

**DATES:** This deviation is effective from 5 a.m. to 10:30 a.m. on Sunday, March 20, 2016.

**ADDRESSES:** The docket for this deviation, [USCG–2015–1064] is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH”. Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Kashanda Booker, Bridge Administration Branch, Fifth Coast Guard; telephone 757–398–6227, email [Kashanda.l.booker@uscg.mil](mailto:Kashanda.l.booker@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The 7th Annual Quintiles Wrightsville Beach Marathon committee on behalf of the North Carolina Department of Transportation (NCDOT) has requested a temporary deviation from the current operating schedule for the SR 74 Bascule Drawbridge across the AIWW, mile 283.1, at Wrightsville Beach, NC. The requested deviation will accommodate the 7th Annual Quintiles Wrightsville Beach Marathon scheduled for Sunday, March 20, 2016. To facilitate this event, the draw of the bridge will be maintained in the closed-to-navigation position from 5 a.m. to 10:30 a.m. to allow race participants to cross during the scheduled event.

The current operation schedule is set out in 33 CFR 117.821(a)(4). The regulation requires the bridge to open on signal for vessels at all times except that from 7 a.m. until 7 p.m. the bridge shall open on the hour; every third and fourth Saturday in September the bridge shall remain closed from 7 a.m. until 11 a.m.; and the last Saturday of October or the first or second Saturday of November the bridge shall remain closed from 7 a.m. until 10:30 a.m. The bascule drawbridge has a vertical clearance of 20 feet above mean high water (MHW) in the closed position.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels. Most waterway traffic consists of recreational boats with a few barges and tugs during the daytime. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular

operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 15, 2015.

**Hal R. Pitts,**

*Bridge Program Manager, Fifth Coast Guard District.*

[FR Doc. 2015–31938 Filed 12–18–15; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2015–1063]

#### Drawbridge Operation Regulation; Connecticut River, Old Lyme, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Amtrak Old Saybrook-Old Lyme Bridge across the Connecticut River, mile 3.4, at Old Lyme, Connecticut. This deviation is necessary to perform gear box replacement. This deviation allows the bridge to remain in the closed position for approximately 5 days.

**DATES:** This deviation is effective from 7:00 a.m. on January 25, 2016 to 7:00 a.m. on February 6, 2016.

**ADDRESSES:** The docket for this deviation, [USCG–2015–1063] is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH”. Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Ms. Judy K. Leung-Yee, Project Officer, First Coast Guard District, telephone (212) 514–4330, email [judy.k.leung-ye@uscg.mil](mailto:judy.k.leung-ye@uscg.mil).

**SUPPLEMENTARY INFORMATION:** National Passenger Railroad Corporation (Amtrak) requested this temporary deviation from the normal operating schedule to perform gear box replacement.

The Amtrak Old Saybrook-Old Lyme Bridge, mile 3.4, across the Connecticut River has a vertical clearance in the closed position of 19 feet at mean high water and 22 feet at mean low water. The existing bridge operating regulations are found at 33 CFR 117.205(b).

The waterway is transited by one commercial user and recreation vessel traffic.

Under this temporary deviation, the Amtrak Old Saybrook-Old Lyme Bridge may remain in the closed position from 7:00 a.m. on January 25, 2016 to 7:00 a.m. on January 30, 2016 with rain date from 7:00 a.m. on February 1, 2016 to 7:00 a.m. on February 6, 2016.

Vessels able to pass through the bridge in the closed positions may do so at anytime. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 15, 2015.

**C.J. Bisignano,**

*Supervisory Bridge Management Specialist, First Coast Guard District.*

[FR Doc. 2015–31939 Filed 12–18–15; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2014–0705; FRL–9939–75–Region 5]

#### Air Quality Implementation Plan Approval; Illinois; Illinois Power Holdings and AmerenEnergy Medina Valley Cogen Variance

**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) a variance for the electrical generating units (EGUs) included in the Ameren Multi-Pollutant Standard Group (Ameren MPS Group). The Ameren MPS Group consists of five facilities owned by Illinois Power Holdings, LLC (IPH) and two facilities owned by AmerenEnergy Medina Valley Cogen, LLC (Medina Valley). The Illinois Environmental Protection Agency (IEPA) submitted the variance to EPA for approval on September 3, 2014.

**DATES:** This final rule is effective on January 20, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2014-0705. All documents in the docket are listed on the [www.regulations.gov](http://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](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 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](mailto: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. Background
- II. Response to Comments
- III. Final Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

## I. Background

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). In its approval, EPA determined that the emission reductions from sources included in the Illinois plan are significantly greater than even conservative definitions of best available retrofit technology (BART) applied to BART subject units. *Id.* at 39946. EPA also addressed whether the Illinois plan can also be expected to achieve greater visibility protection than application of BART on BART-subject units. Given that, in general, the Illinois power plants are substantial distances

from any Class I area, and given that the averaging in Illinois' plan is only authorized within the somewhat limited region within which each utility's plants are located, EPA determined that a reallocation of emission reductions from one plant to another is unlikely to change the visibility impact of those emission reductions significantly. Consequently, EPA concluded that the significantly greater emission reductions that Illinois required in its Regional Haze SIP will yield greater progress toward visibility protection as compared to the benefits of a conservative estimate of BART.

One of the rules approved in that action to meet BART requirements is 35 Illinois Administrative Code (Ill. Adm. Code) rule 225.233, Multi-Pollutant Standard (MPS), specifically subsections (a), (b), (e), and (g). Section 225.233(e)(3)(C) contains the sulfur dioxide (SO<sub>2</sub>) emission standards applicable to the Ameren MPS Group. Section 225.233(e)(3)(C)(i) establishes an overall SO<sub>2</sub> annual emission rate for EGUs in the Ameren MPS group of 0.50 pounds per million Btu (lb/mmBtu) for calendar years 2010 through 2013. Section 225.233(e)(3)(C)(ii) establishes an overall SO<sub>2</sub> annual emission rate for EGUs in the Ameren MPS group of 0.43 lb/mmBtu for calendar year 2014. Section 225.233(e)(3)(C)(iii) establishes an overall SO<sub>2</sub> annual emission rate for EGUs in the Ameren MPS group of 0.25 lb/mmBtu for calendar years 2015 and 2016. Section 225.233(e)(3)(C)(iv) establishes an overall SO<sub>2</sub> annual emission rate for EGUs in the Ameren MPS group of 0.23 lb/mmBtu beginning in calendar year 2017 and continuing each calendar year thereafter.

On November 21, 2013, the Illinois Pollution Control Board (IPCB) granted IPH and Medina Valley a variance from the applicable requirements of Section 225.233(e)(3)(C)(iii) for a period beginning January 1, 2015, through December 31, 2019, and Section 225.233(e)(3)(C)(iv) for a period beginning January 1, 2017, through December 31, 2019, subject to certain conditions. The IPH facilities included in the Ameren MPS Group and subject to the variance are Coffeen Energy Center (Montgomery County), Duck Creek Energy Center (Fulton County), E.D. Edwards Energy Center (Peoria County), Joppa Energy Center (Massac County), and Newton Energy Center (Jasper County). The Medina Valley facilities included in the Ameren MPS Group and subject to the variance are the Meredosia Energy Center (Morgan County) and the Hutsonville Energy Center (Crawford County). IEPA submitted the variance as a revision to

the Illinois Regional Haze SIP on September 3, 2014.

EPA proposed to approve the variance on April 20, 2015 (80 FR 21681). As discussed in the proposal, the variance results in less SO<sub>2</sub> emissions than the currently approved Regional Haze SIP. *Id.* at 21683. In addition, EPA determined that the significantly lower SO<sub>2</sub> emissions under the variance versus application of Best Available Control Technology (BACT) to BART-subject sources, will yield greater progress toward visibility protection. *Id.* at 21684. Finally, with respect to the requirements of section 110(l) of the Clean Air Act (CAA) (42 U.S.C. 7410(l)), because the variance will result in less SO<sub>2</sub> emissions than the currently approved Regional Haze SIP and will continue to provide better visibility protection than the application of BART to BART-subject units, EPA has determined that the variance will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA. *Id.* at 21684.

## II. Response to Comments

EPA received joint adverse comments from Earthjustice and Sierra Club, as summarized in the comments/responses below.

*Comment 1:* The proposed SIP revision unlawfully substitutes fleet-wide emission limits for the unit-specific five factor BART analysis required by the CAA.

*Response 1:* Section 169A(b)(2)(A) of the CAA, 42 U.S.C. 7491(b)(2)(A), requires states to revise their SIPs to contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain existing major stationary sources procure, install, and operate BART, as determined by the state. In some cases, this requirement is met with an analysis of potential controls for each source subject to BART considering five factors set out in EPA's regional haze rule. 40 CFR 51.308(e)(1)(ii)(A). However, as described in several previous rules, EPA has concluded that CAA section 169A may reasonably be interpreted to provide that the requirement for BART may be satisfied by an alternate program that provides greater reasonable progress toward visibility improvement than direct application of BART to individual sources determined to be subject to the BART requirement. See 40 CFR 51.308(e), 64 FR 35714, 35741-35743 (July 1, 1999), 70 FR 39104, 39136 (July 6, 2005), 71 FR 60612 (October 13, 2006), and 77 FR 33642 (June 7, 2012).

In 1999, EPA promulgated the Regional Haze Rule, which established a comprehensive visibility protection program for mandatory Class I Federal areas (including many national parks and wilderness areas). In the preamble to the Regional Haze Rule, EPA stated that, to demonstrate that emission reductions of an alternative program would result in greater emission reductions, “the State must estimate the emission reductions that would result from the use of BART-level controls. To do this, the State could undertake a source-specific review of the sources in the State subject to BART, or it could use a modified approach that simplifies the analysis.” 64 FR 35742 (July 1, 1999).

In a final rule revising certain provisions of the Regional Haze Rule published on October 13, 2006, EPA offered further clarification for states for assessing alternative strategies, in particular regarding the benchmark definition of BART to use in judging whether the alternative is better. 71 FR 60612. In this rulemaking, EPA stated in the preamble that the presumptive BART levels given in the BART guidelines<sup>1</sup> would be a suitable baseline against which to compare alternative strategies, where the alternatives have been designed to meet a requirement other than BART. *Id.* at 60619; see also 40 CFR 51.308(e)(2)(i)(C). As described in the EPA’s proposed approval of the Illinois variance, EPA took a more conservative approach and compared emissions under the variance to the application of typical BACT control levels to the BART subject units in the Ameren MPS Group.<sup>2</sup> 80 FR 21681, 21683 (April 20, 2015). In brief, EPA found that the alternative restrictions imposed by Illinois under the variance can be demonstrated to provide greater emission reductions and greater visibility improvement than conservative definitions of BART, even without a full analysis of the emission levels that constitute BART. The demonstration is discussed below, in the context of response to comments addressing the magnitude of emission reductions under the variance.

<sup>1</sup> The BART guidelines are contained in Appendix Y to 40 CFR part 51 and identify the presumptive SO<sub>2</sub> limits for utility boilers as 0.15 lbs/MMBtu or 95 percent control.

<sup>2</sup> BACT limits are imposed on new units or units undergoing major modifications. Therefore, BART limits, which by definition apply to relatively old existing units, are unlikely to be lower than the limits that would apply to a new unit and would in many cases be significantly higher. For this analysis, a SO<sub>2</sub> limit of 0.06 lbs/MMBtu was determined to be representative of typical BACT for utility boilers.

*Comment 2:* The plain language of the CAA “provides that EPA’s regulations ‘shall require’ each SIP to contain various elements, and those elements must include BART as a minimum requirement of every haze SIP.” The CAA does not permit a state to exempt units from BART without going through the exemption process outlined in the statute. The statute specifies the only circumstances in which a source may be exempted from BART, none of which apply here. 42 U.S.C. 7491(c). The CAA provision that allows some limited exemptions from BART makes plain that any such exemption must be assessed and determined on a source-specific, not a state-wide basis. *Id.* at 7491(c)(1). Furthermore, EPA may exempt a unit from the source-specific BART requirements of the CAA only where the Federal Land Managers concur with the EPA determination of an exemption. *Id.* at 7491(c)(3).

*Response 2:* We do not agree that the provisions governing exemptions to BART apply. Neither the Illinois Regional Haze SIP previously approved by EPA nor the revisions to that SIP contained in the variance being approved in this action exempt BART-eligible sources from BART requirements, but rather satisfy the BART requirements through the adoption of an alternative program that provides greater reasonable progress towards improving visibility.

Section 169A(b)(2) of the CAA, 42 U.S.C. 9491(b)(2), requires each visibility SIP to contain “such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the national goal \* \* \* including \* \* \* a requirement that [certain major stationary sources] \* \* \* procure, install, and operate \* \* \* [BART].” Based on this language, EPA concluded in the Regional Haze Rule that if an alternative program can be shown to make greater reasonable progress toward eliminating or reducing visibility impairment, then installing BART for the purpose of making reasonable progress toward the national goal is no longer necessary. 64 FR 35714, 35739 (July 1, 1999).

This interpretation of the visibility provisions of the CAA has been previously challenged and upheld by the D.C. Circuit. In the first case challenging the provisions in the Regional Haze Rule allowing for states to adopt alternative programs in lieu of BART, the court affirmed EPA’s interpretation of CAA section 169A(b)(2) as allowing for alternatives to BART where those alternatives will result in greater reasonable progress

than BART. *Center for Energy and Economic Development v. EPA*, 398 F.3d 653, 660 (D.C. Cir. 2005) (“CEED”) (finding reasonable EPA’s interpretation of CAA section 169(a)(2) as requiring BART only as necessary to make reasonable progress). In the second case, *Utility Air Regulatory Group v. EPA*, 471 F.3d 1333 (D.C. Cir. 2006) (“UARG”), the court specifically upheld EPA’s determination that states could rely on the Clean Air Interstate Rule (“CAIR”) as an alternative program to BART for EGUs in the CAIR-affected states. The court concluded that the EPA’s two-pronged test for determining whether an alternative program achieves greater reasonable progress was a reasonable one and also agreed with EPA that nothing in the CAA required the EPA to “impose a separate technology mandate for sources whose emissions affect Class I areas, rather than piggy-backing on solutions devised under other statutory categories, where such solutions meet the statutory requirements.” *Id.* at 1340. See also *Central Arizona Water Conservation District v. EPA*, 990 F.2d 1531, 1543 (9th Cir. 1993) (upholding EPA’s interpretation of CAA section 169A(b)(2)).

*Comment 3:* An interpretation of the statute which allows a state to substitute an alternative for BART on a state-wide or fleet-wide basis cannot be reconciled with Congress specifying very narrow standards for exempting a source from BART. If EPA relies on the D.C. Circuit Court of Appeals decisions upholding its interpretation of the statute, “the cases are incorrect in that the D.C. Circuit Court of Appeals has rewritten the statute by failing to give effect to the plain language requiring each SIP to include BART and by disregarding the very specific parameters in the statute for exemptions from BART.” In addition, “these decisions are not binding precedent in the 7th Circuit, which has jurisdiction over EPA’s approval of the Illinois Regional Haze SIP.”

*Response 3:* EPA disagrees with the commenter that BART alternatives are impermissible under the CAA. As the commenter notes, EPA’s interpretation that the CAA allows States to devise alternative programs in lieu of source-specific BART was upheld in both the CEED and UARG decisions. The conclusions in these cases have not been upset or overturned by any subsequent decision of the D.C. Circuit, and we disagree with the commenter’s contention that CEED and UARG were decided erroneously. The D.C. Circuit has exclusive jurisdiction over the review of nationally applicable rules. The Illinois’ SIP has been evaluated

against nationally applicable rules (upheld by the D.C. Circuit) that allow States to adopt alternative measures in lieu of BART.

*Comment 4:* The IEPA has not met its burden to show that the Multi-Pollutant Standard is approvable as a BART alternative because it has not performed modeling of the visibility impacts for the MPS compared to BART. “By design, the MPS allows the flexibility to implement emissions reductions other than by imposing uniform reductions at specific units subject to BART.” There is, therefore, no basis for claiming that the distribution of emissions under the MPS is not substantially different than under BART. Instead, the MPS limits can be met in such a way that the distribution of emissions is significantly different than it would be if its subject-to-BART units had to meet unit specific BART limits. “If the distribution of emissions is significantly different under an alternate program, a state must conduct visibility modeling in order to meet its burden of securing approval for the alternative program.”

*Response 4:* EPA disagrees with the commenter that visibility modeling is required. EPA found in its original approval of Illinois’ BART plan that the distances from the relevant power plants to the affected Class I areas are substantial and that the averaging in Illinois’ plan is only allowed within somewhat limited regions. Given this, EPA concluded that “a reallocation of emission reductions from one plant to another is unlikely to change the impact of those emission reductions significantly” and that the much greater emission reductions from Illinois’ plan will result in greater reasonable progress than would source-specific BART controls. 77 FR 39946. The commenter has provided no evidence that EPA’s conclusion that the greater reductions in emissions from these facilities under the terms of the variance should lead to a different conclusion.

The commenter points to a test set out in 40 CFR 51.308(e)(3) to support its argument that visibility modeling is necessary to determine whether an alternative to BART provides for greater reasonable progress. States are not required to use this test, however, as 40 CFR 51.308(e)(2)(i)(E) makes clear: A demonstration that an alternative measure will make greater reasonable progress may be based on the clear weight of evidence. Although there is no requirement that States use the test in 51.308(e)(3), EPA nevertheless reexamined whether modeling is necessary to conclude that the greater emission reductions of Illinois’ revised plan provide for better visibility than

imposition of source-specific BART. There are seven facilities in the Ameren MPS Group: Coffeen Energy Center (Montgomery County), Duck Creek Energy Center (Fulton County), E.D. Edwards Energy Center (Peoria County), Joppa Energy Center (Massac County), Newton Energy Center (Jasper County), Meredosia Energy Center (Morgan County) and Hutsonville Energy Center (Crawford County). Of these facilities, only Coffeen, Duck Creek, and E.D. Edwards were determined to be subject to BART. The least distance from any of these three BART-subject sources to any Class I area is from Coffeen to the Mingo Wilderness Area, a distance of about 240 kilometers (km). Duck Creek and E.D. Edwards are approximately 390 km and 410 km, respectively, from the Mingo Wilderness area. The distance from the Mingo Wilderness Area to remaining Ameren MPS Group facilities ranges from approximately 120 km to 330 km, with an average distance of 260 km. Further, an evaluation for the Class I areas within 500 km of any Ameren MPS Group source shows that in every case the average distance from the BART-subject facilities is greater than the average distance from the facilities that would not be subject to BART. That is, even if Illinois’ plan achieved no more emission reductions than source-specific BART, the plan would likely yield better visibility because the reductions would likely be reallocated to closer plants. Given these distances and given the relative location of these facilities, a reallocation of emission reductions from one plant to another among this group is unlikely to change the visibility impact of these emission reductions meaningfully. As noted above, however, the Illinois plan (originally and as revised) achieves significantly greater reductions than source-specific BART. Consequently, in these circumstances, EPA is confident that visibility modeling is not necessary to conclude that the significantly greater emission reductions that are required under the variance will yield greater progress toward visibility protection as compared to the benefits of a conservative estimate of BART.

*Comment 5:* The variance from the MPS authorizes the IPH fleet to emit greater SO<sub>2</sub> emissions than would be emitted if BART were required, and thus EPA cannot find that the MPS will lead to greater reasonable progress than would BART.

Of the seven plants included in the original Ameren MPS Group, five plants still in operation are now owned and operated by IPH and two plants that retired in 2011, Hutsonville and Meredosia, are now owned by Medina

Valley and are no longer part of the fleet. Because of the variance, the MPS will no longer require SO<sub>2</sub> reductions from the IPH coal fleet during the period of the first long-term strategy for regional haze (*i.e.*, before 2018) that are greater than the reductions that would result from requiring IPH to install and operate BART on its BART-subject plants.

The commenter supports this assertion by comparing emissions reductions from the variance to emissions reductions from BACT at BART-subject facilities, excluding emissions reductions from the retired Meredosia and Hutsonville units (now owned by Medina Valley) and emissions reductions from the Edwards Unit 1 (owned by IPH). The commenter states that these sources were not included in the analysis because Meredosia and Hutsonville “have been retired for several years due to economic reasons,” and Edwards Unit 1 is currently being operated only for grid reliability purposes subject to a short-term System Support Resource agreement with the Midcontinent Independent System Operator (MISO). The commenter argues that the MPS is not driving emissions reductions at those sources and they should not be included in any analysis of emissions reductions at the IPH fleet. The commenter’s analysis shows that, in 2017, implementation of BART at BART-subject sources would reduce SO<sub>2</sub> emissions by 74,348 tons and the variance would reduce SO<sub>2</sub> by 69,555 tons.

*Response 5:* EPA disagrees with the commenter’s assertion that EPA cannot find that the MPS will lead to greater reasonable progress than would BART. The premise of the commenter’s analysis, that only currently operating units in the IPH fleet should be evaluated, is flawed. As discussed above, the requirement for BART may be satisfied by an alternate program that provides greater reasonable progress toward visibility improvement than direct application of BART to individual sources determined to be subject to the BART requirement. The alternate program being evaluated, as contained in the MPS and revised by the variance, applies to the seven sources in the Ameren MPS Group, not only to the five sources currently owned and operated by IPH.

The variance prohibits the Meredosia and Hutsonville power stations from operating until after December 31, 2020, at which point they would remain subject to the emission limits in the MPS. In addition, the variance requires IPH to permanently retire E.D. Edwards Unit 1 as soon as allowed by MISO. The

fact that there are reasons other than the MPS that influenced the decisions to cease operation of these plants does not change the fact that under the currently approved Regional Haze SIP these sources are permitted to operate. The variance makes these shutdowns enforceable and prohibits emissions that would otherwise have been allowed under the SIP. Further, these facilities ceased operating late in 2011, well after the 2000–2004 baseline established in the Regional Haze Rule (40 CFR 51.308(d)(2)) and before the 2017 deadline for implementing BART controls in Illinois, so the emission reductions from the shutdown of these facilities are fully creditable. Therefore, comparing emission reductions at all seven Ameren MPS Group sources under the variance to emission reductions from application of BACT limits to BART-subject units is the appropriate test for determining whether the alternate program would result in greater emission reductions.

The analysis included by EPA in the proposed rule shows SO<sub>2</sub> emission reductions of 74,348 tons in 2017 if typical BACT limits were applied to BART subject sources and SO<sub>2</sub> emission reductions of 119,833 tons in 2017 under the variance. 80 FR 21683–21684. The analysis is conservative in that it assumes that E.D. Edwards Unit 1 is still operating, since an absolute shutdown date was not included in the variance. Further, even assuming that the 22,360,000 MMBtu previously generated at Meredosia and Hutsonville were shifted to the five remaining facilities in the Ameren MPS Group, applying the 0.35 pound/MMBtu group average emission limit results in an additional 3,913 tons of SO<sub>2</sub> emissions under the variance in 2017, or a total of 54,188 tons of SO<sub>2</sub>. Thus, SO<sub>2</sub> emissions reductions in 2017 under the variance would be 115,920 tons, which is still 41,572 fewer tons of SO<sub>2</sub> emissions than what the SO<sub>2</sub> emissions would be if BACT were applied at BART-subject sources.

### III. Final Action

EPA is finalizing approval of the IPH and Medina Valley variance submitted by IEPA on September 3, 2014, as a revision to the Illinois Regional Haze SIP.

### IV. 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](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

### 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, 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 (Pub. L. 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 February 19, 2016. 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: November 24, 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)(207) to read as follows:

**§ 52.720 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(207) On September 3, 2014, Illinois submitted a variance to its regional haze state implementation plan affecting the electrical generating units (EGUs) included in the Ameren Multi-Pollutant Standard Group (Ameren MPS Group). The Ameren MPS Group consists of five facilities owned by Illinois Power Holdings, LLC (IPH) and two facilities owned by AmerenEnergy Medina Valley Cogen, LLC (Medina Valley). The IPH facilities included in the Ameren MPS Group and subject to the variance include: Coffeen Energy Center (Montgomery County), Duck Creek Energy Center (Fulton County), E.D. Edwards Energy Center (Peoria County), Joppa Energy Center (Massac County), and Newton Energy Center (Jasper County). The Medina Valley facilities included in the Ameren MPS Group and subject to the variance are the Meredosia Energy Center (Morgan County) and the Hutsonville Energy Center (Crawford County).

(i) *Incorporation by reference.*

(A) Illinois Pollution Control Board Order PCB 14–10, adopted on November 21, 2013; Certificate of Acceptance, filed with the Illinois Pollution Control Board Clerk's Office December 20, 2013.

[FR Doc. 2015–31882 Filed 12–21–15; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R10–OAR–2015–0259; FRL–9940–35–Region 10]

### Approval and Promulgation of Implementation Plans; Oregon: Interstate Transport of Ozone

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Clean Air Act (CAA) requires each State Implementation Plan (SIP) to contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. On June 28, 2010, the State of Oregon made a submittal to the Environmental Protection Agency (EPA) to address these requirements. The EPA is approving the submittal as meeting the requirement that each SIP contain adequate provisions to prohibit

emissions that will contribute significantly to nonattainment or interfere with maintenance of the 2008 ozone National Ambient Air Quality Standard (NAAQS) in any other state.

**DATES:** This final rule is effective January 20, 2016.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2015–0259. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information the disclosure of which 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 <http://www.regulations.gov> or in hard copy at the Air Programs Unit, Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA, 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Kristin Hall at (206) 553–6357, [hall.kristin@epa.gov](mailto:hall.kristin@epa.gov), or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

- I. Background Information
- II. Final Action
- III. Statutory and Executive Orders Review

### I. Background Information

On October 27, 2015, the EPA proposed to approve Oregon's June 28, 2010 submittal as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS (80 FR 65680). An explanation of the CAA requirements, a detailed analysis of the submittal, and the EPA's reasons for approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on November 27, 2015. The EPA received no comments on the proposal.

### II. Final Action

The EPA is approving Oregon's June 28, 2010 submittal as meeting the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2008 ozone NAAQS.

### III. Statutory and Executive Orders Review

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 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 (Pub. L. 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 this action does not involve technical standards; and
  - Does not provide the 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 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 as specified by Executive Order 13175 (65 FR 67249,