

TABLE 1 OF § 1065.1010—ASTM MATERIALS

Document No. and name	Part 1065 reference
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ASTM D93–09, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester	1065.703
ASTM D 445–09, Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Viscosity)	1065.703
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 [FR Doc. 2011–246 Filed 1–11–11; 8:45 am]
 BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0729; FRL–9250–7]

Approval and Promulgation of Implementation Plans; Indiana; Removal of Vehicle Inspection and Maintenance Programs for Clark and Floyd Counties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation plan (SIP) revision submitted by the State of Indiana to allow the State to discontinue the vehicle inspection and maintenance (I/M) program in Clark and Floyd Counties, IN, the Indiana portion of the Louisville (IN-KY) 1997 8-hour ozone area. The revision specifically requests that I/M program regulations be removed from the active control measures portion of the SIP. The regulations will remain in the contingency measures portion of the Clark and Floyd Counties ozone maintenance plans. The Indiana Department of Environmental Management (IDEM) submitted this request on October 10, 2006, and supplemented it on November 15, 2006, November 29, 2007, November 25, 2008, April 23, 2010, and November 19, 2010. EPA is proposing to approve Indiana’s request because the State has demonstrated that discontinuing the I/M program in Clark and Floyd Counties will not interfere with the attainment and maintenance of the 8-hour ozone National Ambient Air Quality Standard (NAAQS) or with the attainment and maintenance of other air quality standards and requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before February 11, 2011.

ADDRESSES: Submit comments, identified by Docket ID No. EPA–R05–OAR–2009–0729, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. Email: aburano.douglas@epa.gov.
3. Fax: (312) 408–2279.
4. Mail: Douglas Aburano, Chief, Control Strategies Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Douglas Aburano, Chief, Control Strategies Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2009–0729. 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> website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you

submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Francisco J. Acevedo at (312) 886–6061 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

- I. What should I consider as I prepare my comments for EPA?
 - A. Submitting CBI
 - B. Tips for Preparing Your Comments

- II. What are EPA's proposed actions
- III. What changes to the Indiana SIP have been submitted to support the removal of the I/M program in Clark and Floyd Counties?
- IV. What criteria apply to Indiana's request?
- V. Has Indiana met the criteria for converting the I/M program in Clark and Floyd Counties to contingency measures?
- VI. What are our conclusions concerning the removal of the I/M program in Clark and Floyd Counties?
- VII. Statutory and Executive Order Reviews

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

A. 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.

B. Tips for Preparing Your Comments

When submitting comments, remember to:

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

II. What are EPA's proposed actions?

EPA is proposing to approve a SIP revision submitted by the State of Indiana to modify the ozone SIP such that the I/M program in Clark and Floyd Counties (the Indiana portion of the Louisville (IN-KY) 1997 8-hour ozone area) is no longer an active program in this area and remains instead as a contingency measure in this area's maintenance plan for 1997 8-hour ozone.

III. What changes to the Indiana SIP have been submitted to support the removal of the I/M program in Clark and Floyd Counties?

Indiana House Enrolled Act No. 1798, effective on July 1, 2003, amended Indiana code 13-17-5 to eliminate the applicability of the vehicle emissions testing rule to Clark and Floyd Counties after December 31, 2006, at which time the program ceased operations. IDEM submitted a revision to the Indiana SIP for Clark and Floyd Counties (the Indiana portion of the Louisville (IN-KY) 1997 8-hour ozone nonattainment area) on October 10, 2006, requesting that the Indiana I/M program in Clark and Floyd Counties be moved from the active control measures portion of the SIP to the contingency measures portion of the Clark and Floyd Counties 1997 8-Hour Ozone Maintenance Plan.

Clark and Floyd Counties were originally required to implement "basic" I/M programs under section 182(b)(4) of the CAA because they had been designated as part of the Louisville moderate 1-hour ozone nonattainment area. In order to maximize the emissions reductions from the I/M program, IDEM chose to implement an "enhanced" program in those areas and incorporated an on-board diagnostic (OBD) component into the program. EPA fully approved Indiana's I/M program on March 19, 1996 (61 FR 11142). The enhanced I/M program component began operation in 1997, to help meet nonattainment area requirements for the ozone NAAQS effective at the time.¹ The Louisville 1-hour ozone nonattainment area was redesignated to attainment for that standard on October 23, 2001 (66 FR 53665).

Subsequently, Clark and Floyd Counties were designated as a portion of the IN-KY Louisville nonattainment for the 1997 8-hour ozone NAAQS. On November 15, 2006, IDEM submitted a request to redesignate the Indiana portion of the Louisville nonattainment

¹ Although the enhanced I/M program component began in 1997, there was a vehicle I/M program operating in the Clark and Floyd Counties prior to that date, and prior to November 15, 1990.

area to attainment for the 8-hour NAAQS, and for EPA approval of a 14-year maintenance plan for Clark and Floyd Counties. At the same time, IDEM requested EPA approval to terminate the I/M program in these counties. EPA approved the redesignation and maintenance plan for Clark and Floyd Counties on July 19, 2007 (72 FR 39571). The approved maintenance plan demonstrated that the area could maintain the standard without the need for emission reductions from I/M. See 72 FR 26057, 26064–26065 (May 8, 2007).

The Louisville 1997 8-hour ozone nonattainment area also includes Jefferson County, Kentucky. EPA approved the discontinuation of the I/M program in Jefferson County on May 18, 2005, at 70 FR 28429.

IV. What criteria apply to Indiana's request?

Areas designated nonattainment for the ozone NAAQS and classified "moderate" are required by the CAA to implement vehicle I/M. See CAA section 182(b)(4).² The Louisville area was previously designated moderate nonattainment for the 1-hour ozone standard, prompting the requirement for I/M. However, as noted above, the Louisville area was redesignated to attainment for the 1-hour standard, and the 1-hour standard has been revoked. While Clark and Floyd Counties were designated nonattainment for the 0.08 ppm 8-hour ozone standard, they were not classified for that standard.³ Thus, these areas are not currently required to have I/M programs under the CAA and the State may move them to the contingency measures portion of the SIP,⁴ provided the State can satisfy the anti-backsliding requirements of the CAA (sections 110(l) and 193) and of EPA's ozone implementation rule, 40

² Certain areas classified "marginal" are also required to implement I/M. See CAA section 182(a)(2)(B).

³ Clark and Floyd Counties were classified "basic" (i.e., subject to subpart 1) for the 0.08 parts per million (ppm) 8-hour ozone standard but that classification was vacated by a decision of the United States Court of Appeals for the D.C. Circuit. See *South Coast Air Quality Management Dist. v. EPA*, 472 F.3d 882 (D.C. Cir. 2006). EPA is in the process of responding to that decision through rulemaking. EPA promulgated a 0.075 ppm 8-hour ozone standard but subsequently announced that it was reconsidering that standard and in January 2010 proposed to change it. EPA has not designated areas for the 0.075 ppm 8-hour ozone standard that is being reconsidered.

⁴ As discussed below, the measures must be retained as contingency measures because CAA section 175A(d) requires that the contingency measures portion of the SIP include a requirement that the State will implement all measures that were contained in the SIP before the area was redesignated to attainment.

CFR 51.905. As previously noted, EPA in approving the area's maintenance plan for the 1997 8-hour ozone standard concluded that it demonstrated maintenance without reliance on any emissions reductions from the I/M program.

CAA section 110(l) provides:

The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

In addition, EPA adopted anti-backsliding requirements as part of the implementation rule for the 0.08 ppm 8-hour ozone standard. See 40 CFR 51.905. For areas such as these that were required under the CAA to implement basic I/M, EPA applies the provisions of the implementation rule in concert with the provisions of 40 CFR 51.372(c).

The provisions of 40 CFR 51.372(c) allow certain areas seeking redesignation to submit only the authority for an I/M program (together with certain commitments), rather than an implemented program, in satisfaction of the applicable I/M requirements. Under these I/M rule provisions, a basic I/M area (*i.e.*, an area that was required to adopt a basic I/M program) which has been redesignated to attainment for the 1-hour ozone NAAQS can convert the I/M program to a contingency measure as part of the area's 1-hour ozone maintenance plan, notwithstanding the anti-backsliding provisions in EPA's 8-hour ozone implementation rule published April 30, 2004 (69 FR 23858). A basic I/M area which is designated nonattainment for the 8-hour ozone NAAQS, yet is not required to have an I/M program based on its 8-hour ozone classification, continues to have the option to move its I/M program to a contingency measure pursuant to the provisions of 40 CFR 51.372(c), provided the 8-hour ozone nonattainment area can demonstrate that doing so will not interfere with its ability to comply with any NAAQS or any other applicable CAA requirement pursuant to section 110(l) of the Act. For further details on the application of 8-hour ozone anti-backsliding provisions to basic I/M programs in 1-hour ozone maintenance areas, please refer to the May 12, 2004, EPA Memorandum from Tom Helms, Group Leader, Ozone Policy and Strategies Group, Office of Air Quality Planning and Standards, and Leila H. Cook, Group Leader, State Measures and Conformity Group, Office of Transportation and Air Quality, to the Air Program Managers, the subject of

which is "1 Hour Ozone Maintenance Plans Containing Basic I/M Programs." A copy of this memorandum may be obtained at <http://www.epa.gov/ttn/oarpg/t1pgm.html> under the file date "5-12-04."

V. Has Indiana met the criteria for converting the I/M program in Clark and Floyd Counties to contingency measures?

Clark and Floyd Counties were redesignated to attainment of the 1-hour ozone NAAQS on October 23, 2001 (66 FR 53665). On July 19, 2007 (72 FR 39571), EPA approved the redesignation of Clark and Floyd Counties to attainment with respect to the 8-hour ozone NAAQS. EPA approved maintenance plans with respect to each of these standards in connection with these redesignations. The approved maintenance plans show that control measures in place in these areas are sufficient for overall emissions to remain beneath the attainment level of emissions until the end of the maintenance period, even without operation of I/M. In both plans, the conformity budget in the maintenance plans reflects mobile source emissions without I/M in future years, and the maintenance plans demonstrate that the applicable standard will continue to be met without I/M. In accordance with the Act and EPA redesignation guidance, states are free to adjust control strategies in the maintenance plan as long as they can satisfy section 110(l). With such a demonstration of noninterference with attainment or other applicable requirements, control programs may be discontinued and removed from the SIP. However, section 175A(d) of the CAA requires that contingency measures in the maintenance plan include all measures in the SIP for the area before that area was redesignated to attainment. Since the I/M program was in the SIP prior to redesignation to attainment for ozone, the I/M program must be included in the contingency portion of the ozone maintenance plan as required by section 175A(d). As part of its submittal, IDEM provided a demonstration showing continued maintenance of the 8-hour ozone standard without taking credit for reductions from the Clark and Floyd Counties I/M program after December 2006.

As discussed above, EPA interprets its regulations as allowing basic I/M areas such as these to have the option to move an I/M program to a contingency measure pursuant to 40 CFR 51.372(c), provided that moving I/M to contingency measures will not interfere with the area's ability to comply with

any NAAQS or any other applicable CAA requirement (including section 193). Under 40 CFR 51.372(c), an area is required to include in its submittal, with a request to place the I/M program into the contingency measures: (1) Legal authority to implement a basic I/M program; (2) a commitment by the Governor of the State, or the Governor's designee, to adopt or consider adopting regulations to implement an I/M program to correct a violation of the ozone or carbon monoxide standard, in accordance with the maintenance plan; and (3) a contingency commitment that includes an enforceable schedule, with appropriate milestones, for adoption and implementation of an I/M program.

In the State's supplemental submittal of November 25, 2008, IDEM reaffirms that Indiana has retained the necessary legal authority to implement I/M under Indiana Code 13-17-5. EPA examined the applicable Indiana statutory language and the State's subsequent legal review and concurs with Indiana's finding that it has the necessary legal authority to implement I/M if it becomes necessary under the CAA to implement contingency measures. In addition, the State's supplemental submittal includes a commitment by IDEM to consider the adoption of I/M as a corrective measure should an ambient 8-hour ozone design value trigger a contingency measure in Clark and Floyd Counties, and the required program is determined by the State to be an I/M program. The State's supplemental submittal of April 23, 2010, also contains an I/M implementation schedule in the event that I/M is selected by the State as a corrective measure, as required by 40 CFR 51372(c).

As mentioned above, on July 19, 2007 (72 FR 39571), EPA concluded that Clark and Floyd Counties met the 0.08 ppm ozone air quality standard and redesignated this area to attainment for that standard. The maintenance plan for this area shows that the area will continue to attain the standard even with the discontinuation of I/M.

As noted above, the 1997 8-hour maintenance plan estimated the levels of volatile organic compounds (VOC) and oxides of nitrogen (NO_x) emissions in the area associated with attainment of the respective ozone standards, and found that emissions would remain below those quantities even with the discontinuation of I/M. Furthermore, the maintenance plan demonstrates that current emissions of VOC and NO_x, without the I/M program, are lower than emissions were in 2005, representing emissions when I/M was still operating.

EPA has also compared the expected reductions of VOC and NO_x from the I/M program with the reduction of these emissions that have resulted from the Federal Motor Vehicle Control Program and other emission control programs since the I/M program ceased operation. EPA concludes that the ongoing reductions from implementation of these programs, particularly the Tier II standards for motor vehicles,⁵ are greater than the emissions reductions that would have been achieved from the I/M program.

On March 27, 2008 (73 FR 16436), EPA revised the ozone standard to 0.075 ppm as an 8-hour average.⁶ EPA therefore examined whether discontinuation of the I/M program in Clark and Floyd Counties might interfere with attainment and maintenance of this standard. The most direct evidence regarding this issue is the most recent three years of air quality data. Since the I/M program in Clark and Floyd Counties was discontinued in 2006, the most recent three years have all reflected emissions without operation of an I/M program in Clark and Floyd Counties. All ozone monitoring sites in the Louisville area are meeting the 0.075 ppm air quality standard, with the highest design value at 0.075 ppm, observed at the Watson Elementary site in Jefferson County, Kentucky (site 21-111-0051). Ozone air quality in the 2007 to 2009 period, representing a period in which the I/M program was discontinued, attains the ozone NAAQS and is better than ozone air quality in the 2004 to 2006, representing the last three years in which the program operated. Furthermore, Indiana's ozone maintenance plan for this area shows a continuing decline in the emissions of ozone precursors.

On November 19, 2010, Indiana submitted modeling analyses that further support the conclusion that the discontinuation of the I/M program in Clark and Floyd Counties will not interfere with attainment and maintenance of the 0.075 ppm ozone standard. This submittal reviews analyses conducted by EPA and by the Lake Michigan Air Directors Consortium (LADCO), in both cases reflecting no operation of an I/M program in Clark and Floyd Counties. These analyses indicate that the Louisville area can be expected to continue to attain the 0.075 ppm ozone standard without I/M in Clark and Floyd Counties. Most notably, Indiana reviews the modeling

conducted by EPA in support of its proposed transport rule, showing that the Louisville area can be expected to continue to attain the 0.075 ppm ozone standard in 2012 not only with the discontinuation of the I/M program in Clark and Floyd Counties but also with the discontinuation of power plant emission controls mandated by the Clean Air Interstate Rule. Thus, these modeling analyses provide further evidence that the discontinuation of the I/M program in Clark and Floyd Counties will not interfere with attainment and maintenance of the 0.075 ppm ozone standard in the Louisville area.

EPA also examined whether discontinuation of the I/M program might interfere with attainment of the annual fine particulate matter (PM_{2.5}) standards. Since Indiana discontinued its I/M program at the end of 2006, the PM_{2.5} air quality from 2007 to 2009 are indicative of whether the Louisville area can be expected to attain the annual PM_{2.5} standard notwithstanding the discontinuation of Indiana's I/M program. In a separate rulemaking proceeding, published on September 14, 2010 (75 FR 55725), EPA has proposed to determine that the Louisville area is now attaining the annual PM_{2.5} standards.⁷ Furthermore, mobile source emissions affecting PM_{2.5} concentrations are continuing to decline, as a result of the Federal Motor Vehicle Control Program.⁸

EPA also examined whether cessation of the I/M program has interfered with attainment of other air quality standards. The Louisville area is designated attainment for the coarse particulate matter (PM₁₀) standard, for the 24-hour PM_{2.5} standards promulgated on July 18, 1997, and October 17, 2006, for carbon monoxide, for sulfur dioxide, and for nitrogen dioxide. EPA has no reason to believe that discontinuation of the I/M program in Clark and Floyd Counties has caused or will cause the Louisville area to become nonattainment for any of these pollutants. In addition, EPA believes that the discontinuation of the I/M program in Clark and Floyd Counties will not interfere with the area's ability to meet any other CAA requirement.

⁷ EPA received no comments on that proposal and will take final action on that determination before taking final action on Indiana's I/M shutdown request for Clark and Floyd Counties.

⁸ As noted above, the Tier II standards are further reducing emissions of new vehicles from the 2004 to the 2009 model years.

VI. What are our conclusions concerning the removal of the I/M program in Clark and Floyd Counties?

For the reasons discussed above, EPA believes that Indiana has satisfied currently applicable criteria for discontinuing I/M in Clark and Floyd Counties. We are proposing to find that the State of Indiana has demonstrated that eliminating the I/M program in Clark and Floyd Counties is consistent with the requirements of sections 110(l) and 193 of the Clean Air Act. Accordingly, we are proposing to approve Indiana's request to modify the SIP such that I/M is no longer an active program in these areas and is instead a contingency measure in this area's maintenance plan.

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 CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive 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

⁵ See 65 FR 6698 (February 10, 2000).

⁶ As noted in footnote 3 above, EPA is in the process of reconsidering this standard.

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; 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, Carbon monoxide, Intergovernmental relations, Ozone, Particulate matter, Volatile organic compounds.

Dated: December 22, 2010.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2011-343 Filed 1-11-11; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2010-1028; FRL-9251-6]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Virginia Department of Environmental Quality (VADEQ). This revision pertains to EPA's greenhouse gas (GHG) permitting provisions as promulgated on June 3, 2010. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before February 11, 2011.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2010-1028 by one of the following methods:

A. *www.regulations.gov*. Follow the online instructions for submitting comments.

B. *E-mail:* cox.kathleen@epa.gov.

C. *Mail:* EPA-R03-OAR-2010-1028, Kathleen Cox, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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-R03-OAR-2010-1028. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at 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 www.regulations.gov or e-mail. The 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 www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the 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 www.regulations.gov or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency,

Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT:

David Talley, (215) 814-2117, or by e-mail at talley.david@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. On October 27, 2010, the Virginia Department of Environmental Quality submitted a revision to its SIP for the addition of a new Chapter 85 of 9VAC5.

I. Background

On October 27, 2010, VADEQ submitted a draft revision to EPA for approval into the Virginia SIP to establish appropriate emission thresholds for determining which new or modified stationary sources become subject to Virginia's Prevention of Significant Deterioration (PSD) permitting requirements for GHG emissions. Final approval of Virginia's October 27, 2010, SIP revision will put in place the GHG emission thresholds for PSD applicability set forth in EPA's "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule," (the Tailoring Rule) Final Rule, 75 FR 31514 (June 3, 2010), ensuring that smaller GHG sources emitting less than these thresholds will not be subject to permitting requirements when these requirements begin applying to GHGs on January 2, 2011. Pursuant to section 110 of the CAA, EPA is proposing to approve this revision into the Virginia SIP.

Today's proposed action on the Virginia SIP generally relates to three federal rulemaking actions. The first rulemaking is EPA's Tailoring Rule. The second rulemaking is EPA's "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," Proposed Rule (GHG SIP Call), 75 FR 53892 (September 2, 2010). The third rulemaking is EPA's "Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan," Proposed Rule, 75 FR 53883 (September 2, 2010) (GHG FIP), which serves as a companion rulemaking to EPA's proposed GHG SIP Call. A summary of each of these rulemakings is described below.

In the first rulemaking, the Tailoring Rule, EPA established appropriate GHG