

have a significant economic impact on a substantial number of small entities.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. The Virus-Serum-Toxin Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

**Paperwork Reduction Act**

This proposed rule contains no new information or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

**List of Subjects in 9 CFR Part 113**

Animal biologics, Exports, Imports, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 113 as follows:

**PART 113—STANDARD REQUIREMENTS**

1. The authority citation for part 113 would continue to read as follows:

**Authority:** 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

2. In § 113.8, paragraph (d) would be amended as follows:

- a. By revising the heading to paragraph (d).
- b. By removing paragraph (d)(1).
- c. By removing the paragraph designation “(d)(2)”.

**§ 113.8 In vitro tests for serial release.**

\* \* \* \* \*  
(d) *Extending the dating of a reference.* \* \* \*

3. In § 113.33, paragraphs (a)(1) and (a)(2) would be revised to read as follows:

**§ 113.33 Mouse safety tests.**

\* \* \* \* \*  
(a) \* \* \*  
(1) Vaccine prepared for use as recommended on the label shall be

tested by inoculating eight mice intraperitoneally or subcutaneously with 0.5 mL, and the animals observed for 7 days.

(2) If unfavorable reactions attributable to the product occur in any of the mice during the observation period, the serial or subserial is unsatisfactory. If unfavorable reactions which are not attributable to the product occur, the test shall be declared inconclusive and may be repeated: *Provided*, That, if the test is not repeated, the serial or subserial shall be declared unsatisfactory.

\* \* \* \* \*

**§§ 113.66, 113.68, and 113.69 [Amended]**

4. In §§ 113.66, 113.68, and 113.69, paragraph (b)(6) would be removed and paragraph (b)(7) would be redesignated as paragraph (b)(6).

**§ 113.67 [Amended]**

5. In § 113.67, paragraph (b)(7) would be removed and paragraph (b)(8) would be redesignated as paragraph (b)(7).

**§ 113.70 [Amended]**

6. In § 113.70, paragraph (b)(5) would be removed.

**§§ 113.71, 113.306, and 113.318 [Amended]**

7. In §§ 113.71, 113.306, and 113.318, paragraph (b)(4) would be removed and paragraph (b)(5) would be redesignated as paragraph (b)(4).

**§ 113.303 [Amended]**

8. In § 113.303, paragraph (c)(6) would be removed.

**§ 113.302, 113.304, 113.314, 113.315, 113.317, 113.327, 113.331, and 113.332 [Amended]**

9. In §§ 113.302, 113.304, 113.314, 113.315, 113.317, 113.327, 113.331, and 113.332, paragraph (c)(4) would be removed and paragraph (c)(5) would be redesignated as paragraph (c)(4).

**§ 113.305 [Amended]**

10. In § 113.305, paragraphs (b)(1)(iii) and (b)(2)(iii) would be removed and paragraph (b)(2)(iv) would be redesignated as paragraph (b)(2)(iii).

**§§ 113.308 and 113.316 [Amended]**

11. In §§ 113.308 and 113.316, paragraph (b)(5) would be removed and paragraph (b)(6) would be redesignated as paragraph (b)(5).

**§ 113.309 [Amended]**

12. In § 113.309, paragraph (c)(9) would be removed and paragraph (c)(10) would be redesignated as paragraph (c)(9).

**§ 113.310 [Amended]**

13. In § 113.310, paragraph (c)(8) would be removed and paragraph (c)(9) would be redesignated as paragraph (c)(8).

**§ 113.311 [Amended]**

14. In § 113.311, paragraph (c)(7) would be removed and paragraph (c)(8) would be redesignated as paragraph (c)(7).

**§ 113.312 [Amended]**

15. In § 113.312, paragraphs (b)(5) and (b)(6) would be removed and paragraph (b)(7) would be redesignated as paragraph (b)(5).

**§§ 113.313 and 113.328 [Amended]**

16. In §§ 113.313 and 113.328, paragraph (c)(6) would be removed and paragraph (c)(7) would be redesignated as paragraph (c)(6).

**§§ 113.325 and 113.326 [Amended]**

17. In §§ 113.325 and 113.326, paragraph (c)(5) would be removed and paragraph (c)(6) would be redesignated as paragraph (c)(5).

**§ 113.329 [Amended]**

18. In § 113.329, paragraph (c)(5) would be removed and paragraphs (c)(6) and (c)(7) would be redesignated as paragraphs (c)(5) and (c)(6), respectively.

Done in Washington, DC, this 25th day of January 2007.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E7–1531 Filed 1–30–07; 8:45 am]

BILLING CODE 3410–34–P

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R07–OAR–2006–0973; FRL–8274–8]

**Approval and Promulgation of Implementation Plans; State of Kansas**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

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**SUMMARY:** EPA is proposing to approve a request to revise the State Implementation Plan (SIP) made by the state of Kansas to include updates to its Prevention of Significant Deterioration (PSD) of Air Quality rule. The Kansas revision adopts by reference provisions of 40 CFR 52.21 as in effect July 1, 2004, except for subsections with references to Clean Unit Exemptions, Pollution Control Projects, and the record keeping

provisions for the actual-to-projected-actual emissions projections. Kansas did not adopt the latter provisions because of the June 24, 2005, United States Court of Appeals for the District of Columbia Circuit's decision, which vacated the Clean Unit Exemption and Pollution Control Project provisions and remanded back to EPA the record keeping provisions for the actual-to-projected-actual emissions projections standard for when a source must keep certain project related records. If approved, EPA would incorporate the revisions into the Kansas SIP.

**DATES:** Comments must be received on or before March 2, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2006-0973, by one of the following methods:

1. <http://www.regulations.gov>: Follow the online instructions for submitting comments.

2. *E-mail:* [grier.gina@epa.gov](mailto:grier.gina@epa.gov).

3. *Mail:* Gina Grier, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier:* Deliver your comments to: Gina Grier, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

*Instructions:* Direct your comments to Docket ID No. EPA-R07-OAR-2006-0973. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA

cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket.* All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Gina Grier at (913) 551-7078, or by e-mail at [grier.gina@epa.gov](mailto:grier.gina@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What is the Federal approval process for a SIP?

What is being addressed in this document?

What is the background for EPA's New Source Review (NSR) Reform rule?

What is Kansas's NSR Reform rule and what action has Kansas requested on the rule?

Have the requirements for approval of a SIP revision been met?

What action is EPA proposing?

**What is the Federal approval process for a SIP?**

In order for State regulations to be incorporated into the Federally-enforceable SIP, States must formally adopt the regulations and control strategies consistent with State and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a State-authorized rulemaking body.

Once a State rule, regulation, or control strategy is adopted, the State submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment

regarding the proposed Federal action on the State submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All State regulations and supporting information approved by EPA under section 110 of the Clean Air Act (CAA or Act) are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual State regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given State regulation with a specific effective date.

**What is being addressed in this document?**

We are proposing to approve the Kansas Department of Health and Environment's (KDHE) revision to Kansas Administrative Regulation (K.A.R.) 28-19-350, Prevention of Significant Deterioration of Air Quality. Kansas adopted the applicable provisions of 40 CFR 52.21, except for subsections that are not applicable to Kansas or are stayed, vacated, or remanded by Federal court order, or are reserved for future use.

The rules were submitted to EPA on July 25, 2006. The submission included comments on the rules made during the state's adoption process, the state's response to comments and other information necessary to meet EPA's completeness criteria. For additional information on completeness criteria, the reader should refer to 40 CFR part 51, appendix V.

**What is the background for EPA's New Source Review (NSR) Reform rule?**

The 2002 NSR Reform rules are part of EPA's implementation of Parts C and D of title I of the CAA, 42 U.S.C. 7470-7515. Part C of title I of the CAA, 42 U.S.C. 7470-7492, is the PSD program, which applies in areas that meet the National Ambient Air Quality Standards (NAAQS), also known as "attainment areas" and in areas for which there is insufficient information to determine whether the area meets the NAAQS, also known as, "unclassifiable" areas. Part D of Title I of the CAA, 42 U.S.C. 7501-7515, is the nonattainment New Source Review (NNSR) program, which applies in areas that are not in attainment of the NAAQS, also known as "nonattainment areas." Collectively, the PSD and NNSR programs are referred to as the "New Source Review"

or NSR programs. EPA regulations implementing these programs are contained in 40 CFR 51.165, 51.166, 52.21, 52.24, and part 51, appendix S.

The CAA NSR programs are preconstruction review and permitting programs applicable to new and modified stationary sources of air pollutants regulated under the CAA. The NSR programs of the CAA include a combination of air quality planning and air pollution control technology program requirements. Briefly, section 109 of the CAA, 42 U.S.C. 7409, requires EPA to promulgate primary NAAQS to protect public health and secondary NAAQS to protect public welfare. Once EPA sets those standards, States must develop, adopt, and submit to EPA for approval, a SIP that contains emissions limitations and other control measures to attain and maintain the NAAQS. Each SIP is required to contain a preconstruction review program for the construction and modification of any stationary source of air pollution to assure that the NAAQS are achieved and maintained; to protect areas of clean air; to protect air quality related values (such as visibility) in national parks and other areas; to assure that appropriate emissions controls are applied, to maximize opportunities for economic development consistent with the preservation of clean air resources; and to ensure that any decision to increase air pollution is made only after full public consideration of the consequences of the decisions.

The 2002 NSR Reform rules made changes to five areas of the NSR programs. In summary, the 2002 rules: (1) Provide a new method for determining baseline actual emissions; (2) adopt an actual-to-projected-actual methodology for determining whether a major modification has occurred; (3) allow major stationary sources to comply with plant-wide applicability limits (PALs) to avoid having a significant emission increase that triggers the requirements of the major NSR program; (4) provide a new applicability provision for emissions units that are designated clean units; and (5) exclude pollution control projects (PCPs) from the definition of physical change or change in the method of operation.

After the 2002 NSR Reform rules were finalized and effective, various petitioners challenged numerous aspects of the 2002 NSR Reform rules, along with portions of EPA's 1980 NSR rules (45 FR 5276 August 7, 1980). On June 24, 2005, the District of Columbia Court of Appeals issued a decision on the challenges to the 2002 NSR Reform Rules. *New York v. United States*, 413

F.3d (DC Cir. 2005). In summary, the Court of Appeals for the District of Columbia vacated portions of the rules pertaining to clean units and pollution control projects, remanded a portion of the rules regarding exemption from record keeping, e.g., 40 CFR 52.21(r)(6) and 40 CFR 51.166(r)(6), and let stand the other provisions included as part of the 2002 NSR Reform rules. EPA has not yet responded to the Court's remand regarding record keeping provisions.

#### **What is Kansas's NSR Reform rule and what action has Kansas requested on the rule?**

In this action, we propose approval of revisions to Kansas's Air Quality Regulation, K.A.R. 28-19-350, Prevention of Significant Deterioration of Air Quality, into the SIP. This rule incorporates by reference the Federal PSD program in 40 CFR 52.21, including the 2002 NSR Reform rules described above, with the exception of portions of the rule relating to provisions vacated or remanded by the court.

Under Part C of Title I of the CAA, states have the primary responsibility for developing a SIP and issuing permits subject to the emission limits and other control measures developed in the plan. NSR ensures the protection of air quality because it designates a specific plan customized to prevent significant deterioration of air quality from individual major source emitters of air pollutants, such as power plants, refineries or manufacturing facilities. The permit also requires the application of Best Available Control Technology (BACT) to new or modified facilities. The NSR permit program encompassed by K.A.R. 28-19-350 is for sources located in areas where the air is designated "attainment" or unclassifiable and meets the requirement to protect human health. A major stationary source is required to obtain a permit before it can begin construction or make a major modification if the modification or construction will increase emissions by an amount large enough to trigger NSR requirements.

A PSD permit places allowable limits on pollution emissions from a newly constructed or newly modified stationary source. As part of the PSD permitting process, Kansas completes required air quality modeling analysis of the project to ensure the project maintains compliance with the NAAQS. Kansas also tracks and controls the emission of air pollutants by calculating the maximum increase concentration allowed to occur above an established background level, known as a PSD increment.

The revision to K.A.R. 28-19-350 incorporates by reference the provisions of the EPA NSR reform rule referenced above. This includes (1) the new methodology for determining baseline actual emissions; (2) the option of using the actual-to-projected-actual emissions for determining emissions increases; and (3) the provisions relating to plant-wide applicability limits. It does not incorporate the provisions vacated or remanded by the court, described previously. In addition, the state revision adds titles to each subsection for ease of reading. Subsection (c) clarifies the term "Administrator" in the Federal rule, to indicate where it means Administrator of EPA and where it means KDHE, as separate from state agency administration. Subsection (h) specifies that the state construction approval requirements also apply to the PSD permit issued under the regulation. Subsection (k) ensures that the public notice of PSD permit actions state whether the action will adversely impact Federal class I areas.

Because the Kansas rule adopts by reference relevant portions of the Federal rule, EPA believes it meets the requirement of the CAA.

#### **Have the requirements for approval of a SIP revision been met?**

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document that is part of this docket, EPA believes that the revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

#### **What action is EPA proposing?**

We propose to approve revisions to Kansas's Air Quality Regulation, K.A.R. 28-19-350, Prevention of Significant Deterioration of Air Quality.

#### **Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements

beyond those imposed by State law. Accordingly, the Administrator certifies that the proposed approvals in this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 24, 2007.

**John B. Askew,**

*Regional Administrator, Region 7.*

[FR Doc. E7-1518 Filed 1-30-07; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF STATE

### 48 CFR Part 601

[Public Notice 5684]

RIN 1400-AB98

#### Department of State Acquisition Regulation

**AGENCY:** State Department.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule makes one change to the DOSAR. It revises the DOSAR to expand contracting authority to non-U.S. citizen locally employed staff, i.e., Foreign Nationals and Third Country Nationals. Presently, only U.S. citizens who are Government employees may be appointed as contracting officers.

**DATES:** The Department will accept comments from the public up to April 2, 2007.

**ADDRESSES:** You may submit comments, identified by any of the following methods:

- *E-mail:* [ginesgg@state.gov](mailto:ginesgg@state.gov). You must include the RIN in the subject line of your message.

- *Mail (paper, disk, or CD-ROM submissions):* Gladys Gines, Procurement Analyst, Department of State, Office of the Procurement Executive, 2201 C Street, NW., Suite 603, State Annex Number 6, Washington, DC 20522-0602.

- *Fax:* 703-875-6155.

Persons with access to the Internet may also view this notice and provide comments by going to the regulations.gov Web site at <http://www.regulations.gov/index.cfm>.

**FOR FURTHER INFORMATION CONTACT:**

Gladys Gines, Procurement Analyst, Department of State, Office of the Procurement Executive, 2201 C Street, NW., Suite 603, State Annex Number 6,

Washington, DC 20522-0602; e-mail address: [ginesgg@state.gov](mailto:ginesgg@state.gov).

**SUPPLEMENTARY INFORMATION:** The Department of State initiated a pilot program in which a non-U.S. citizen locally employed staff (LES) member at an Embassy was given contracting authority at \$2,500 (the micro-purchase threshold). The pilot resulted in savings in time to process transactions, allowed the Contracting Officer at the Embassy additional time to concentrate on other procurement and non-procurement issues, and increased morale among LES staff through a sense of greater empowerment. Although the pilot did not identify specific cost or headcount savings, the Department believes that further dissemination of contracting authority at increased levels up to \$25,000 presents an opportunity for overseas posts (Embassies and Consulates) to achieve reductions in cost and headcount while improving service, largely by providing management flexibility to reconfigure the work portfolios of overseas contracting officers. Approximately 97% of all overseas procurement transactions are below \$25,000. Effective management controls will minimize the risks associated with providing contracting authority to non-U.S. citizen LES. These controls are similar to those currently used successfully in the purchase card program for similar transactions. They consist of:

- Review of LES transactions on a monthly basis by a U.S. citizen contracting officer;
- Determination and approval of adequate local conditions such as rule of law and level of corruption as well as the integrity of LES staff recommended for the contracting authority;
- Evaluation of LES delegated procurement by the Office of the Procurement Executive;
- Certification by the Ambassadors on an annual basis that the management controls are sufficient; and
- Time-limited contracting officer authority to LES to permit periodic revalidation of management controls.

Because the current DOSAR language states that all contracting officers must be U.S. citizens, a change to the regulation is required. Because the rulemaking process will take some time, the Department will select several additional pilot posts to continue the deployment process during the rulemaking timeframe.