

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R05-OAR-2006-0772; FRL-8296-2]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Minnesota State Implementation Plan (SIP) for sulfur dioxide (SO₂). Specifically, the revisions involve Flint Hills Resources, L.P. (Flint Hills) of Dakota County, Minnesota. In these revisions, Flint Hills is expanding operations at its petroleum refinery. To account for the increased SO₂ emissions from the expansion, Flint Hills is closing its sulfuric acid plant. An analysis of the revisions shows that the area air quality will be protected. Minnesota has also included additional monitoring requirements in the revisions.

DATES: Comments must be received on or before May 9, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0772, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- E-mail: *mooney.john@epa.gov*.
- Fax: (312)886-5824.
- 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.
- 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-2006-0772. 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*, 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* or e-mail. The *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* 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. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *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* 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 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*.

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 Should I Consider as I Prepare My Comments for EPA?
- II. What Is EPA Proposing?
- III. What Is the Background for This Action?
- IV. What Is EPA's Analysis of the State Submission?
- V. What Are the Environmental Effects of This Action?
- VI. What Action Is EPA Taking?
- VII. Statutory and Executive Order Reviews

I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What Is EPA Proposing?

EPA is proposing approval of revisions to SO₂ emission limits at the Flint Hills facility. Minnesota submitted its Findings and Order Amendment Eight on July 24, 2006. Flint Hills is expanding operations at its petroleum refinery. This expansion includes adding a new heater, emissions unit 25H-4. Modifications to two heaters, 25H-1 and 25H-3, are also allowed. Potential SO₂ emissions from the new heater and the two modified heaters are restricted by the 878 tons per year facility-wide limit on fuel gas combustion units.

Minnesota is also requiring Flint Hills to install a continuous monitor on either the fuel gas from the 45 mix drum or the heater firing that fuel gas. The monitor will measure reduced sulfur in the fuel gas or SO₂ emissions exhausting from the heater.

III. What Is the Background for This Action?

Flint Hills operates a petroleum refinery in the Minneapolis-Saint Paul metropolitan area. Flint Hills is expanding its crude oil processing operations. The expansion will increase the crude oil unit's gasoline production capacity from 100,000 to 150,000 barrels per day. Minnesota amended its Findings and Order to allow the revisions necessary for the expansion. This is the eighth amendment to the Flint Hills Findings and Order.

Minnesota held a public hearing regarding Findings and Order Amendment Eight on May 25, 2006. No comments on the Flint Hills revisions were received at the public meeting or during the 30-day public comment period.

IV. What Is EPA's Analysis of the State Submission?

Minnesota included air dispersion modeling results in its submission. The modeling analysis includes all Flint Hills SO₂ emissions sources, including the additional and modified sources. Other significant SO₂ sources in the area were also included. The modeling analysis examined the impact of the revisions on the SO₂ air quality standards. The primary SO₂ National Ambient Air Quality Standard (NAAQS) has both an annual and 24-hour averaging period. The secondary NAAQS has a 3-hour averaging period.

Flint Hills used the ISCST3 dispersion model in the regulatory mode. Five years of surface meteorological data from the Minneapolis-Saint Paul International Airport and upper air data from Saint Cloud were used. Building downwash effects from the new and existing structures were accounted for in the modeling. The analysis found that the predicted annual SO₂ concentration is 38.5 µg/m³ compared to the standard of 80 µg/m³. The modeled 24-hour level of 266.8 µg/m³ is under the 365 µg/m³ NAAQS. Similarly, the predicted 3-hour average is 726.2 µg/m³ which is under the secondary standard of 1300 µg/m³.

V. 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.

The expansion of the Flint Hills facility includes an additional source and revised limits on several sources that results in higher SO₂ emissions. The projected increase in SO₂ emissions from this project is 315 tons per year. However, overall SO₂ emissions from Flint Hills have been reduced. When considering all sources at the facility there is no increase in SO₂ emissions, in fact there is a projected decrease of 99.6 tons per year. Therefore, the "net emissions increase" is below the Prevention of Significant Deterioration (PSD) significant threshold for SO₂ of 40 tons per year. This project is not subject to PSD requirements.

The effects of the expansion were analyzed. Both the projected SO₂ emissions from the Flint Hills facility and the reductions from other area facilities were considered. That analysis showed that the maximum predicted ambient SO₂ concentrations are below the primary and secondary NAAQS. This indicates that public health and welfare in Dakota County, Minnesota should be protected. The additional monitoring requirements placed on the heater combusting the fuel gas from the 45 mix drum will also help protect the air quality.

VI. What Action Is EPA Taking?

EPA is proposing to approve revisions to SO₂ emissions regulations for Flint Hills Resources, L.P. of Dakota County, Minnesota. The revisions authorize adding a new heater, modifying two heaters, and additional monitoring.

VII. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this action is not a "significant regulatory action" and, therefore, is not subject to review by the Office of Management and Budget.

Paperwork Reduction Act

This proposed 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.*).

Regulatory Flexibility Act

This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this

proposed 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 proposes to approve 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 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 proposes to approve 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 13175: Consultation and Coordination With Indian Tribal Governments

This proposed 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 (65 FR 67249, November 9, 2000).

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

This proposed 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 is not economically significant.

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 regulatory 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).

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

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: March 19, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E7-6619 Filed 4-6-07; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA-B-7713]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood

insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act.

This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows: