

an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the contact person under **FOR FURTHER INFORMATION CONTACT**.

**Electronic Access to This Document:** The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: <http://www.gpo.gov/fdsys>. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at <http://www.federalregister.gov>. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Program Authority:** 20 U.S.C. 1098a.

Dated: October 25, 2011.

**Eduardo M. Ochoa,**

*Assistant Secretary for Postsecondary Education.*

[FR Doc. 2011-27982 Filed 10-27-11; 8:45 am]

**BILLING CODE 4000-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2011-0825, FRL-9484-4]

#### Approval and Promulgation of State Implementation Plans; Missouri: Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule; New Source Review Reform

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Missouri State Implementation Plan (SIP) relating to regulation of Greenhouse Gases (GHGs) under Missouri's Prevention of Significant Deterioration (PSD) program, and to two New Source Review (NSR) revisions. The GHG-related SIP revisions incorporate the GHG emission thresholds established in EPA's "PSD and Title V Greenhouse Gas Tailoring Final Rule," which EPA issued by notice dated June 3, 2010. These revisions were submitted by the Missouri Department of Natural

Resources (MDNR) to EPA in a letter dated August 8, 2011. The NSR revisions are to the Construction Permits Required Rule and the Emissions Banking and Trading Rule and are intended to address changes to the Federal NSR regulations, which were promulgated by EPA on December 31, 2002. These revisions were submitted by MDNR to EPA in a letter dated November 30, 2009. EPA is proposing to approve the GHG and NSR revisions because the Agency has made the preliminary determination that these SIP revisions, already adopted by Missouri as final effective rules, are in accordance with the Clean Air Act (CAA or Act) and EPA regulations regarding PSD permitting for GHGs and NSR.

**DATES:** Comments must be received on or before November 28, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2011-0825, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. *Email:* [gonzalez.larry@epa.gov](mailto:gonzalez.larry@epa.gov).
3. *Fax:* (913) 551-7844.
4. *Mail:* Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101.

5. *Hand Delivery or Courier:* Mr. Larry Gonzalez, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101. 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 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R07-OAR-2011-0825. 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 through <http://www.regulations.gov> or email, information that you consider to be CBI or otherwise protected. 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 email comment directly to EPA without going through <http://www.regulations.gov>, your email 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. 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 electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., 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 in <http://www.regulations.gov> or in hard copy at the Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the GHG portion of the Missouri SIP, contact Mr. Larry Gonzalez, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101. Mr. Gonzalez's telephone number is (913) 551-7041; *email address:* [gonzalez.larry@epa.gov](mailto:gonzalez.larry@epa.gov). For information regarding the NSR Reform portion of the Missouri SIP, contact Ms. Amy Bhesania, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency,

Region 7, 901 North 5th Street, Kansas City, Kansas 66101. Ms. Bhesania's telephone number is (913) 551-7147; email address: bhesania.amy@epa.gov.

#### SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," or "our" refer to EPA.

#### Table of Contents

- I. What GHG-related action is EPA proposing in today's notice?
- II. What is the background for the GHG-related PSD SIP approval proposed by EPA in today's notice?
- III. What is EPA's analysis of Missouri's proposed GHG-related SIP revision?
- IV. GHG-Related Proposed Action
- V. What NSR-related action is EPA proposing in today's notice?
- VI. Why is EPA proposing this NSR-related action?
- VII. What is EPA's analysis of Missouri's proposed NSR Reform-related SIP revisions?
- VIII. NSR-Related Proposed Action
- IX. Statutory and Executive Order Reviews

#### I. What GHG-related action is EPA proposing in today's notice?

In a letter dated August 8, 2011, MDNR submitted a request to EPA to approve revisions to the State's SIP and Title V program to incorporate recent rule amendments adopted by the Missouri Air Conservation Commission. These adopted rules became effective in the Missouri Code of State Regulations on August 30, 2011. These amendments establish thresholds for GHG emissions in Missouri's PSD and Title V regulations at the same emissions thresholds and in the same time-frames as those specified by EPA in the "PSD and Title V Greenhouse Gas Tailoring; Final Rule" (75 FR 31514), hereafter referred to as the "Tailoring Rule," ensuring that smaller GHG sources emitting less than these thresholds will not be subject to permitting requirements for GHGs that they emit. The amendments to the SIP clarify the applicable thresholds in the Missouri SIP, address the flaw discussed in the "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans Final Rule," 75 FR 82536 (December 30, 2010) (the "PSD SIP Narrowing Rule"), and incorporate state rule changes adopted at the state level into the Federally approved SIP. In today's notice, pursuant to section 110 of the CAA, EPA is proposing to approve these revisions into the Missouri SIP.<sup>1</sup>

<sup>1</sup> EPA intends to address Missouri's request to approve revisions to the Title V program relating to GHGs in a subsequent rulemaking.

#### II. What is the background for the GHG-related PSD SIP approval proposed by EPA in today's notice?

This section briefly summarizes EPA's recent GHG-related actions that provide the background for today's proposed actions. More detailed discussion of the background is found in the preambles for those actions. In particular, the background is contained in what we called the PSD SIP Narrowing Rule,<sup>2</sup> and in the preambles to the actions cited therein.

##### A. GHG-Related Actions

EPA has recently undertaken a series of actions pertaining to the regulation of GHGs that, although for the most part distinct from one another, establish the overall framework for today's proposed action on the Missouri SIP. Four of these actions include, as they are commonly called, the "Endangerment Finding" and "Cause or Contribute Finding," which EPA issued in a single final action,<sup>3</sup> the "Johnson Memo Reconsideration,"<sup>4</sup> the "Light-Duty Vehicle Rule,"<sup>5</sup> and the "Tailoring Rule." Taken together and in conjunction with the CAA, these actions established regulatory requirements for GHGs emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, subjected GHGs emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis. EPA took this last action in the Tailoring Rule, which, more specifically, established appropriate GHG emission thresholds for determining the applicability of PSD requirements to GHG-emitting sources.

PSD is implemented through the SIP system. In December 2010, EPA promulgated several rules to implement the new GHG PSD SIP program. Recognizing that some states had approved SIP PSD programs that did not apply PSD to GHGs, EPA issued a SIP Call and, for some of these states, a

<sup>2</sup> "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule." 75 FR 82536 (December 30, 2010).

<sup>3</sup> "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act." 74 FR 66496 (December 15, 2009).

<sup>4</sup> "Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs." 75 FR 17004 (April 2, 2010).

<sup>5</sup> "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule." 75 FR 25324 (May 7, 2010).

Federal Implementation Plan (FIP).<sup>6</sup> Recognizing that other states had approved SIP PSD programs that do apply PSD to GHGs, but that do so for sources that emit as little as 100 or 250 tpy of GHG, and that do not limit PSD applicability to GHGs to the higher thresholds in the Tailoring Rule, EPA issued the PSD SIP Narrowing Rule. Under that rule, EPA withdrew its approval of the affected SIPs to the extent those SIPs covered GHG-emitting sources below the Tailoring Rule thresholds. EPA based its action primarily on the "error correction" provisions of CAA section 110(k)(6).

##### B. Missouri's Actions

On July 27, 2010, Missouri submitted a letter to EPA, in accordance with a request to all states from EPA in the proposed Tailoring Rule, with confirmation that the State of Missouri has the authority to regulate GHGs in its PSD program. The letter also confirmed Missouri's intent to amend its air quality rules for the PSD program for GHGs to match the thresholds set in the Tailoring Rule. See the docket for this proposed rulemaking for a copy of Missouri's letter.

In the PSD SIP Narrowing Rule, published on December 30, 2010, EPA withdrew its approval of Missouri's SIP (among other SIPs) to the extent that the SIP applies PSD permitting requirements to GHG emissions from sources emitting at levels below those set in the Tailoring Rule.<sup>7</sup> As a result, Missouri's current approved SIP provides the State with authority to regulate GHGs, but only at and above

<sup>6</sup> Specifically, by action dated December 13, 2010, EPA finalized a "SIP Call" that would require those states with SIPs that have approved PSD programs but do not authorize PSD permitting for GHGs to submit a SIP revision providing such authority. "Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call," 75 FR 77698 (December 13, 2010). EPA made findings of failure to submit in some states which were unable to submit the required SIP revision by their deadlines, and finalized FIPs for such states. See, e.g. "Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure To Submit State Implementation Plan Revisions Required for Greenhouse Gases," 75 FR 81874 (December 29, 2010); "Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan," 75 FR 82246 (December 30, 2010). Because Missouri's SIP already authorizes Missouri to regulate GHGs once GHGs became subject to PSD requirements on January 2, 2011, Missouri is not subject to the SIP Call or FIP.

<sup>7</sup> "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule." 75 FR 82536 (December 30, 2010).

the Tailoring Rule thresholds; and requires new and modified sources to receive a Federal PSD permit based on GHG emissions only if they emit or have potential to emit at or above the Tailoring Rule thresholds.

The basis for this proposed SIP revision is that limiting PSD applicability to GHG sources with the higher thresholds in the Tailoring Rule is consistent with the SIP provisions that require assurances of adequate resources, and thereby addresses the flaw in the SIP that led to the PSD SIP Narrowing Rule. Specifically, CAA section 110(a)(2)(E) includes as a requirement for SIP approval that states provide “necessary assurances that the State \* \* \* will have adequate personnel [and] funding \* \* \* to carry out such [SIP].” In the Tailoring Rule, EPA established higher thresholds for PSD applicability to GHG-emitting sources, in part, because the states generally did not have adequate resources to apply PSD to GHG-emitting sources below the Tailoring Rule thresholds,<sup>8</sup> and no state, including Missouri, asserted that it did have adequate resources to do so.<sup>9</sup> In the PSD SIP Narrowing Rule, EPA found that the affected states, including Missouri, had a flaw in their SIP at the time they submitted their PSD programs, which was that the applicability of the PSD programs was potentially broader than the resources available to them under their SIP.<sup>10</sup> Accordingly, for each affected state, including Missouri, EPA concluded that EPA’s action in approving the SIP was in error, under CAA section 110(k)(6), and EPA rescinded its approval to the extent the PSD program applies to GHG-emitting sources below the Tailoring Rule thresholds.<sup>11</sup> EPA recommended that states adopt a SIP revision to incorporate the Tailoring Rule thresholds, thereby (i) Assuring that under state law, only sources at or above the Tailoring Rule thresholds would be subject to PSD; and (ii) avoiding confusion under the Federally approved SIP by clarifying that the SIP applies only to sources at or above the Tailoring Rule thresholds.<sup>12</sup>

### III. What is EPA’s analysis of Missouri’s proposed GHG-related SIP revision?

In a letter dated August 8, 2011, MDNR submitted a revision of its regulations to EPA for processing and approval into the SIP. This SIP revision

puts in place the GHG emission thresholds for PSD applicability set forth in EPA’s Tailoring Rule. EPA’s approval of Missouri’s GHG-related SIP revision will incorporate the revisions of the Missouri regulations into the Federally-approved SIP. Doing so will clarify the applicable thresholds in the Missouri SIP.

The State of Missouri’s August 8, 2011, proposed SIP revision establishes thresholds for determining which stationary sources and modification projects become subject to permitting requirements for GHG emissions under Missouri’s PSD program. Specifically, Missouri’s August 8, 2011, proposed SIP revision includes changes—which are already effective—to Missouri’s Code of State Regulations (CSR), revising rule 10 CSR 10–6.060(8)(A) to incorporate by reference all of the revisions to the Federal PSD rules at 40 CFR 52.21 published in the Tailoring Rule.<sup>13</sup> These revisions specifically define the term “subject to regulation” for the PSD program and define “greenhouse gases (GHGs)” and “tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e).” Additionally, these revisions specify the methodology for calculating an emissions increase for GHGs, the applicable thresholds for GHG emissions subject to PSD, and the schedule for when the applicability thresholds take effect. *See* 75 FR at 31606–07.

Missouri is currently a SIP-approved State for the PSD program, and has previously incorporated some elements of EPA’s 2002 NSR reform revisions for PSD into its SIP. *See* 71 FR 36486 (June 27, 2006).<sup>14</sup> In that rulemaking, at the State’s request, EPA did not act on the portions of Missouri’s rule which reflected the vacated and remanded provisions in EPA’s NSR reform rule.<sup>15</sup>

<sup>13</sup> The revised rule states that all of the subsections of 40 CFR 52.21, other than subsections (a), (q), (s), and (u), promulgated as of July 1, 2009, including the revision published at 75 FR 31606–07 (effective August 2, 2010), are incorporated by reference into 10 CSR 10–6.060(8)(A).

<sup>14</sup> In sections V through VIII. of this proposed rulemaking, EPA is proposing to approve several of Missouri’s other revisions to its rules for incorporation into the Missouri SIP.

<sup>15</sup> These portions included provisions relating to pollution control projects, the “clean unit” exemption, and the recordkeeping requirements for certain sources using the “actual to projected actual” test for applicability of PSD (the “reasonable possibility” provision in section 52.21(r)(6)). *See*, 71 FR 36487 for a more detailed discussion of EPA’s approval of Missouri’s NSR reform rule relating to PSD. We are not acting on those provisions, including the recordkeeping aspect of the “reasonable possibility” provision, in today’s action. (See, section VI. of this preamble for a more detailed discussion of the vacated and remanded provisions.) We are also not acting on Missouri’s rule incorporating EPA’s 2007 revision of the definition of “chemical processing plants” (the “Ethanol Rule,” 72 FR 24060 (May 1, 2007))

The changes to Missouri’s PSD program regulations are substantively the same as the Federal provisions amended in EPA’s Tailoring Rule. As part of its review of Missouri’s submittal, EPA performed a line-by-line review of Missouri’s proposed revision and has preliminarily determined that it is consistent with the Tailoring Rule.<sup>16</sup>

### IV. GHG-Related Proposed Action

Pursuant to section 110 of the CAA, EPA is proposing to approve Missouri’s August 8, 2011 revisions to the Missouri SIP, relating to PSD requirements for GHG-emitting sources. Specifically, Missouri’s August 8, 2011, proposed SIP revision establishes appropriate emissions thresholds for determining PSD applicability to new and modified GHG-emitting sources in accordance with EPA’s Tailoring Rule. EPA has made the preliminary determination that this SIP revision is approvable because it is in accordance with the CAA and EPA regulations regarding PSD permitting for GHGs.

If EPA approves Missouri’s changes to its air quality regulations to incorporate appropriate thresholds for GHG permitting applicability into Missouri’s SIP, then section 52.1323(n) of 40 CFR part 52, as included in EPA’s PSD SIP Narrowing Rule—which codifies EPA’s limiting its approval of Missouri’s PSD SIP to not cover the applicability of PSD to GHG-emitting sources below the Tailoring Rule thresholds—is no longer necessary. In today’s proposed action, EPA is also proposing to amend section 52.1323(n) of 40 CFR part 52 to remove this unnecessary regulatory language.

### V. What NSR-related action is EPA proposing in today’s notice?

In this rulemaking, we are also proposing to approve MDNR’s request to include as a revision to Missouri’s SIP, amendments to rule 10 CSR 10–6.060 “Construction Permit Required” and 10 CSR 10–6.410 “Emission Banking and Trading.” These rules were adopted by the Missouri Air Conservation Commission on March 26, 2009, and became effective under state law on July 30, 2009. The rules were submitted to EPA for inclusion into the Missouri SIP in a letter dated November 30, 2009. The submission included comments on the rules made during the State’s

or EPA’s 2008 “fugitive emissions rule”, 73 FR 77882 (December 19, 2008).

<sup>16</sup> EPA also notes that Missouri’s incorporation by reference of EPA’s PSD rule includes revisions by EPA made in 2005 (70 FR 71612, November 29, 2005) and 2008 (73 FR 28321, May 16, 2008). We are proposing to approve those updates to the PSD rule in conjunction with the proposal regarding Missouri’s incorporation of the Tailoring Rule provisions discussed in this notice.

<sup>8</sup> Tailoring Rule, 75 FR at 31517.

<sup>9</sup> PSD SIP Narrowing Rule, 75 FR at 82540.

<sup>10</sup> *Id.* at 82542.

<sup>11</sup> *Id.* at 82544.

<sup>12</sup> *Id.* at 82540.

adoption process and the State's response to comments. Missouri submitted these revisions to adopt EPA's revisions to the Federal NSR program. Pursuant to section 110 of the CAA, EPA is now proposing to approve these SIP revisions with several exceptions. First, in today's proposed rulemaking, EPA is not taking action on Missouri's submittal of changes to the applicability of the PSD program to exclude ethanol production facilities from the definition of "chemical processing plants" (the "Ethanol Rule").<sup>17</sup> EPA intends to address this revision in a separate rulemaking. Second, because Missouri has not adopted EPA's "Fugitive Emissions Rule" (73 FR 77882, Dec. 19, 2008), as it relates to NSR in nonattainment areas, today's action also does not address the Fugitive Emissions Rule.<sup>18</sup> We are presently soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

#### VI. Why is EPA proposing this NSR-related action?

On December 31, 2002 (67 FR 80186), EPA published final rule changes to 40 Code of Federal Regulations (CFR) parts 51 and 52, regarding the CAA's PSD and Nonattainment NSR programs ("Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR); Baseline Emissions Determination, Actual-to-Future-Actual Methodology, Plantwide Applicability Limitations, Clean Units, Pollution Control Projects"). On November 7, 2003 (68 FR 63021), EPA published a notice of final action on the reconsideration of the December 31, 2002, final rule changes. In that November 7, 2003, final action, EPA added the definition of "replacement unit," and clarified an issue regarding PALs. The December 31, 2002, and the November 7, 2003, final actions are collectively referred to as the "2002 NSR Reform Rules."

In brief, the 2002 NSR Reform Rules made changes to five areas of the NSR programs (concerning both PSD and nonattainment NSR).<sup>19</sup> 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 plantwide applicability limits (PALs) to avoid having a significant emissions 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, industry, state, and environmental petitioners challenged numerous aspects of the 2002 NSR Reform Rules, along with portions of EPA's 1980 NSR Rules (45 FR 52676, August 7, 1980). On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit (DC Circuit Court) issued a decision on the challenges to the 2002 NSR Reform Rules. *New York v. United States*, 413 F.3d 3 (DC Cir. 2005). In summary, the DC Circuit Court vacated portions of the rules pertaining to clean units and PCPs, remanded a portion of the rules regarding recordkeeping, *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.

On February 25, 2005, Missouri submitted a request to include EPA's 2002 NSR Reform Rules in attainment and unclassifiable areas in to the SIP, and EPA approved these revisions through a final rule published on June 27, 2006 (71 FR 36486).<sup>20</sup>

#### VII. What is EPA's analysis of Missouri's proposed NSR reform-related SIP revisions?

Missouri's SIP submittals consist of several amendments to rule 10 CSR 10-6.060 and one amendment to 10 CSR 10-6.410 that became State-effective on July 30, 2009. Copies of the Missouri revised NSR rules can be obtained from the Docket, as discussed in the ADDRESSES section above. A discussion of the specific changes to Missouri's rules comprising the proposed SIP revision follows.

The amendments to 10 CSR 10-6.060 implement EPA's 2002 New Source Review Reform rules in nonattainment areas. These rule amendments create consistency between the attainment and

nonattainment area permitting programs in Missouri in three areas: Baseline emissions determinations, actual-to-projected actual emissions calculation methodology, and PALs. The amendment to 10 CSR 10-6.410 will remove a reference to Clean Unit projects. As discussed previously, these provisions were vacated by the DC Circuit Court of Appeals in the New York case in 2005.

EPA's evaluation of Missouri's NSR Reform-related SIP submittal included a line-by-line comparison of the proposed revisions with the Federal requirements. As a general matter, state agencies may meet the requirements of 40 CFR part 51, and the 2002 NSR Reform Rules, with different but equivalent regulations.

After evaluation of Missouri's proposed SIP revision, EPA has determined that the revised rule language at 10 CSR 10-6.060(7) (Nonattainment Area Permits) is substantially similar to the language in the equivalent Federal regulation (*i.e.*, 40 CFR 51.165). It also employs incorporation by reference to the applicable Federal regulations whenever practical in order to ensure consistency and clarity and to facilitate future required updates to this rule. Furthermore, EPA has previously determined in a Supplemental Environmental Analysis that the implementation of the Federal NSR Reform rules will be environmentally beneficial. *See* 68 FR 44620 (July 30, 2003). EPA has no reason to believe that the environmental impacts of Missouri's proposed SIP revision will be substantially different from those discussed in the Supplemental Environmental Analysis. Therefore, Missouri's revisions do not make Missouri's NSR program less stringent than the current Federally-approved SIP. Accordingly, EPA believes that these changes are consistent with the requirements of CAA sections 110(l) and 193, and are consistent with the Federal program requirements for the preparation, adoption and submittal of implementation plans for NSR set forth at 40 CFR 51.165, and are therefore approvable.

#### VIII. NSR-Related Proposed Action

EPA is proposing to approve Missouri's changes to its regulations 10 CSR 10-6.060 and 10 CSR 10-6.410, as submitted by Missouri on November 30, 2009, for inclusion in the Missouri SIP. EPA has made the preliminary determination that this SIP revision is approvable because it is in accordance with the CAA and EPA regulations

<sup>17</sup> See letter from James L. Kavanaugh, Director, MDNR, to EPA, April 10, 2008.

<sup>18</sup> The November 30, 2009 submittal from MDNR also proposed revisions to 10 CSR 10-6.350 "Emission Limitations and Emissions Trading of Oxides of Nitrogen" and 10 CSR 10-6.360 "Control of NO<sub>x</sub> Emissions from Electric Generating Units and Non-Electric Generating Boilers." In a letter dated April 20, 2011, Missouri withdrew this submission of revisions to these two rules, and therefore today's action does not include them.

<sup>19</sup> For more background information about the 2002 NSR Reform rules, *see* 67 FR 80186.

<sup>20</sup> As stated in section III. above, EPA did not act on the portions of Missouri's rule which related to the vacated and remanded provisions of the EPA rule.

implementing the NSR program, including NSR Reform.

### IX. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k), 7661a(d); 40 CFR 52.02(a); 40 CFR 70.1(c). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves the State's law as meeting Federal requirements and does not impose additional requirements beyond those imposed by the State's law. For that reason, the proposed approvals of Missouri's revision to its SIP:

- Are not "significant regulatory actions" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and are therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011);
  - Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - Are 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.*);
  - Do 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);
  - Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Are 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
  - Do 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 proposed rule does not have tribal implications as specified

by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP program 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, Incorporation by reference, Intergovernmental relations, and Reporting and recordkeeping requirements.

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

Dated: October 20, 2011.

**Karl Brooks,**

*Regional Administrator, Region 7.*

[FR Doc. 2011-27987 Filed 10-27-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60 and 63

[EPA-HQ-OAR-2010-0505; FRL-9484-3]

RIN 2060-AP76

#### Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews; Extension of Comment Period Closing Date

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

**ACTION:** Proposed rule; extension of the public comment period.

**SUMMARY:** The EPA is announcing that the period for providing public comments on the August 23, 2011 proposed rule titled, "Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews," is being extended to November 30, 2011.

**DATES:** *Comments.* The public comment period for the proposed rules published on August 23, 2011 (76 FR 52738) closes on November 30, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-HQ-OAR-2010-0505, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>: Follow the instructions for submitting comments.
- *Agency Web site:* <http://www.epa.gov/oar/doCKET.html>. Follow the instructions for submitting comments on the Air and Radiation Docket Web site.
- *Email:* [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov). Include Docket ID Number EPA-HQ-

OAR-2010-0505 in the subject line of the message.

- *Facsimile:* (202) 566-9744.
- *Mail:* Attention Docket ID Number EPA-HQ-OAR-2010-0505, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attn:* Desk Officer for the EPA, 725 17th Street, NW., Washington, DC 20503.

- *Hand Delivery:* United States Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004, Attention Docket ID Number EPA-HQ-OAR-2010-0505. 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 Number EPA-HQ-OAR-2010-0505. The 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 email. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at