

action must be filed in the United States Court of Appeals for the appropriate circuit by June 15, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Volatile organic compounds.

Dated: March 12, 2012.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

40 CFR part 52 is 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.*

#### Subpart O—Illinois

■ 2. § 52.720 is amended by adding paragraph (c)(190) to read as follows:

#### § 52.720 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(190) On November 14, 2011, the Illinois Environmental Protection Agency (Illinois EPA) submitted amendments to 35 Illinois Administrative Code 218.208 and 219.208. These sections add a “small container exemption” for pleasure craft surface coating operations in the Chicago and Metro-East St. Louis 8-hour ozone nonattainment areas. These exemptions are consistent with EPA volatile organic compound (VOC) reasonably available control technology (RACT) policy.

(i) *Incorporation by reference.* The following sections of Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter 1: Pollution

Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, are incorporated by reference.

(A) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart F: Coating Operations, Section 218.208 Exemptions From Emission Limitations; effective October 25, 2011.

(B) Part 219: Organic Material Emission Standards and Limitations for the Metro East Area, Subpart F: Coating Operations, Section 219.208 Exemptions From Emission Limitations; effective October 25, 2011.

[FR Doc. 2012–8952 Filed 4–13–12; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R07–OAR–2011–0825; FRL–9657–8]

#### 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:** Final rule.

**SUMMARY:** EPA is approving 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 other portions of Missouri's New Source Review (NSR) program. The GHG-related SIP revisions are designed to align Missouri's regulations with 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. The other 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 (the NSR Reform rules). In today's action, EPA is approving both the GHG (as it relates to the PSD program) and NSR revisions because the Agency has determined 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:** This final rule is effective on May 16, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R07–OAR–2011–0825. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, 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 at <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, and his email address is [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, and her email address is [bhesania.amy@epa.gov](mailto:bhesania.amy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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

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## VII. Statutory and Executive Order Reviews

**I. What GHG-related final action is EPA taking in this final rule?**

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), hereinafter 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.

On October 28, 2011, EPA published a proposed rulemaking to approve Missouri's SIP revision. The proposal addressed SIP revisions associated with both the Federal "tailoring rule" revisions and "NSR reform" rules. See 76 FR 66882. EPA did not receive any public comments in response to the proposal. In this final rule, pursuant to section 110 of the CAA, EPA is approving these revisions into the Missouri SIP.<sup>1</sup>

**II. What is the background for the GHG-related PSD SIP Approval in this final rule?**

This section briefly summarizes EPA's recent GHG-related actions that provide the background for this final action. More detailed discussion of the background is found in the proposal for this rulemaking, 76 FR 66882, and in the EPA rulemakings cited in the proposal. 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 are distinct from one another, establish the overall framework for this final 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. In many states, such as Missouri, PSD is implemented through the SIP. 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 Federal Implementation Plan (FIP).<sup>6</sup>

<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).

<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

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 final 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 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 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

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).

<sup>1</sup> As stated in the proposal, EPA intends to address Missouri's August 8, 2011 request to approve revisions to the Title V program relating to GHGs in a subsequent rulemaking.

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>

Missouri’s August 8, 2011, SIP submission establishes thresholds for determining which stationary sources and modification projects become subject to permitting requirements for GHG emissions under Missouri’s PSD program. Specifically, the SIP revision includes changes—which are already effective in Missouri’s Code of State Regulations (CSR)—revising rule 10 CSR 10–6.060(8)(A) to incorporate by reference all of the revisions of 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, the revisions to 10 CSR 10–6.060 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.

Missouri is currently a SIP-approved State for the PSD program, and has previously incorporated 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> The changes to Missouri’s PSD program regulations are substantively the same as the Federal provisions amended in EPA’s Tailoring Rule.

### III. GHG-Related Final Action

Pursuant to section 110 of the CAA, EPA is approving Missouri’s August 8, 2011 revisions to the Missouri SIP, relating to PSD requirements for GHG-emitting sources. EPA has made the determination that this SIP revision is approvable because it is in accordance with the CAA and EPA regulations regarding PSD permitting for GHGs. The detailed rationale for this action is set forth in the proposed rulemaking referenced above, and in this final rule.

Since EPA is finalizing its approval of 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, added in EPA’s PSD SIP Narrowing Rule to codify the limitation of its approval of Missouri’s PSD SIP to exclude the

<sup>14</sup> In sections IV through VI of this final action, EPA is approving 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 V 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)) or EPA’s 2008 “fugitive emissions rule,” 73 FR 77882 (December 19, 2008). *See* Section IV for more details.

applicability of PSD to GHG-emitting sources below the Tailoring Rule thresholds, is no longer necessary. In this action, EPA is also amending section 52.1323(n) of 40 CFR part 52 to remove this unnecessary regulatory language.

### IV. What NSR reform-related final action is EPA taking in this final rule?

In this final rule, we are also approving 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 adoption process and the State’s response to comments. Missouri submitted these revisions to align its rules with EPA’s revisions to the Federal NSR program (NSR Reform), as it relates to nonattainment areas in the State. Pursuant to section 110 of the CAA, EPA is approving these SIP revisions with several exceptions. First, in today’s final action, 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) (72 FR 24060, May 1, 2007). *See* letter from James L. Kavanaugh, Director, MDNR, to EPA, April 10, 2008. 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>16</sup>

On October 28, 2011, EPA published a proposed rulemaking to approve Missouri’s SIP revision. The proposal addressed SIP revisions associated with both the Federal “tailoring rule” revisions and “NSR reform” rules. *See* 76 FR 66882. EPA did not receive any public comments in response to the proposal. Therefore, in this final rule, pursuant to section 110 of the CAA,

<sup>16</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>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.

<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).

EPA is approving these revisions into the Missouri SIP.<sup>17</sup>

#### V. What is the background for the NSR reform-related approval in this final rule?

On December 31, 2002 (67 FR 80186), EPA published final rule changes to 40 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>18</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>19</sup>

#### VI. NSR Reform-Related Final Action

Pursuant to section 110 of the CAA, EPA is approving revisions to Missouri's regulations 10 CSR 10–6.060 and 10 CSR 10–6.410, as submitted on November 30, 2009, for inclusion in the Missouri SIP. EPA has determined that this SIP revision is approvable because it is in accordance with the CAA and EPA regulations implementing the NSR program, including NSR Reform. The detailed rationale for this action is set forth in the proposal for this rule, 76 FR 66882, and in this notice.

#### VII. 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); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves 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, 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 final 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 15, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

<sup>17</sup> As stated in the proposal, EPA intends to address Missouri's August 8, 2011 request to approve revisions to the Title V program relating to CHGs in a subsequent rulemaking.

<sup>18</sup> For more background information about the 2002 NSR Reform rules, see 67 FR 80186.

<sup>19</sup> As stated in section II above, EPA did not act on the portions of Missouri's rule which related to the vacated and remanded provisions of the EPA rule.

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

Air pollution control, Environmental protection, Greenhouse gases, Incorporation by reference, Intergovernmental relations, New source review, Reporting and recordkeeping requirements.

Dated: March 30, 2012.

**Karl Brooks**,  
*Regional Administrator, Region 7.*

40 CFR part 52 is 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.*

**Subpart AA—Missouri**

■ 2. Section 52.1320(c) is amended by revising the entries for 10 CSR 10–6.060 (Construction Permits Required) and 10 CSR 10–6.410 (Emissions Banking and Trading) to read as follows:

**§ 52.1320 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED MISSOURI REGULATIONS**

Missouri citation	Title	State effective date	EPA approval date	Explanation
<b>Missouri Department of Natural Resources</b>				
<b>Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri</b>				
10–6.060 .....	Construction Permits Required.	8/30/11	4/16/12 [ <i>insert FR page number where the document begins</i> ].	This revision incorporates by reference elements of EPA’s NSR reform rule published December 31, 2002. Provisions of the incorporated reform rule relating to the Clean Unit Exemption, Pollution Control Projects, and exemption from recordkeeping provisions for certain sources using the actual-to-projected-actual emissions projections test are not SIP approved. In addition, we are not approving Missouri’s rule incorporating EPA’s 2007 revision of the definition of “chemical processing plants” (the “Ethanol Rule,” 72 FR 24060 (May 1, 2007) or EPA’s 2008 “fugitive emissions rule,” 73 FR 77882 (December 19, 2008)). Otherwise, this revision also incorporates by reference the other provisions of 40 CFR 52.21 as in effect on August 2, 2010, which supersedes any conflicting provisions in the Missouri rule. Section 9, pertaining to hazardous air pollutants, is not SIP approved.
10–6.410 .....	Emissions Banking and Trading.	7/30/09	4/16/12 [ <i>insert FR page number where the document begins</i> ].	

**§ 52.1323 [Amended]**

■ 3. Section 52.1323 is amended by removing and reserving paragraph (n).

[FR Doc. 2012–8920 Filed 4–13–12; 8:45 am]

**BILLING CODE 6560–50–P**

**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**49 CFR Part 173**

[Docket No. PHMSA–07–29364 (HM–231A)]

RIN 2137–AE32

**Hazardous Materials; Packages Intended for Transport by Aircraft**

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** PHMSA is amending the Hazardous Materials Regulations to require closures of inner packagings containing liquids within a combination packaging intended for transportation by aircraft to be secured by a secondary means or, where a secondary closure cannot be applied or it is impracticable to apply, permit the use of a leakproof liner. These amendments are consistent with the 2011–2012 edition of the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions).

**DATES:** *Effective Date:* This rule is effective July 1, 2012.

*Voluntary Compliance Date:* Voluntary compliance with all amendments are authorized May 16, 2012.

**FOR FURTHER INFORMATION CONTACT:**

Michael G. Stevens, Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, telephone (202) 366–8553, or Janet McLaughlin, Office of Security and Hazardous Materials Safety, Federal Aviation Administration, U.S. Department of Transportation, 490 L’Enfant Plaza SW., Suite 8100, Washington, DC 20024, telephone (202) 385–4897.

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