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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0624; FRL-9951-27-Region 4]

Air Plan Approval;

FL: Hillsborough Area; SO₂ Attainment Demonstration

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision, submitted by the State of Florida through the Florida Department of Environmental Protection (FL DEP), to EPA on April 3, 2015, for the purpose of providing for attainment of the 2010 Sulfur Dioxide (SO₂) National Ambient Air Quality Standards (NAAQS) in the Hillsborough County SO₂ nonattainment area (hereafter referred to as the “Hillsborough Area” or “Area”). The Hillsborough Area is comprised of a portion of Hillsborough County in Florida surrounding the Mosaic Fertilizer, LLC Riverview plant (hereafter referred to as “Mosaic”). The attainment plan includes the base year emissions inventory, an analysis of the reasonably available control technology (RACT) and reasonably available control measures (RACM) requirements, a reasonable further progress (RFP) plan, a modeling demonstration of SO₂ attainment, and contingency measures for the Hillsborough Area. As a part of approving the attainment demonstration, EPA is also proposing to approve into the Florida SIP the SO₂ emissions limits and associated compliance parameters. This action

is being taken in accordance with Clean Air Act (CAA or Act) and EPA's guidance related to SO₂ attainment planning.

DATES: Comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2015-0624 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. 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, 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>.

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I. What Action is EPA Proposing to Take?

EPA is proposing to approve Florida's SIP revision for the Hillsborough Area, as submitted through FL DEP to EPA on April 3, 2015, for the purpose of demonstrating attainment of the 2010 1-hour SO₂ NAAQS. Specifically, EPA is proposing to approve the base year emissions inventory, a modeling demonstration of SO₂ attainment, an analysis of RACM/RACT, a RFP plan, and contingency measures for the Hillsborough Area. Additionally, EPA is

proposing to approve specific SO₂ emission limits and compliance parameters established for the two SO₂ sources impacting the Hillsborough Area into the Florida SIP.

EPA has preliminarily determined that Florida's SO₂ attainment plan for the 2010 1-hour SO₂ NAAQS for Hillsborough County meets the applicable requirements of the CAA and EPA's SO₂ Nonattainment Guidance.¹ Moreover, the Hillsborough Area is currently showing a design value below the 2010 SO₂ NAAQS, having implemented most of the control measures included in the SIP submittal. Thus, EPA is proposing to approve Florida's attainment plan for the Hillsborough Area as submitted on April 3, 2015. EPA's analysis for this proposed action is discussed in Section IV of this proposed rulemaking.

II. What is the Background for EPA's Proposed Action?

On June 2, 2010, the EPA Administrator signed a final rule establishing a new SO₂ NAAQS as a 1-hour standard of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. *See* 75 FR 35520 (June 22, 2010). This action also revoked the existing 1971 annual standard and 24-hour standards, subject to certain conditions.² EPA established the NAAQS based on significant evidence and numerous health studies demonstrating that serious health effects are associated with short-term exposures to SO₂ emissions ranging from 5 minutes to 24 hours with an array of adverse respiratory effects including narrowing of the airways which can cause difficulty breathing (bronchoconstriction) and increased asthma symptoms. For more information regarding the

¹ EPA's April 23, 2014 memorandum entitled "Guidance for the 1-Hour SO₂ Nonattainment Area SIP Submissions," hereafter referred to as the "SO₂ Nonattainment Guidance."

² EPA's June 22, 2010 final action revoked the two 1971 primary 24-hour standard of 140 ppb and the annual standard of 30 ppb because they were determined not to add additional public health protection given a 1-hour standard at 75 ppb. *See* 75 FR 35520. However, the secondary 3-hour SO₂ standard was retained. Currently, the 24-hour and annual standards are only revoked for those areas the EPA has already designated for the 2010 1-hour SO₂ NAAQS in August 2013 and June 30, 2016, including the Hillsborough Area. *See* 40 CFR 50.4(e).

health impacts of SO₂, please refer to the June 22, 2010 final rulemaking. See 75 FR 35520.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1) of the CAA. On August 5, 2013, EPA promulgated initial air quality designations of 29 areas for the 2010 SO₂ NAAQS (78 FR 47191), which became effective on October 4, 2013, based on violating air quality monitoring data for calendar years 2009–2011, where there was sufficient data to support a nonattainment designation.³

Effective on October 4, 2013, the Hillsborough Area was designated as nonattainment for the 2010 SO₂ NAAQS for an area that encompasses the primary SO₂ emitting source Mosaic fertilizer plant and the nearby SO₂ monitor (Air Quality Site ID: 12-057-0109). The October 4, 2013, final designation triggered a requirement for Florida to submit a SIP revision with a plan for how the Area would attain the 2010 SO₂ NAAQS as expeditiously as practicable, but no later than October 4, 2018, in accordance with CAA section 172(b).

The required components of a nonattainment plan submittal are listed in section 172(c) of part D of the CAA. The base year emissions inventory (section 172(c)(3)) is required to show a “comprehensive, accurate, current inventory” of all relevant pollutants in the nonattainment area. The nonattainment plan must identify and quantify any expected emissions from the construction

³ EPA is continuing its designation efforts for the 2010 SO₂ NAAQS. Pursuant to a court-ordered consent decree finalized March 2, 2015, in the U.S. District Court for the Northern District of California, EPA must complete the remaining designations for the rest of the country on a schedule that contains three specific deadlines. By July 2, 2016, EPA must designate areas specified in the March 2, 2015 consent decree based on specific emission criteria. *Sierra Club, et al. v. Environmental Protection Agency*, 13-cv-03953-SI (2015). The last two deadlines for completing designations, December 2017 and December 2020 are expected to be informed by information required pursuant the “Data Requirements Rule for the 2010 1-Hour Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard (NAAQS); Final Rule,” or “Data Requirements Rule.” See 80 FR 51052 (August 21, 2015). <http://www.epa.gov/airquality/sulfurdioxide/designations/pdfs/201503Schedule.pdf>. On June 30, 2016, EPA designated a total of 61 areas for the 2010- 1-hour SO₂ standard as part of the 2nd round of designations pursuant to the March 2, 2015 consent decree.

of new sources to account for emissions in the area that might affect RFP toward attainment, or with attainment and maintenance of the NAAQS, and provide for a nonattainment new source review (NNSR) program (section 172(c)(5)). The attainment demonstration must include a modeling analysis showing that the enforceable emissions limitations and other control measures taken by the state will provide for expeditious attainment of the NAAQS (section 172(c)). The nonattainment plan must include an analysis of the RACM considered, including RACT (section 172(c)(1)). RFP for the nonattainment area must be addressed in the submittal. Finally, the nonattainment plan must provide for contingency measures (section 172(c)(9)) to be implemented in the case that RFP toward attainment is not made, or the area fails to attain the NAAQS by the attainment date.

III. What is included in Florida's Attainment Plan for the Hillsborough Area?

In accordance with section 172(c) of the CAA, the Florida attainment plan for the Hillsborough Area includes: (1) an emissions inventory for SO₂ for the plan's base year (2011); and (2) an attainment demonstration. The attainment demonstration includes: technical analyses that locate, identify, and quantify sources of emissions contributing to violations of the 2010 SO₂ NAAQS; a declaration that FL DEP is unaware of any future growth in the area that would be subject to CAA 173,⁴ and the assertion that the NNSR program approved in the SIP at Section

⁴ The CAA new source review (NSR) program is composed of three separate programs: prevention of significant deterioration (PSD), NNSR, and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the NAAQS – “attainment areas” – as well as areas where there is insufficient information to determine if the area meets the NAAQS – “unclassifiable areas.” The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS – “nonattainment areas.” The Minor NSR program addresses construction or modification activities that do not qualify as “major” and applies regardless of the designation of the area in which a source is located. Together, these programs are referred to as the NSR programs. Section 173 of the CAA lays out the NNSR program for preconstruction review of new major sources or major modifications to existing sources, as required by CAA section 172(c)(5). The programmatic elements for NNSR include, among other things, compliance with the lowest achievable emissions rate and the requirement to obtain emissions offsets.

62-252.500, Florida Administrative Code (F.A.C.) would account for any such growth; a modeling analysis of an emissions control strategy for the primary SO₂ source, Mosaic, and a nearby source, the Tampa Electric Company's (TECO's) Big Bend electric generating facility (hereafter referred to as "TECO"), that attains the SO₂ NAAQS by the October 4, 2018 attainment date; a determination that the control strategy for the primary SO₂ source within the nonattainment areas constitutes RACM/RACT; adherence to a construction schedule to ensure emissions reductions are achieved as expeditiously as practicable; a request from FL DEP that emissions reduction measures including system upgrades and/or emissions limitations with schedules for implementation and compliance parameters be incorporated into the SIP; and contingency measures.

IV. What is EPA's Analysis of Florida's Attainment Plan for the Hillsborough Area?

Consistent with CAA requirements (see, section 172), an attainment demonstration for a SO₂ nonattainment area must include a showing that the area will attain the 2010 SO₂ NAAQS as expeditiously as practicable. The demonstration must also meet the requirements of 40 Code of Federal Regulations (CFR) 51.112 and Part 51, Appendix W, and include inventory data, modeling results, and emissions reduction analyses on which the state has based its projected attainment. In the case of the Hillsborough Area, 2013–2015 quality-assured and certified air quality data indicated a design value below the 2010 1-hour SO₂ NAAQS. EPA is proposing that the attainment plan submitted by Florida is sufficient, and EPA is proposing to approve the plan to assure ongoing attainment.

A. Pollutants Addressed

Florida's SO₂ attainment plan evaluates SO₂ emissions for the area within the portion of Hillsborough County that is designated nonattainment for the 2010 SO₂ NAAQS. There are no significant precursors to consider for the SO₂ attainment plan. SO₂ is a pollutant that arises from direct emissions, and therefore concentrations are highest relatively close to the source(s) and much lower at greater distances due to dispersion. *See* SO₂ Nonattainment Guidance. Thus, SO₂ concentration patterns resemble those of other directly emitted pollutants like lead and differ from those of photochemically-formed (secondary) pollutants such as ozone. The two sources included in FL DEP's SIP to address the Hillsborough Area and their operations are briefly described later on in this preamble. As the Hillsborough Area includes one such major point source of SO₂ and one source just outside the Area, it is expected that an attainment demonstration addressing SO₂ emissions at these two sources will effectively ensure that the Area will attain by the attainment date of October 4, 2018.

B. Emissions Inventory Requirements

States are required under section 172(c)(3) of the CAA to develop comprehensive, accurate and current emissions inventories of all sources of the relevant pollutant or pollutants in the area. These inventories provide a detailed accounting of all emissions and emission sources by precursor or pollutant. In addition, inventories are used in air quality modeling to demonstrate that attainment of the NAAQS is as expeditious as practicable. The April 23, 2014,

SO₂ Nonattainment Guidance provides that the emissions inventory should be consistent with the Air Emissions Reporting Requirements (AERR) at Subpart A to 40 CFR part 51.⁵

For the base year inventory of actual emissions, a “comprehensive, accurate and current,” inventory can be represented by a year that contributed to the three-year design value used for the original nonattainment designation. The final SO₂ Nonattainment Guidance notes that the base year inventory should include all sources of SO₂ in the nonattainment area as well as any sources located outside the nonattainment area which may affect attainment in the area. Florida elected to use 2011 as the base year. Actual emissions from all sources of SO₂ in the Hillsborough Area were reviewed and compiled for the base year emissions inventory requirement. All stationary sources of SO₂ emissions located in the Hillsborough Area were estimated and included in the inventory, and a source outside the Area that FL DEP determined caused or contributed to elevated SO₂ concentrations within the nonattainment area was also included.

The primary SO₂-emitting point source located within the Hillsborough Area is the Mosaic fertilizer plant, which produces acids and fertilizers including sulfuric acid, phosphoric acid, ammonium sulfate, diammonium phosphate, and monoammonium phosphate. Mosaic consists of three main SO₂ emitters and six smaller emitters:

- Emissions Unit (EU) 004 (Mosaic EU 004) is the No. 7 sulfuric acid plant, which burns sulfur and oxygen to form SO₂, then catalytically converts the SO₂ to SO₃, finally absorbing the SO₃ into sulfuric acid, and has a design capacity of 3,200 tons per day (tpd) of 100 percent sulfuric acid;

⁵ The AERR at Subpart A to 40 CFR part 51 cover overarching federal reporting requirements for the states to submit emissions inventories for criteria pollutants to EPA’s Emissions Inventory System. The EPA uses these submittals, along with other data sources, to build the National Emissions Inventory.

- Mosaic EU 005 is the No. 8 sulfuric acid plant, which operates similar to Mosaic EU 004 and has a design capacity of 2,700 tpd of 100 percent sulfuric acid;
- Mosaic EU 006 is the No. 9 sulfuric acid plant, which operates similar to Mosaic EU 004 and has a design capacity of 3,400 tpd of 100 percent sulfuric acid; and
- Mosaic EUs 007, 043, 055, 066, 067, and 068 provide various services to other parts of the facility and combine for less than 1 ton per year (tpy); for more information on these miscellaneous units, see the April 3, 2015, submittal.

The emissions at all units for the Mosaic facility were recorded using data collected from continuous emissions monitoring systems (CEMS) and are quality-assured by FL DEP.

The next largest SO₂ source within the nonattainment area is the Ajax Paving Industries, Inc., Plant No. 6 (Ajax), which produces asphalt and recycles reclaimed asphalt. SO₂ emissions from Ajax were 5.91 tons in 2011. Ajax asphalt plant consists of two main SO₂ emitters:

- Ajax EU 005 is a diesel engine and power generator for a crusher; and
- Ajax EU 006 is the drum mix asphalt plant.

The final SO₂ source within the nonattainment area is Harsco Minerals (Harsco), which recycles minerals and byproducts from steel production. SO₂ emissions from Harsco were 0.003 tons in 2011. Harsco consists of one SO₂ emitter:

- Harsco EU001 is a rotary slag dryer.

The largest SO₂ source within 25 kilometers (km) outside the Hillsborough Area is TECO, which is an electric generating facility. The TECO facility consists of four main SO₂ emitters and four smaller SO₂ emitters:

- TECO EUs 001, 002, 003, and 004 are fossil fuel fired steam generators that fire coal or a coal-and-petroleum coke mixture with no more than 20 percent petroleum coke by weight, or coal blended with residual coal from the Polk Power Station and on-site generated fly ash, and which are rated at 445 MW electrical production for EUs 001–003, and 486 MW for EU 004;
- TECO EUs 041, 042, 043, 044, provide energy via simple cycle combustion and diesel generators and combine for less than 1 tpy; for more information on these miscellaneous units, see the April 3, 2015, submittal.

Emissions from the TECO facility were collected via CEMS or calculated. Specifically, TECO EUs 001 – 004, the only significant SO₂ emitters at the facility, are equipped with CEMS, while the remaining units were estimated based on fuel use and actual hour of operation.

Pursuant to Florida's SIP-approved regulations at Chapter 62-210.370, F.A.C., paragraph (3), FL DEP collects annual operating reports (AORs), incorporated by reference into the SIP at 62-210.900(5), from all major sources. These AORs were used to develop the base year inventory for actual emissions for the point sources and satisfy the AERR. FL DEP utilized EPA's 2011 National Emissions Inventory (NEI), Version 2 to obtain estimates of the area and nonroad sources. For onroad mobile source emissions, FL DEP utilized EPA's Motor Vehicle Emissions Simulator (MOVES2014). A more detailed discussion of the emissions inventory development for the Hillsborough Area can be found in Florida's April 3, 2015, submittal.

Table 1 shows the level of emissions, expressed in tpy, in the Hillsborough Area for the 2011 base year by emissions source category. The point source category includes all sources

within the nonattainment area as well as TECO, which is located outside the Hillsborough Area, but determined by FL DEP to contribute to nonattainment.

Table 1. 2011 Base Year Emissions Inventory for the Hillsborough Area (tpy)

Year	Point	Onroad	Nonroad	Area	Total
2011	12,145.90	1.96	8.88	2.63	12,159.37

EPA has evaluated Florida's 2011 base year emissions inventory for the Hillsborough Area and has made the preliminary determination that this inventory was developed consistent with EPA's guidance. Therefore, pursuant to section 172(c)(3), EPA is proposing to approve Florida's 2011 base year emissions inventory for the Hillsborough Area.

The attainment demonstration also provides for a projected attainment year inventory that includes estimated emissions for all emission sources of SO₂ which are determined to impact the nonattainment area for the year in which the area is expected to attain the standard. This inventory must address any future growth in the Area. Growth means any potential increases in emissions of the pollutant for which the Hillsborough Area is nonattainment (SO₂) due to the construction and operation of new major sources, major modifications to existing sources, or increased minor source activity. FL DEP included a statement in its April 3, 2015, submittal declaring that FL DEP is unaware of any plans for the growth of major sources in the Hillsborough Area, and that normal minor source growth should not significantly impact the Area. FL DEP further asserts that the NNSR program at Section 62-252.500, F.A.C., approved into the SIP and last updated on June 27, 2008 (*see* 73 FR 36435), would address any proposed new major sources or planned major modifications for SO₂ sources. The NNSR program includes lowest achievable emissions rate, offsets, and public hearing requirements.

FL DEP provided a 2018 projected emissions inventory for all known sources included in the 2011 base year inventory, discussed previously, that were determined to impact the Hillsborough County nonattainment area. The projected 2018 emissions in Table 2 are estimated actual emissions, representing a 49 percent reduction from the base year SO₂ emissions. The point source emissions were estimated by multiplying the 2018 allowable emissions by the ratio of 2011 actual emissions to allowable emissions. Per the SO₂ Nonattainment Guidance, the allowable emissions limits that FL DEP is requesting EPA approve into the SIP as a control measure were modeled to show attainment. These allowable emission limits are higher than the projected actual emissions included in the future year inventory, and therefore offer greater level of certainty that the NAAQS will be protected under all operating scenarios. Emissions estimates for onroad sources were re-estimated with MOVES2014. The nonroad and area source emissions were scaled based on estimated population growth in the Hillsborough Area portion of Hillsborough County.

Table 2. Projected 2018 SO₂ Emissions Inventory for the Hillsborough Area (tpy)

Year	Point	Onroad	Nonroad	Area	Total
2011	12,145.90	1.96	8.88	2.63	12,159.37
2018	6,211.08	0.75	9.75	2.89	6,224.47

C. Air Quality Modeling

The SO₂ attainment demonstration provides an air quality dispersion modeling analysis to demonstrate that control strategies chosen to reduce SO₂ source emissions will bring the area into attainment by the statutory attainment date of October 4, 2018. The modeling analysis, outlined

in Appendix W to 40 CFR Part 51 (EPA's Modeling Guidance),⁶ is used for the attainment demonstration to assess the control strategy for a nonattainment area and establish emission limits that will provide for attainment. The analysis requires five years of meteorological data to simulate the dispersion of pollutant plumes from multiple point, area, or volume sources across the averaging times of interest. The modeling demonstration typically also relies on maximum allowable emissions from sources in the nonattainment area. Though the actual emissions are likely to be below the allowable emissions, sources have the ability to run at higher production rates or optimize controls such that emissions approach the allowable emissions limits. A modeling analysis that provides for attainment under all scenarios of operation for each source must therefore consider the worst case scenario of both the meteorology (e.g., predominant wind directions, stagnation, etc.) and the maximum allowable emissions.

FL DEP's modeling analysis was developed in accordance with EPA's Modeling Guidance and the SO₂ Nonattainment Guidance, and was prepared using EPA's preferred dispersion modeling system, the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) consisting of the AERMOD (version 14134) model and two data input preprocessors AERMET (version 14134) and AERMAP (version 11103). AERMINUTE meteorological processor and AERSURFACE surface characteristics processor were also used to develop inputs to AERMET. The Building Profile Input Program for Plume Rise Model Enhancements (BPIP-PRIME) was also used in the downwash-modeling. More detailed information on the AERMOD Modeling system, and other modeling tools and documents can be found on the EPA Technology Transfer Network Support Center for

⁶ 40 CFR Part 51 Appendix W (EPA's *Guideline on Air Quality Models*) (November 2005) located at http://www3.epa.gov/ttn/scram/guidance/guide/appw_05.pdf. EPA has proposed changes to Appendix W. See 80 FR 45340 (July 29, 2015).

Regulatory Atmospheric Modeling (SCRAM) (<http://www3.epa.gov/ttn/scram/>) and in Florida's April 3, 2015 SIP submittal in the docket for this proposed action (EPA-R04-OAR-2015-0624) on www.regulations.gov. A brief description of the modeling used to support Florida's attainment demonstration is provided later on in this preamble.

1. Modeling Approach

The following is an overview of the air quality modeling approach used to demonstrate compliance with the 2010 SO₂ NAAQS, as submitted in Florida's April 3, 2015, submittal. The basic procedures are outlined later on.

- i. FL DEP developed model inputs using the AERMOD modeling system and processors.

The pre-processors AERMET and AERMINUTE were used to process five years (i.e., 2008–2012) of 1-minute meteorological data from the Tampa National Weather Service Office (NWS) at the Tampa International Airport, Tampa, Florida, surface level site, based on FL DEP's land use classifications, in combination with twice daily upper-air meteorological information from the same site. The Tampa International Airport is located approximately 20 km northwest from the Hillsborough Area. The AERMOD pre-processor AERMAP was used to generate terrain inputs for the receptors, based on a digital elevation mapping database from the National Elevation Dataset developed by the U.S. Geological Survey. FL DEP used AERSURFACE to generate direction-specific land-use surface characteristics for the modeling. The BPIP-PRIME preprocessor was used to generate direction-specific building downwash parameters. FL DEP

developed a Cartesian receptor grid across the nonattainment boundary (extending up to 8.5 km away from the violating monitor), with 100 meter spacing in ambient air to ensure maximum concentrations are captured in the analysis. All other input options were also developed commensurate with the Modeling Guidance.

Next, FL DEP selected a background SO₂ concentration based on local SO₂ monitoring data from monitoring station No. 12–057–0109 for the period January 2012 to December 2013. This background concentration from the nearby ambient air monitor is used to account for SO₂ impacts from all sources that are not specifically included in the AERMOD modeling analysis. The data was obtained from the Florida Air Monitoring and Assessment System. This monitor is approximately 1.0 km to the southeast of Mosaic and 6.5 km north of TECO. This monitor is also the nonattainment monitor. Due to its close proximity to the Mosaic and TECO facilities, monitored concentrations at this station are strongly influenced by emissions from both facilities. As a result, the data was filtered to remove measurements where the wind direction could transport pollutants from Mosaic and TECO to the station. More specifically, the data was filtered to remove measurements where hourly wind direction was between 275° to 4° or 153° to 241°.

- ii. FL DEP performed current and post-control dispersion modeling using the EPA-approved AERMOD modeling system.
- iii. Finally, FL DEP derived the 99th percentile maximum 1-hour daily SO₂ design value across the five year meteorological data period.

EPA's SO₂ nonattainment implementation guidance provides a procedure for establishing longer-term averaging times for SO₂ emission limits (up to a 30-day rolling averaging time).⁷ In conjunction with states' CAA obligation to submit SIPs that demonstrate attainment, EPA believes that air agencies that consider longer term average times for a SIP emission limit should provide additional justification for the application of such limits. This justification involves determining the "critical emission value"⁸ or the 1-hour emission limit that modeling found to provide for attainment and adjusting this rate downward to obtain a comparable stringency to the modeled 1-hour average emission limit. A comparison of the 1-hour limit and the proposed longer term limit, in particular an assessment of whether the longer term average limit may be considered to be of comparable stringency to a 1-hour limit at the critical emission value, is critical for demonstrating that any longer term average limits in the SIP will help provide adequate assurance that the plan will provide for attainment and maintenance of the 1-hour NAAQS. This allows states to develop control strategies that account for variability in 1-hour emissions rates through emission limits with averaging times that are longer than 1 hour, using averaging times as long as 30 days, and still demonstrate attainment of the 2010 SO₂ NAAQS.

EPA's recommended procedure for determining longer term averaging times, including calculating the adjustment factor between the 1-hour critical emission value and the equivalent 30-day rolling average emissions limit, are provided in Appendices B and C of the SO₂ Nonattainment Guidance. EPA is proposing to conclude that FL DEP completed this analysis

⁷ FL DEP is following the SO₂ Nonattainment Guidance on procedures for establishing emissions limits with averaging periods longer than 1 hour.

⁸ The hourly emission rate that the model predicts would result in the 5-year average of the annual 99th percentile of daily maximum hourly SO₂ concentrations at the level of the NAAQS.

for both Mosaic and TECO facilities to derive a SIP emission limit with a block 24-hour longer-term averaging time and a rolling 30-day longer-term averaging time, respectively, that are comparatively stringent to the 1-hour limit. For more details, see Florida's April 3, 2015, SIP submittal and accompanying appendices.

2. Modeling Results

The SO₂ NAAQS compliance results of the attainment modeling are summarized in Table 3. Table 3 presents the results from six sets of AERMOD modeling runs that were performed. The six modeling runs were the result of using an uncontrolled, or pre-modification, run and five different controlled, or post-modification, scenarios to account for the proposed control strategy that involves a two-unit and three-unit emissions cap at Mosaic, in addition to individual emissions caps. Maximum allowable permitted emissions limits were used for the Hillsborough Area modeling demonstration. These emissions limits and other control measures were established in construction permits issued by FL DEP, to be incorporated in title V operating permits upon renewal. FL DEP is requesting that these emissions limits and operating conditions, detailed in Section IV.D. of this proposed rulemaking, be adopted into the SIP to become federally enforceable upon approval of the nonattainment plan, prior to the renewal of the title V operating permits for both the Mosaic and TECO facilities. The five post-control runs help to identify the worst possible scenario of emissions distributions between the three units EUs 004–006, the sulfuric acid plants at the Mosaic facility. Under one modeling scenario, an emissions cap of 600 pounds per hour (lb/hr) SO₂ for Mosaic EUs 004–006 is evaluated based on the highest possible impact based on catalyst limitations and maximum sulfuric acid production. This overall cap was then scaled as a 24-hour limit, maintaining comparative stringency with the

1-hour limit (577.8 lb/hr). FL DEP rounded down the limit for an additional buffer from the maximum impact, resulting in a 24-hour limit of 575 lb/hr, which compares to a 1-hour limit of 597 lb/hr. This three-unit emissions cap was then modeled in several configurations to mimic variability in emissions possible under this scenario, apportioning emissions based on each unit emitting at their current individual emissions limit with the remainder of the cap distributed to the other units based on their relative production capacities. The highest impact is presented as the three-unit emissions cap scenario. FL DEP also evaluated a two-unit emissions caps, assuming at any time that two units are operating. The six possible two-unit operating scenarios were evaluated by each unit operating at its current individual emission limit, while the remainder of the 597 lb/hr limit is distributed to the one remaining operating unit. Again, the highest possible impact is presented as the two-unit operating scenario. For the three remaining scenarios, each sulfuric acid plant is assumed to operate alone at its individual emissions cap.

The modeling utilized five years (2008–2012) of meteorological data from the NWS site in Tampa, Florida, as processed through AERMET, AERMINTE and AERSURFACE. This procedure was used since this site represented the nearest site with complete data.

Table 3 shows that the maximum 1-hour average across all five years of meteorological data (2008–2012) is less than or equal to the 2010 SO₂ NAAQS of 75 ppb for the five post-control AERMOD modeling runs. For more details, see Florida's April 3, 2015 SIP submittal.

Table 3. Maximum Modeled SO₂ Impacts in the Hillsborough Area, micrograms per cubic meter (ppb)

Model Scenario	Averaging Time	Maximum Predicted Impact Mosaic	TECO	Background	Total	SO ₂ NAAQS
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Pre-modification	1-hour	425.50 (162.4)	0.82 (0.31)	20.40 (7.8)	446.72 (170.5)	196.4 (75)
Three-unit	1-hour	118.90 (45.4)	55.90 (21.3)	21.44 (8.2)	196.24 (74.9)	
Two-unit	1-hour	123.59 (47.2)	52.22 (19.9)	18.83 (7.2)	194.65 (74.3)	
EU 004 only	1-hour	0.33 (0.12)	170.84 (65.2)	17.26 (6.6)	188.43 (71.9)	
EU 005 only	1-hour	0.25 (0.10)	170.84 (65.2)	17.26 (6.6)	188.35 (71.9)	
EU 006 only	1-hour	0.33 (0.12)	170.84 (65.2)	17.26 (6.6)	188.43 (71.9)	

The pre-control analysis resulted in a predicted impact of 170.5 ppb. The post-control analysis resulted in a worst-case predicted impact of 74.9 ppb. EPA is preliminarily determining that this data indicates sufficient reductions in air quality impact with the future implementation of the post-construction control plan for the Mosaic and TECO facilities. Furthermore, EPA is preliminarily concluding that this data also supports FL DEP's analysis that the controls for Mosaic represent RACM and RACT for the SIP. The control strategy for Mosaic, as reflected in its construction Air Permit No. 0570008-080-AC, includes eliminating fuel oil except during periods of natural gas curtailment or disruption; changing the catalyst used to convert SO₂ to SO₃ for improved performance; increasing stack heights for all three sulfuric acid plants from 150 feet (ft) to at least 213.25 ft; and restricting the collective SO₂ emissions to 550 lb/hr under two-unit operating scenarios, and 575 lb/hr under three-unit operating scenarios. The result of increasing a stack height is that the plume has a better opportunity for greater dispersion across an area, minimizing stagnation and local impacts from higher concentrations, primarily due to the avoidance of building downwash effects.⁹ Mosaic's allowable SO₂ emissions (total from all

⁹ See EPA's June 1985 guidance document, "Guideline for Determination of Good Engineering Practice Stack Height (Technical Support Document For the Stack Height Regulations)," which can be found at: <http://www3.epa.gov/scram001/guidance/guide/gep.pdf>.

three controlled units) will be reduced from 1,140 lb/hr (based on total individual unit emission limits) to a maximum of 575 lb/hr, representing at least a 49 percent allowable emissions decrease. The State will issue a revised title V permit to incorporate the Mosaic construction permit, and meanwhile is proposing the stack height increases and emission limits and operating scenarios related to those various limits be adopted into the SIP for immediate effectiveness authorizing Mosaic to operate in accordance with those conditions.

The control strategy for TECO, as reflected in its construction Air Permit No. 0570039-074-AC, includes the following operational changes to the four largest SO₂-emitting units: switching fuel oil to natural gas during startup, shutdown and flame stabilization at all four fossil fuel fired steam generators; and a combined emission limit from all four units of 3,162 lb/hr, to become effective no later than June 1, 2016. Florida will incorporate the operational change for TECO into its title V permit upon renewal. TECO's new combined allowable SO₂ emissions from TECO EUs 001–004 will be reduced from 6587.6 lb/hr (based on total individual unit emission limits)¹⁰ to 3,162 lb/hr representing a 52 percent allowable emissions decrease. The modeling results included in Table 3 prove that TECO should be included in the considerations of controls because with several post-control modeling scenarios, TECO would contribute to over 90 percent of the total impact to the Hillsborough Area, and in the worst possible post-control modeling scenario, 28 percent of the total predicted impact on the Hillsborough Area would stem from TECO. Therefore, if no controls were implemented at TECO, the Area would not likely attain and maintain the 2010 SO₂ NAAQS. The collective emission limit and related compliance parameters have been proposed for incorporation into the SIP to make these changes

¹⁰ The individual emission limits were included in the April 3, 2015, submittal.

federally enforceable. More details on the pre- and post-construction operations at the facilities are included in Florida's SIP submission. FL DEP asserts that the proposed control strategy significantly lowers the modeled SO₂ impacts from the TECO facility and is sufficient for the Hillsborough Area to attain 2010 SO₂ NAAQS.

EPA has reviewed the modeling that Florida submitted to support the attainment demonstration for the Hillsborough Area and has preliminarily determined that this modeling is consistent with CAA requirements, Appendix W and EPA's guidance for SO₂ attainment demonstration modeling.

D. RACM/RACT

CAA section 172(c)(1) requires that each attainment plan provide for the implementation of all reasonably available control measures as expeditiously as practicable and attainment of the NAAQS. EPA interprets RACM, including RACT, under section 172, as measures that a state determines to be both reasonably available and contribute to attainment as expeditiously as practicable “for existing sources in the area.”

Florida's analysis is found in Section 3 of the FL DEP attainment demonstration within the April 3, 2015, SIP submittal. The State determined that controls for SO₂ emissions at Mosaic are appropriate in the Hillsborough Area for purposes of attaining the 2010 SO₂ NAAQS. CAA section 172(c)(1) says that the plan shall provide for RACM, including RACT for “existing sources in the area.” Accordingly, Florida only completed a RACM/RACT analysis for Mosaic, since it is the only significant point source within the boundaries of the nonattainment area. The Ajax and Harsco sources resulted in less than 6 tpy between them. FL DEP included TECO in its attainment and impact modeling because of the source's proximity to the Hillsborough Area

(within 5 km) and its likelihood of contributing to violations of the SO₂ NAAQS within the area. In a modeling-based attainment demonstration, the means of considering impacts of sources outside the nonattainment area would depend on whether the sources cause significant concentration gradients. Florida proposed a control strategy for the TECO facility, but does not assert that those controls constitute “the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility”¹¹ because section 172(c)(1) provides for the implementation of RACT for existing sources in the area. However, an analysis of attainment needs to consider all potential sources, both inside and outside the nonattainment area that could reasonably cause or contribute to violations of the NAAQS within the area. FL DEP affirms the implementation of controls at TECO significantly lowers the modeled SO₂ impact from the facility and is sufficient to attain 2010 SO₂ NAAQS in the Hillsborough Area. The control measures at both sources are summarized later on in this preamble.

On January 15, 2015, FL DEP issued construction Air Permit No. 0570008-080-AC to Mosaic for additional proposed control measures to reduce SO₂ emissions. The specified limits and conditions from this construction permit, which will be adopted into the title V operating permit upon renewal, reflecting RACT controls, are included in the April 3, 2015, SIP submittal for incorporation into the SIP. The title V permit renewal is currently under review at the State, and is expected to be final by the end of calendar year 2016. The SO₂ Nonattainment Guidance discusses an anticipated control compliance date of January 1, 2017. Areas that implement

¹¹ Strelow, Roger. “Guidance for Determining the Acceptability of SIP Regulations in Non-Attainment Areas.” Memo to Regional Administrators. Office of Air and Waste Management, Environmental Protection Agency. Washington, D.C. December 9, 1976. Located at: http://www.epa.gov/ttn/naaqs/aqmguide/collection/cp2/19761209_strelow_ract.pdf.

attainment plan control strategies by this date are expected to be able to show a year of quality-assured air monitoring data showing attainment of the NAAQS and a year of compliance information, which when modeled, would also show attainment of the NAAQS. In accordance with the schedule in the construction permit, Mosaic is required to implement emissions limits by December 15, 2016, complete final increased stack height construction and catalyst changes by November 2017, and the elimination of fuel oil by January 1, 2018. This date, though later than the date suggested in the SO₂ Nonattainment Guidance, provides for 9 months of compliance information by the October 4, 2018 attainment date, including a semiannual compliance report in July 2018. Finally, the Hillsborough Area is currently showing an attaining design value for 2013–2015, which means that attainment of the NAAQS is as expeditious as practicable. FL DEP included in its SIP the required RACT controls listed in the permit and summarized in Table 4:

Table 4. Summary of RACT Controls for Mosaic¹²

Description of Measure	Explanation
Mosaic EUs 004–006: The sulfuric acid plants undergo construction and operational changes to: increase stack heights; change catalysts for sulfuric acid production; and meet two-unit and three-unit enforceable emission limits.	Mosaic was authorized to construct at current stacks for each sulfuric acid plant, increasing the stack height from the existing level of 150 ft to at least 213.25 ft. Mosaic was authorized to change catalysts and system augmentation to ensure compliance with new emission limits. Mosaic has new emission limitations, lowering the allowable SO ₂ from all three sulfuric acid plants collectively from 1140 lb/hr to a maximum of 575 lb/hr as a block 24-hour average. ¹³ These emission limits cover various operating scenarios, including individual unit emissions limits, which remain unchanged from the current permit, along with two-unit and three-unit total limits. All emission limits will be incorporated into the title V operating permit upon renewal and are proposed for incorporation into the SIP.
Plantwide: Mosaic is required to eliminate fuel oil use.	By January 1, 2018, Mosaic will not be authorized to use fuel oil, except during periods of natural gas curtailment or disruption. This condition is included in the construction permit.

On February 26, 2015, construction Air Permit No. 0570039-074-AC was issued to TECO for additional proposed control measures to reduce SO₂ emissions. The specified limits and conditions from this construction permit are to be adopted into the title V operating permit upon renewal, and are intended to supplement the RACT adopted for Mosaic in the Hillsborough Area to help with attainment and maintenance of the 2010 SO₂ NAAQS. These controls are included in the April 3, 2015, SIP submittal for incorporation into the SIP. TECO is required to implement the controls on or before June 1, 2016. The construction is complete and the emission limit is currently in effect. The title V permit renewal is under review at the State currently, and

¹² The information was pulled from the April 3, 2015 submittal, in which the original construction permit is included. None of these changes authorize an increased production rate at the facility.

¹³ See previous discussion on longer-term emission limits. For more information, see the April 3, 2015 submittal.

is expected to be final by the end of calendar year 2016. Therefore, the additional control strategy for TECO is in effect. The supplemental control measures at TECO are summarized in Table 4:

Table 4. Summary of Supplemental Control Measures for TECO

Description of Measure	Explanation
TECO EUs 001–004 ¹⁴ : The fossil fuel fired steam generators undergo an operational change to meet a collective enforceable emission limit.	By June 1, 2016, TECO will comply with a 3,162 lb/hr SO ₂ emission limitation as a 30-day rolling average. This collective limit, or cap, will be incorporated into the title V operating permit upon scheduled renewal and is proposed for incorporation into the SIP.

EPA is proposing to approve Florida's determination that the proposed controls for SO₂ emissions at Mosaic constitute RACM/RACT for that source in the Hillsborough Area based on the analysis described previously. Additionally, EPA proposes to approve Florida's determination that the supplemental control measures initiated at TECO help to bring the area into attainment of the 2010 SO₂ NAAQS as expeditiously as practicable. Further, EPA determines that no further controls would be required at Mosaic, and that the proposed controls are sufficient for RACM/RACT purposes for the Hillsborough Area at this time. EPA, therefore, proposes to approve Florida's April 3, 2015, SIP submission as meeting the RACM/RACT requirements of the CAA.

Based on FL DEPs modeling demonstration, the Hillsborough Area is projected to begin showing attaining monitoring values for the 2010 SO₂ NAAQS by the 2018 attainment date. As noted previously, some of the control measures will not be in place a full year prior to the attainment date as recommended in the 2014 SO₂ Nonattainment Guidance; a recommendation

¹⁴ Additional controls not requested for incorporation into the SIP for TECO EUs 001–004 include the elimination of fuel oil usage as of 180 days prior to June 1, 2016

intended to provide data to evaluate the effect of the control strategy on air quality. Because the Area is currently attaining the 2010 SO₂ NAAQS, EPA proposes to find that the full control strategy will be in place for an adequate time prior to the attainment date to ensure attainment of the NAAQS. In addition, by approving the RACM/RACT for Mosaic, and the supplemental controls for TECO, for the purposes of Florida's attainment planning, the control measures outlined in Tables 3 and 4 will become permanent and enforceable SIP measures to meet the requirements of the CAA.

E. RFP Plan

Section 172(c)(2) of the CAA requires that an attainment plan includes a demonstration that shows reasonable further progress for meeting air quality standards will be achieved through generally linear incremental improvement in air quality. Section 171(1) of the Act defines RFP as “such annual incremental reductions in emissions of the relevant air pollutant as are required by this part (part D) or may reasonably be required by EPA for the purpose of ensuring attainment of the applicable NAAQS by the applicable attainment date.” As stated originally in the 1994 SO₂ Guideline Document¹⁵ and repeated in the 2014 SO₂ Nonattainment Guidance, EPA continues to believe that this definition is most appropriate for pollutants that are emitted from numerous and diverse sources, where the relationship between particular sources and ambient air quality are not directly quantified. In such cases, emissions reductions may be required from various types and locations of sources. The relationship between SO₂ and sources is much more defined, and usually there is a single step between pre-control nonattainment and post-control attainment. Therefore, EPA interpreted RFP for SO₂ as adherence to an ambitious

¹⁵ SO₂ Guideline Document, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, EPA-452/R-94-008, February 1994. Located at: <http://www.epa.gov/ttn/oarpg/t1pgm.html>.

compliance schedule in both the 1994 SO₂ Guideline Document and the 2014 SO₂ Nonattainment Guidance. The control measures for attainment of the 2010 SO₂ NAAQS included in the State's submittal have been modeled to achieve attainment of the NAAQS. The permits and the adoption of specific emissions limits and compliance parameters require these control measures and resulting emissions reductions to be achieved as expeditiously as practicable. As a result of an ambitious compliance schedule, projected to yield a sufficient reduction in SO₂ emissions from the Mosaic and TECO facilities, and resulting in modeled attainment of the SO₂ NAAQS, EPA has preliminarily determined that FL DEP's SO₂ attainment plan for the 2010 SO₂ NAAQS fulfills the RFP requirements for the Hillsborough Area. Currently, the monitored SO₂ design value for the Hillsborough Area is below the NAAQS, and because of the modeled attainment with the selected control strategies, EPA does not anticipate future nonattainment, or that the Area will not meet the statutory October 4, 2018, attainment date. EPA therefore proposes to approve Florida's attainment plan with respect to the RFP requirements.

F. Contingency Measures

In accordance with section 172(c)(9) of the CAA, contingency measures are required as additional measures to be implemented in the event that an area fails to meet the RFP requirements or fails to attain a standard by its attainment date. These measures must be fully adopted rules or control measures that can be implemented quickly and without additional EPA or state action if the area fails to meet RFP requirements or fails to meet its attainment date and should contain trigger mechanisms and an implementation schedule. However, SO₂ presents special considerations. As stated in the final 2010 SO₂ NAAQS promulgation on June 22, 2010

(75 FR 35520) and in the 2014 SO₂ Nonattainment Guidance, EPA concluded that because of the quantifiable relationship between SO₂ sources and control measures, it is appropriate that state agencies develop a “comprehensive program to identify sources of violations of the SO₂ NAAQS and undertake an aggressive follow-up for compliance and enforcement.”

Based on all the control measures that are planned for Mosaic and completed for TECO, FL DEP believes that the 2010 SO₂ NAAQS can be achieved on a consistent basis. However, if a fourth exceedance of the SO₂ NAAQS occurs during any calendar year, or upon a determination that the Hillsborough Area has failed to attain the NAAQS by the attainment date, Mosaic and TECO will immediately undertake full system audits of controlled SO₂ emissions. Within 10 days, each source will independently submit a report to FL DEP summarizing all operating parameters for four 10-day periods up to and including the dates of the exceedances. These sources are required to deploy provisional SO₂ emission control strategies within this 10-day period and include “evidence that these control strategies have been deployed, as appropriate” in the report to FL DEP. FL DEP will then begin a 30-day evaluation of these reports to determine the cause of the exceedances, followed by a 30-day consultation period with the sources to develop and implement appropriate operational changes necessary to prevent any future violation of the NAAQS. Explicit measures addressed in Florida’s April 3, 2015, SIP submittal are:

- fuel switching to reduce or eliminate the use of sulfur-containing fuels; and/or
- physical or operational reduction of production capacity.

Florida may consider other options for additional controls if these measures are not deemed to be the most appropriate to address air quality issues in the Area.

If a permit modification might be required to conform to applicable air quality standards, Florida will make use of the State's authority in Rule 62-4.080 to require permittees to comply with new or additional conditions. This authority would allow Florida to work directly with the source(s) expeditiously to make changes to permits. Subsequently, Florida would submit any relevant permit change to EPA as a source-specific SIP revision to make the change permanent and enforceable. EPA notes that a contingency measure involving a revised permit or source-specific SIP revision as an acceptable additional step, but according to CAA section 172(c)(9), a measure requiring further action by FL DEP or EPA (e.g., necessitating a revised permit and SIP revision) could not serve as the primary contingency measure.

EPA is proposing to find that Florida's April 3, 2015, SIP submittal includes a comprehensive program to expeditiously identify the source of any violation of the SO₂ NAAQS and for aggressive follow-up. Therefore, EPA proposes that the contingency measures submitted by Florida follow the 2014 SO₂ Nonattainment Guidance and meet the section 172(c)(9). EPA notes that Florida has further committed to pursue additional actions that may require a SIP revision if needed to address the exceedances.

G. Attainment Date

Florida's modeling indicates that the Hillsborough Area will begin attaining the 2010 SO₂ NAAQS by January 1, 2018, once the control strategy is completely implemented. This modeling does not provide for an attaining three-year design value by the proposed attainment date of October 4, 2018. However, expeditious implementation of the additional controls for the TECO source, combined with the actual emissions and implementation of scheduled RACM/RACT for the Mosaic source, has already provided for an attaining design value of 66

ppb considering 2013–2015 data, and exhibited improved data in the years leading up to 2015.¹⁶

The recent design value is well under the NAAQS, and the ongoing compliance schedule for Mosaic control measures will help to assure that the area maintains the NAAQS in the future. Therefore, the area has attained the 2010 SO₂ NAAQS, and is expected to continue to attain the NAAQS by the attainment date.

V. Proposed Action

EPA is proposing to approve Florida's SO₂ attainment plan for the Hillsborough Area. EPA has preliminarily determined that the SIP meets the applicable requirements of the CAA. Specifically, EPA is proposing to approve Florida's April 3, 2015, SIP submission, which includes the base year emissions inventory, a modeling demonstration of SO₂ attainment, an analysis of RACM/RACT, a RFP plan, and contingency measures for the Hillsborough Area. Additionally, EPA is proposing to approve into the Florida SIP specific SO₂ emission limits and compliance parameters established for the two SO₂ point sources impacting the Hillsborough Area.

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 Act and applicable federal regulations. *See* 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 proposed 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 proposed action:

¹⁶ The most recent quality-assured design values for each NAAQS are publicly available at <https://www.epa.gov/air-trends/air-quality-design-values>.

- 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 (Public Law 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).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: August 15, 2016.

Heather McTeer Toney

Regional Administrator,

Region 4.

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