounds per million British Thermal Units (lb/MMBTU) to 0.50 lb/MMBTU. This emission reduction is achieved by requiring the reduction of the sulfur content in the fuel from 0.64

percent by weight to 0.48 percent by weight. The SIP revision prohibits the use of residual fuel oil. If Inver Hills uses low sulfur fuel having a sulfur content of 0.10 percent by weight or less, Inver Hills can use a guarantee from a supplier as to the sulfur content of the fuel, and can use a simple fuel analysis option (ASTM Method D-1552) at the time of delivery.

*B. What Prior SIP Actions Are Pertinent to This Action?*

In 1980, Inver Hills was identified by the state of Minnesota as a culpable source in the Pine Bend area’s nonattainment plan for the SO<sub>2</sub> National Ambient Air Quality Standards (NAAQS). On July 28, 1992, the Minnesota Pollution Control Agency (MPCA) issued an Administrative Order for Inver Hills to address the source’s contribution to the nonattainment problem. The SIP revision contained in the Administrative Order was approved by EPA into the SIP on April 14, 1994. The most recent SIP action was taken when the MPCA submitted the Title I SIP conditions in the original Title V permit, Air Emission Permit 03700015-001, to EPA in August 2002. EPA approved those Title I SIP conditions into the SIP as of July 2, 2004 (69 FR 31891). However, the materials incorporated by reference into the SIP included all Title I conditions, including certain conditions that were unrelated to the SIP.

*C. Has Public Notice Been Provided?*

Minnesota published public notice of the Inver Hills revisions on September 7, 2006. No comments were received during the comment period which ended on October 9, 2006. In the public notice, Minnesota stated it would hold a public hearing if one were requested during the comment period. This follows the alternative public participation process EPA approved on June 5, 2006 (71 FR 32274). For limited types of SIP revisions that the public has shown little interest in, a public hearing is not automatically required. If anyone requests a public hearing during the comment period, Minnesota will hold a public hearing. Because no one requested a public hearing, Minnesota did not hold a public hearing for this SIP revision.

*D. What Are Title I Conditions and Joint Title I/Title V Documents?*

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. Minnesota

then issued permanent Administrative Orders to culpable sources in nonattainment areas from 1991 to February of 1996.

Minnesota’s consolidated permitting regulations, 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 initiated using joint Title I/Title V documents as the enforceable document for imposing emission limitations and compliance requirements in SIPs. The SIP requirements in joint Title I/Title V documents submitted by MPCA are cited as “Title I conditions,” therefore ensuring that SIP requirements remain permanent and enforceable. EPA reviewed the State’s procedure for using joint Title I/Title V documents to implement site-specific SIP requirements and found it to be acceptable under both Titles I and V of the Act (July 3, 1997 letter from David Kee, EPA, to Michael J. Sandusky, MPCA). Further, a June 15, 2006, letter from EPA to MPCA clarifies procedures to transfer requirements from Administrative Orders to joint Title I/Title V documents.

**III. What Is EPA’s Analysis of the State Submission?**

Xcel Energy is receiving more stringent SO<sub>2</sub> limits on the generation units at the Inver Hills facility. However, it can take advantage of simplified methods of meeting fuel sulfur content and analysis requirements. The use of low sulfur fuel will ensure the tightened emission limits are met.

A modeling analysis was not conducted for the Inver Hills revision because its emission limits will be more stringent. The actual emissions may not decrease, but the potential to emit will decrease with the SO<sub>2</sub> limit reductions.

Modeling uses potential to emit in determining the impact on ambient air. Minnesota has noted that a July 2006 modeling analysis for the Pine Bend area showed that ambient SO<sub>2</sub> levels will remain below the standards and thus the area's air quality is protected. All significant sources of SO<sub>2</sub> emissions in the Pine Bend area including Inver Hills were in the July 2006 modeling analysis.

#### IV. What Are the Environmental Effects of This Action?

Sulfur dioxide causes breathing difficulties and aggravation of existing cardiovascular disease. It is also a precursor of acid rain and fine particulate matter formation. Sulfate particles are a major cause of visibility impairment in America. Acid rain damages lakes and streams impairing aquatic life and causes damage to buildings, sculptures, statues, and monuments. Sulfur dioxide also causes the loss of chloroform leading to vegetation damage. Ambient SO<sub>2</sub> levels are expected to be unchanged or to decrease because of the SIP revisions. Thus, the Pine Bend area of Dakota County, Minnesota is expected to remain in attainment of the SO<sub>2</sub> NAAQS.

#### V. What Action Is EPA Taking?

EPA is approving into the Minnesota SIP revised Title I conditions from the Inver Hills joint Title I/Title V document. EPA is also removing from the SIP for Inver Hills any non-SIP related Title I conditions that were previously mistakenly incorporated into the SIP.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective February 4, 2008 without further notice unless we receive relevant adverse written comments by January 4, 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 February 4, 2008.

#### VI. Statutory and Executive Order Reviews

##### *Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and, therefore, is not subject to review by the Office of Management and Budget.

##### *Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant energy action," 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).

##### *Regulatory Flexibility Act*

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

##### *Unfunded Mandates Reform Act*

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by State law, it 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).

##### *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This rule also does not have tribal implications because it will 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 (59 FR 22951, November 9, 2000).

##### *Executive Order 13132: Federalism*

This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action 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.

##### *Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a State rule implementing a Federal Standard.

##### *National Technology Transfer Advancement Act*

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. 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.

##### *Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

##### *Congressional Review Act*

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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2008. 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 in 40 CFR Part 52**

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

Dated: November 20, 2007.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ 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 Y—Minnesota**

■ 2. In § 52.1220 the table in paragraph (d) is amended by revising the entry for "Xcel Energy, Inver Hills Generating Plant" to read as follows:

**§ 52.1220 Identification of plan.**

\* \* \* \* \*  
(d) \* \* \*

**EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS**

Name of source	Permit No.	State effective date	EPA approval date	Comments
Xcel Energy—Inver Hills Generating Plant.	03700015–003	10/27/06	12/5/07, [Insert page number where the document begins].	Only conditions cited as "Title I condition: SIP for SO <sub>2</sub> NAAQS."

\* \* \* \* \*  
[FR Doc. E7–23496 Filed 12–4–07; 8:45 am]  
BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R03–OAR–2007–0479; FRL–8500–9]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments Extending the Applicability of Four Consumer and Commercial Product Regulations to the Fredericksburg Volatile Organic Compound (VOC) Emissions Control Area**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision consists of amendments to extend the geographic applicability of four consumer and commercial product regulations—Portable Fuel Container Spillage, Mobile Equipment Repair and Refinishing Operations, Architectural and Industrial Maintenance Coatings, and Consumer Products—to the Fredericksburg VOC Emissions Control Area. These amendments are necessary to implement VOC contingency measures

within the Fredericksburg Area. The revision also incorporates by reference two additional test methods and procedures needed for Virginia's Architectural and Industrial Maintenance Coatings Rule. EPA is approving this revision to the Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on January 4, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2007–0479. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

**FOR FURTHER INFORMATION CONTACT:** Ellen Wentworth, (215) 814–2034, or by e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On September 12, 2007 (72 FR 52028), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed the approval of amendments extending the geographic applicability of four consumer and commercial product regulations to the Fredericksburg VOC Emissions Control Area. The formal SIP revision was submitted by the Commonwealth of Virginia on May 14, 2007.

**II. Summary of the SIP Revision**

The May 14, 2007 SIP revision contained regulation amendments to 9 VAC 5 Chapter 40 that extended the geographic applicability of four consumer and commercial product regulations—Portable Fuel Container Spillage, Mobile Equipment Repair and Refinishing, Architectural and Industrial Maintenance Coatings, and Consumer Products—into the new Fredericksburg VOC Emissions Control Area established in 9 VAC 5–20–206 (March 2, 2007, 72 FR 9441). These regulations had formerly applied only in the Northern Virginia VOC Emissions Control Area, and were based on the Ozone Transport Commission (OTC) model rules. The OTC developed control measures into model rules for a