



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2024-0268; FRL-12929-02-R5]

Air Plan Approval; Minnesota; Metropolitan Council Wastewater Treatment Plant Title I PM10 SIP Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request from the Minnesota Pollution Control Agency (MPCA) to revise its State Implementation Plan (SIP) by addressing changes at the Metropolitan Council Environmental Service (MCES) Metropolitan Council Wastewater Treatment Plant (Metro Plant) in Ramsey County, Minnesota, which is affected by title I SIP conditions. This SIP revision is being approved in conjunction with an amendment to a part 70 permit maintaining federally enforceable title I SIP conditions. This SIP revision will result in a reduction of allowable emissions of particulate matter less than 10 microns (PM10) emitted by the facility. The EPA proposed to approve this action on November 20, 2025.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2024-0268. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly

available, i.e., Confidential Business Information (CBI), Proprietary Business Information (PBI), 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 through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Nicole Naber, Air and Radiation Division (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 886-6609, email address: naber.nicole@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean the EPA.

I. Background Information.

On November 20, 2025 (90 FR 52303), the EPA proposed to approve revisions to the source-specific SIP for the MCES Metro Plant, incorporating changes including lower allowable PM10 emissions at the facility through decreased emissions limits on several pieces of equipment and modifications to the ash-handling equipment. This action will result in a reduction of allowable PM10 emissions at the facility. The EPA included an explanation of the Clean Air Act (CAA) requirements, a detailed analysis of the revisions, and its reasons for proposing approval in the notice of proposed rulemaking (NPRM) and will

not be restated here. The public comment period for this proposed rule ended on December 22, 2025.

II. Response to Public Comments

The EPA received one anonymous supportive comment and one adverse comment from the Citizens Rulemaking Alliance. A summary of the adverse comment and the EPA's response is provided below. All comments submitted during the public comment period are available in the docket of this action.

Comment: The EPA inappropriately issued a direct final rulemaking to supersede the comment process. The EPA should withdraw its direct final rulemaking and issue a proposed rulemaking that allows for public comment.

The EPA's Response: The EPA disagrees with the commenter. This claim relies on commenter's misunderstanding that the EPA issued a final rule with the November 20, 2025, action. The EPA published a NPRM on November 20, 2025, not a final rule, which included a 30-day public comment period on the proposed rulemaking that closed on December 22, 2025. In this action, we are finalizing the November 20, 2025, proposed action. Based on these facts, the proposed rule was not a final action for the commenter to petition the EPA for a stay or delay of a yet-to-be-established effective date. Finally, the EPA is not relying on section 553(b) of the Administrative Procedure Act in this action.

Comment: The EPA should develop an Initial Regulatory Flexibility Analysis (RFA) or revised certification with

supporting evidence to demonstrate a lack of significant economic impact on a substantial number of small entities.

The EPA's Response: The EPA expects this rulemaking to only impact one source, the MCES Metro Plant. An RFA is inapplicable to this rulemaking because the regulatory analysis provisions of the RFA are only triggered by a threshold determination by the Agency that this rule will have a significant economic impact on a substantial number of small entities. Because the Agency has certified this rule will not have a significant economic impact, section 603 and 604 of the RFA do not apply to this rulemaking. 5 U.S.C. 605(b).

Comment: The EPA should provide a clear statement as to whether this action imposes a Federal intergovernmental mandate within the meaning of the Unfunded Mandates Reform Act (UMRA) and should provide calculations to demonstrate that related expenditures do not exceed UMRA's \$100 million threshold.

The EPA's Response: The EPA has already complied with any UMRA obligation by including in the proposed rulemaking its determination that this rule will not result in expenditures exceeding \$100 million in any one year, pursuant to 2 U.S.C. 1532(a). The Agency need not complete any further statement under 2 U.S.C. 1532.

Comment: The EPA should repropose this rule to incorporate a clear Incorporation by Reference section that includes the complete title I permit including all terms, conditions,

attachments, emission limits, testing/monitoring protocols, and any referenced technical support.

The EPA's Response: This action includes a clear Incorporation by Reference section in the proposal, and the EPA has already made all necessary materials available during the proposed rulemaking on the <https://www.regulations.gov> web site Docket (EPA-R05-OAR-2024-0268).

Comment: The EPA should ensure that the docket contains the basis for its determination that this action is not a significant regulatory action under E.O. 12866.

The EPA's Response: Within the proposed rule, the Agency has already complied with E.O. 12866 by determining that this rulemaking is not a significant regulatory action as defined in E.O. 12866.

III. What Action is the EPA taking?

The EPA is approving incorporation into Minnesota's SIP of all the conditions cited as "Title I Condition: 40 C.F.R. § 52.1220 (PM10 SIP)" in Permit No. 12300053-102. These revisions include both the changes in ash handling within the facility and the lower allowable PM10 emissions for each Fluidized Bed Incinerator (EQUI 3, EQUI 4, EQUI 5), auxiliary boilers (EQUI 10, EQUI 11), and ash loadout vacuum (EQUI 50).

This SIP submittal includes Permit No. 12300053-102 and the supporting technical documentation.

IV. Incorporation by Reference.

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Minnesota Permit Provisions described in section III of this preamble and set forth in the amendments to 40 CFR part 52 below. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov>, and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

V. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the 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

¹ 62 FR 27968 (May 22, 1997).

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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the 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).

This rule is exempt from the Congressional Review Act because it is a rule of particular applicability.

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 AFTER DATE OF PUBLICATION 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,
Volatile organic compounds.

Dated: May 4, 2026.

Anne Vogel,
Regional Administrator, Region 5.

For the reasons stated in the preamble, 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. In § 52.1220, the table in paragraph (d) is amended by revising the entry for “Metropolitan Council Environmental Services Metropolitan Wastewater Treatment Plan” to read as follows:

§ 52.1220 Identification of plan.

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(d) * * *

EPA APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of source	Permit No.	State Effective Date	EPA approval date	Comments
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Metropolitan Council Environmental Services Metropolitan Wastewater Treatment	12300053-102	1/4/2024	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]	Only conditions cited as “Title I condition: SIP for PM10 NAAQS.”
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