



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2013-0436; EPA-R05-OAR-2014-0663; FRL-9929-71-Region 5]

Approval and Promulgation of Air Quality Implementation Plans;

Illinois; Midwest Generation Variances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving into the Illinois regional haze State Implementation Plan (SIP) variances affecting the following Midwest Generation, LLC facilities: Crawford Generating Station (Cook County), Joliet Generating Station (Will County), Powerton Generating Station (Tazewell County), Waukegan Generating Station (Lake County), and Will County Generating Station (Will County). The Illinois Environmental Protection Agency (IEPA) submitted these variances to EPA for approval on May 16, 2013, and August 18, 2014.

DATES: This final rule is effective on **[insert date 30 days after publication in the Federal Register]**.

ADDRESSES: EPA has established dockets for this action under Docket ID Nos. EPA-R05-OAR-2013-0436 and EPA-R05-OAR-2014-0663. All documents in the docket are listed on the www.regulations.gov

web site. Although listed in the index, 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 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 Federal holidays. We recommend that you telephone Kathleen D'Agostino, Environmental Engineer, at (312) 886-1767 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, dagostino.kathleen@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 the Background for This Action?
- II. What Action Is EPA Taking?
- III. Incorporation by Reference.

IV. Statutory and Executive Order Reviews.

I. What Is the Background for This Action?

On June 24, 2011, Illinois submitted a plan to address the requirements of the Regional Haze Rule, as codified at 40 CFR 51.308. EPA approved Illinois' regional haze SIP on July 6, 2012 (77 FR 39943). Among the rules approved in this action to meet the best available retrofit technology (BART) requirements of the Regional Haze Rule are Illinois Administrative Code rules: 35 Ill. Adm. Code 225.292: "Applicability of the Combined Pollutant Standard;" 35 Ill. Adm. Code 225.295 "Combined Pollutant Standard: Emissions Standards for NO_x and SO₂;" 35 Ill. Adm. Code 225.296 "Combined Pollutant Standard: Control Technology Requirements for NO_x, SO₂, and PM Emissions" (except for paragraph 225.296(d)); and 35 Ill. Adm. Code 225 Appendix A, which identifies the Midwest Generation Electric Generating Units (EGUs) specified for purposes of the combined pollutant standard (CPS).

The Illinois Pollution Control Board (IPCB) granted Midwest Generation variances to Section 225.296(a)(1) and 225.296(c)(1) on August 23, 2012, and to Section 225.295(b) and Section 225.296(a)(2) on April 4, 2013. IEPA submitted these variances as revisions to the Illinois regional haze SIP on May 16, 2013, and August 18, 2014. EPA proposed to approve these variances on April 23, 2015 (80 FR 22662). EPA received no comments on the

proposed action.

II. What Action Is EPA Taking?

EPA is finalizing approval of the Midwest Generation variances submitted by IEPA on May 16, 2013, and August 18, 2014, as revisions to the Illinois regional haze SIP.

III. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Illinois Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

IV. Statutory and Executive Order Reviews.

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason,

this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take

effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: June 19, 2015.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52-- APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

2. Section 52.720 is amended by adding paragraph (c) (205) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(205) On May 16, 2013, and August 18, 2014, Illinois submitted variances to its regional haze state implementation plan affecting the following Midwest Generation, LLC facilities:

Crawford Generating Station (Cook County), Joliet Generating Station (Will County), Powerton Generating Station (Tazewell County), Waukegan Generating Station (Lake County), and Will County Generating Station (Will County).

(i) Incorporation by Reference. (A) Illinois Pollution Control Board Order PCB 12-121, adopted on August 23, 2012; Certificate of Acceptance, dated August 24, 2012, filed with the Illinois Pollution Control Board Clerk's Office August 27, 2012.

(B) Illinois Pollution Control Board Order PCB 13-24, adopted on April 4, 2013; Certificate of Acceptance, dated May 16, 2013, filed with the Illinois Pollution Control Board Clerk's Office May 17, 2013.

[FR Doc. 2015-17662 Filed: 7/17/2015 08:45 am; Publication Date: 7/20/2015]