

for determining the VOC concentration of the exhaust stream and the VOC content of the fountain solution and cleaning solution. This rule includes methods to determine the vapor pressure of the cleaning solution. The rule also includes monitoring and recordkeeping requirements to ensure that the control systems are operating properly, to establish whether the VOC content of the cleaning solution and fountain solution are in compliance with the applicable limits, and to establish whether an offset lithographic or letterpress printing facility is subject to one or more of the control requirements of the rule. This rule is consistent with the VOC control requirements in the September 2006 EPA guidance document "Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing." The Control Technique Guideline documents were required to be established by the CAA and establish RACT for their respective source categories. In addition, the recordkeeping and other provisions result in enforceable control requirements.

Discussion of Rule Revisions

The rule at 3745-21-22(E)(2)(a) specifies compliance dates for offset lithographic or letterpress printing facilities that are achieving compliance by using an add-on control device. These facilities are allowed to demonstrate compliance with an emission test conducted prior to the effective date of the rule if an approved EPA test method was used, the operation of the press(es) was consistent with their current operating conditions and, if requested, the test was witnessed by the Ohio EPA. This is a reasonable alternative which allows a printing facility to take advantage of a well documented test to demonstrate compliance and is therefore approvable.

The rule at 3745-21-22(G)(3) specifies recordkeeping requirements for owners or operators maintaining a recipe log for each batch of fountain solution prepared for use in their press. This recipe log must identify all recipes used to prepare the as-applied fountain solution and clearly identify the VOC content of each concentrated alcohol substitute added to make the fountain solution as well as the proportions in which the fountain solution is mixed and the calculated VOC content of the final, mixed recipe.

The rule at 3745-21-22(G)(4) specifies recordkeeping requirements for owners or operators maintaining a recipe log for each batch of cleaning solution prepared. This recipe log must

identify all recipes used to prepare the as-applied cleaning solution and clearly identify the VOC content of each cleaning solution or the VOC composite partial vapor pressure. The revisions to the recordkeeping requirements in 3745-21-22(G)(3) and 3745-21-22(G)(4) are approvable because the resulting records are sufficient to determine whether complying fountain and cleaning solutions have been used.

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 Part 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 17, 2010.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 2010-32928 Filed 12-29-10; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-HQ-OAR-2010-1033; FRL-9244-8]

RIN-2060-AQ66

Determinations Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas Prevention of Significant Deterioration Program; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to correct its previous full approval of Texas's Clean Air Act (CAA) Prevention of Significant Deterioration (PSD) program to be a partial approval and partial disapproval and is proposing a Federal Implementation Plan (FIP) for Texas. This action is based on EPA's determination that Texas's PSD program is flawed because the state did not address how the program would apply to all pollutants that would become newly subject to regulation in the future, including non-National Ambient Air Quality Standard (NAAQS) pollutants, among them greenhouse gases (GHGs). The partial disapproval requires EPA to promulgate a FIP and so EPA is also proposing a FIP in order to assure that GHG-emitting sources in Texas are able to proceed with plans to construct or expand. In the "Rules" section of this **Federal Register**, we are taking this action including the FIP

through an interim final rule that is effective immediately.

DATES: Comments. Comments must be received on or before February 12, 2011.

Public Hearing: A public hearing will be held on January 14, 2011. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period and public hearing.

ADDRESSES: Comments. Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2010-1033, by one of the following methods:

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

- **E-mail:** a-and-r-docket@epa.gov.

- **Fax:** (202) 566-9744.

- **Mail:** Attention Docket ID No. EPA-HQ-OAR-2010-1033, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, NW., Mail code: 6102T, Washington, DC 20460. Please include a total of 2 copies.

- **Hand Delivery:** U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room 3334, Washington, DC 20004, Attention Docket ID No. EPA-HQ-OAR-2010-1033. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2010-1033. 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, avoid any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket. All documents in the 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 U.S. Environmental Protection Agency, Air Docket, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

Public Hearing. The January 14, 2011, public hearing will be held at Crowne Plaza Hotel Dallas Downtown, 1015 Elm Street, Dallas, Texas, **phone:** (214) 742-

5678. The public hearing will convene at 10 a.m. and will end at 7 p.m. or until the last registered speaker has spoken. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the public hearing.

FOR FURTHER INFORMATION CONTACT: For information on this proposed rule, contact Ms. Cheryl Vetter, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504-03), Environmental Protection Agency, Research Triangle Park, NC 27711; **telephone number:** (919) 541-4391; **fax number:** (919) 541-5509; **e-mail address:** vetter.cheryl@mailto.epa.gov.

If you would like to present oral testimony at the public hearing, please contact Ms. Pamela Long, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Planning Division, (C504-03), Research Triangle Park, NC 27711, telephone (919) 541-0641, fax number (919) 541-5509, **e-mail address:** long.pam@epa.gov (preferred method for registering), no later than January 12, 2011. If using e-mail, please provide the following information: Time you wish to speak (morning, afternoon, evening), name, affiliation, address, e-mail address, and telephone and fax numbers.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

The only governmental entity potentially affected by this rule is the State of Texas. Other entities potentially affected by this rule also include sources in all industry groups within the State of Texas, which have a direct obligation under the CAA to obtain a PSD permit for GHGs for projects that meet the applicability thresholds set forth in the Tailoring Rule.¹ This independent obligation on sources is specific to PSD and derives from CAA section 165(a). The majority of entities potentially affected by this action are expected to be in the following groups:

Industry group	NAICS ^a
Utilities (electric, natural gas, other systems)	2211, 2212, 2213
Manufacturing (food, beverages, tobacco, textiles, leather)	311, 312, 313, 314, 315, 316
Wood product, paper manufacturing	321, 322
Petroleum and coal products manufacturing	32411, 32412, 32419
Chemical manufacturing	3251, 3252, 3253, 3254, 3255, 3256, 3259
Rubber product manufacturing	3261, 3262
Miscellaneous chemical products	32552, 32592, 32591, 325182, 32551

¹ "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule," Final Rule. 75 FR 31514 (June 3, 2010).

Industry group	NAICS ^a
Nonmetallic mineral product manufacturing	3271, 3272, 3273, 3274, 3279
Primary and fabricated metal manufacturing	3311, 3312, 3313, 3314, 3315, 3321, 3322, 3323, 3324, 3325, 3326, 3327, 3328, 3329
Machinery manufacturing	3331, 3332, 3333, 3334, 3335, 3336, 3339
Computer and electronic products manufacturing	3341, 3342, 3343, 3344, 3345, 4446
Electrical equipment, appliance, and component manufacturing	3351, 3352, 3353, 3359
Transportation equipment manufacturing	3361, 3362, 3363, 3364, 3365, 3366, 3366, 3369
Furniture and related product manufacturing	3371, 3372, 3379
Miscellaneous manufacturing	3391, 3399
Waste management and remediation	5622, 5629
Hospitals/nursing and residential care facilities	6221, 6231, 6232, 6233, 6239
Personal and laundry services	8122, 8123
Residential/private households	8141
Non-residential (commercial)	Not available. Codes only exist for private households, con- struction and leasing/sales in- dustries.

^a North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this proposal will also be available on the World Wide Web. Following signature by the EPA Administrator, a copy of this notice will be posted on the EPA's NSR Web site, under Regulations & Standards, at <http://www.epa.gov/nsr>.

C. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA-HQ-OAR-2010-1033.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

D. What information should I be aware of if I plan to attend the public hearing?

The January 14, 2011, public hearing will provide interested parties the opportunity to present data, views, or arguments concerning this proposal. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. Written comments on the proposed rule must be

postmarked by February 12, 2011, 30 days after the January 14, 2011 hearing. Commenters should notify Ms. Long if they will need specific equipment, or if there are other special needs related to providing comments at the hearing. The EPA will provide equipment for commenters to show overhead slides or make computerized slide presentations if we receive special requests in advance. Oral testimony will be limited to 5 minutes for each commenter. The EPA encourages commenters to provide EPA with a copy of their oral testimony electronically (via e-mail or CD) or in hard copy form. The hearing schedule, including lists of speakers, will be posted on EPA's Web site <http://www.epa.gov/nsr>. Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking. EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule.

D. How is the preamble organized?

The information presented in this preamble is organized as follows:

- I. General Information
 - A. Does this action apply to me?
 - B. Where can I get a copy of this document and other related information?
 - C. What should I consider as I prepare my comments for EPA?
 - D. How is the preamble organized?
- II. Proposed Action
- III. Statutory and Executive Order Reviews
 - A. Executive Order 12866—Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform

- E. Executive Order 13132—Federalism
 - F. Executive Order 13175—Consultation and Coordination with Indian Tribal Governments
 - G. Executive Order 13045—Protection of Children from Environmental Health Risks and Safety Risks
 - H. Executive Order 13211—Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
 - K. CAA Section 307(d)
- IV. Statutory Authority

II. Proposed Action

We have published an interim final rule in the “Rules” section of this **Federal Register** to revise our previous full approval of Texas’s PSD state implementation plan (SIP) to a partial approval and partial disapproval (the “Interim Final Rule”), and to implement a FIP to apply the PSD program to those non-NAAQS pollutants to which the Texas PSD program does not already apply. We have explained our reasons for this action in the preamble to that rule. The reader is referred to the Interim Final Rule for detailed information on this proposed action.

We solicit comment on all aspects of the rationale and legal basis for our determination that the Texas PSD program was flawed at the time we approved and therefore that we erred in approving it; and our approach to correcting our error, i.e., converting our previous full approval of the Texas PSD SIP to a partial approval and partial disapproval using the error correction mechanism under CAA section 110(k)(6). This includes our finding that the Texas PSD SIP’s failure to address, or provide assurances of having adequate legal authority, concerning the application of PSD to all pollutants newly subject to regulation, including non-NAAQS pollutants, constitutes a flaw that existed at the time that EPA granted full approval of that program in 1992. This also includes our legal authority and approach for correcting our error in previously granting full approval of the Texas PSD SIP, including relying on the error correction provisions under CAA section 110(k)(6) and our general authority to reconsider our actions under CAA sections 110 and 301(a). We also solicit comment on our justification for proceeding with this rulemaking, including promulgating and implementing the FIP, as soon as possible in order to provide a permitting authority and thereby allow Texas sources to avoid delays in construction

and modification. Finally, EPA specifically requests comments on the regulatory language included in the interim final rule. We are not soliciting comment on, and will not address, comments on issues addressed in what we call the Endangerment Finding,² the Light-Duty Vehicle Rule,³ the Johnson Memo Reconsideration⁴ and the Tailoring Rule,⁵ or the 1978, 1980, or 2002 PSD rules.⁶ These issues include, but are not limited to, (i) EPA’s interpretation of the CAA as directly applying PSD requirements to major emitting facilities independent of any SIP requirements, and (ii) the applicability of PSD to non-NAAQS pollutants.

III. Statutory and Executive Order Reviews

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a “significant regulatory action” because it raises novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The OMB has previously approved the information collection requirements contained in the existing regulations for PSD (*see, e.g.*, 40 CFR 52.21) under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0003. The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

²“Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act.” 74 FR 66,496 (December 15, 2009).

³“Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule.” 75 FR 25,324 (May 7, 2010).

⁴“Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs.” 75 FR 17004 (April 2, 2010). This action finalizes EPA’s response to a petition for reconsideration of “EPA’s Interpretation of Regulations that Determine Pollutants Covered by Federal Prevention of Significant Deterioration (PSD) Permit Program” (commonly referred to as the “Johnson Memo”), December 18, 2008.

⁵“Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule.” 75 FR 31514 (June 3, 2010).

⁶75 FR 80186 (Dec. 31, 2002); 45 FR 52676 (Aug. 7, 1980); 43 FR 26380 (June 19, 1978); and 43 FR 26388 (June 19, 1978).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this notice on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards (*see* 13 CFR 121.201); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Although this rule could lead to federal permitting requirements for certain sources in Texas, those sources are large emitters of GHGs and tend to be large sources. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This rule does not contain a federal mandate that may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. The action may impose a duty on Texas to meet their existing obligation for PSD SIP submittal, but with lesser expenditures. Thus, this proposed rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action applies only to Texas.

E. Executive Order 13132—Federalism

This action does not have federalism implications. It will not have substantial direct effects on Texas, on the relationship between the national

government and Texas, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. With this action, EPA is only proposing to revise its previous full approval of the Texas PSD SIP to be a partial approval and partial disapproval to correct an error made in granting full approval, and to put a FIP in place in order to assure that GHG-emitting sources in Texas are able to proceed with plans to construct or expand until Texas revises its SIP. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicits comment on this proposed rule from state and local officials.

F. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). In this action, EPA is not addressing any tribal implementation plans. This action is limited to Texas's PSD SIP. Thus, Executive Order 13175 does not apply to this action.

Although Executive Order 13175 does not apply to this proposed rule, EPA specifically solicits additional comment on this proposed action from tribal officials.

G. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because EPA is only proposing to revise its previous full approval of the Texas PSD SIP to be a partial approval and partial disapproval to correct an error made in granting full approval, and to put a FIP in place in order to assure that GHG-emitting sources in Texas are able to proceed with plans to construct or expand.

H. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a “significant energy action” as defined in Executive Order 13211 (66 FR 28355(May 22, 2001)), because it is not likely to have a

significant adverse effect on the supply, distribution, or use of energy. With this action, EPA is only proposing to revise its previous full approval of the Texas PSD SIP to be a partial approval and partial disapproval to correct an error made in granting full approval, and to put a FIP in place in order to assure that GHG-emitting sources in Texas are able to proceed with plans to construct or expand.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898—Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the U.S.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. With this action, EPA is only proposing to revise its previous full approval of the Texas PSD SIP to be a partial approval and partial disapproval to correct an error made in granting full approval.

K. CAA section 307(d)(1)

Pursuant to section 307(d)(1)(B) and (V) of the CAA, the Administrator determines that this action is subject to the provisions of section 307(d). Section 307(d)(1)(B) provides that the provisions of section 307(d) apply to the promulgation or a FIP by the Administrator under CAA section 110(c) and section 307(d)(1)(V) provides that the provisions of section 307(d) apply to “such other actions as the Administrator may determine.”

IV. Statutory Authority

The statutory authority for this action is provided by sections 101, 110, 114, 116, and 301 of the CAA as amended (42 U.S.C. 7401, 7410, 7414, 7416, and 7601).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon dioxide, Carbon dioxide equivalents, Carbon monoxide, Environmental protection, Greenhouse gases, Hydrofluorocarbons, Incorporation by reference, Intergovernmental relations, Lead, Methane, Nitrogen dioxide, Nitrous oxide, Ozone, Particulate matter, Perfluorocarbons, Reporting and recordkeeping requirements, Sulfur hexafluoride, Sulfur oxides, Volatile organic compounds.

Dated: December 23, 2010.

Lisa P. Jackson,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 52—[AMENDED]

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

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

2. Section 52.2305 is added to read as follows:

§ 52.2305 What are the requirements of the Federal Implementation Plan (FIP) to issue permits under the Prevention of Significant Deterioration requirements to sources that emit greenhouse gases?

(a) The requirements of sections 160 through 165 of the Clean Air Act are not met to the extent the plan, as approved, for Texas does not apply with respect to emissions of the pollutant GHGs from certain stationary sources. Therefore, the provisions of § 52.21 except paragraph (a)(1) are hereby made a part of the plan for Texas for:

(1) Beginning on [THE EFFECTIVE DATE OF THE FINAL RULE], the pollutant GHGs from stationary sources described in § 52.21(b)(49)(iv), and

(2) Beginning July 1, 2011, in addition to the pollutant GHGs from sources described under paragraph (a)(1) of this section, stationary sources described in § 52.21(b)(49)(v).

(b) For purposes of this section, the "pollutant GHGs" refers to the pollutant GHGs, as described in § 52.21(b)(49)(i).

(c) In addition, the United States Environmental Protection Agency shall take such action as is appropriate to assure the application of PSD requirements to sources in Texas for any other pollutants that become subject to regulation under the federal Clean Air Act for the first time after January 2, 2011.

[FR Doc. 2010-32785 Filed 12-29-10; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R04-OAR-2010-0392(b); FRL-9246-5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of Florida; Control of Large Municipal Waste Combustor (LMWC) Emissions From Existing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of administrative change.

SUMMARY: EPA is proposing to approve the Clean Air Act (CAA) section 111(d)/129 State Plan submitted by the Florida Department of Environmental Protection (FDEP) for the State of Florida on July 12, 2007, for implementing and enforcing the Emissions Guidelines (EGs) applicable to existing Large Municipal Waste Combustors (LMWCs). These EGs apply to municipal waste combustors with a capacity to combust more than 250 tons per day of municipal solid waste (MSW). See 40 CFR part 60, subpart Cb. In the Final Rules section of this **Federal Register**, EPA is approving the State's 111(d)/129 plan revision submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments.

DATES: Comments must be received in writing by January 31, 2011.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R04-OAR-2010-0392 by one of the following methods:

1. *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

2. *E-mail:* garver.daniel@epa.gov.

3. *Fax:* (404) 562-9095.

4. *Mail:* EPA-R04 OAR-2010-0392, Daniel Garver, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303.

5. *Hand Delivery or Courier:* Mr. Daniel Garver, Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT:

Daniel Garver, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9839. Mr. Garver can also be reached via electronic mail at *garver.daniel@epa.gov*.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: November 8, 2010.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2010-32973 Filed 12-29-10; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

RIN 0648-XJ00 and RIN 0648-XN50

Endangered and Threatened Wildlife and Plants; Proposed Listing Determinations for Five Distinct Population Segments of Atlantic Sturgeon; Extension of Public Comment Period

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: NMFS hereby extends the comment period on the proposed listing of five distinct population segments (DPSs) of Atlantic sturgeon as endangered or threatened until February 3, 2011. The five DPSs were proposed for listing in two separate proposed listing determinations, published on October 6, 2010.

DATES: Comments and information regarding the proposed rules published October 6, 2010 (75 FR 61872; 75 FR 61904) must be received by February 3, 2011.

ADDRESSES: You may submit comments, identified by RIN 0648-XJ00 or RIN 0648-XN50, by any of the following methods:

- *Federal eRulemaking Portal:* *http://www.regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* To the attention of Lynn Lankshear at (978) 281-9394 for RIN 0648-XJ00, or to Kelly Shotts at (727) 824-5309 for RIN 0648-XN50.

- *Mail or hand-delivery:* For RIN 0648-XJ00, submit written comments to the Assistant Regional Administrator for Protected Resources, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. For RIN 0648-XN50, submit written comments to the Assistant Regional Administrator for Protected Resources, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.