

therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered. It will be available from the District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. *Unfunded Mandates Act*. This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Pub. L. 104–4, 109 Stat. 48, 2 U.S.C. 1501 *et seq.*). We have also found under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this regulation.

#### List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334 as follows:

#### PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

**Authority:** 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Revise § 334.480 to read as follows:

#### § 334.480 Archers Creek, Ribbon Creek, and Broad River; U.S. Marine Corps Recruit Depot, Parris Island, South Carolina; danger zones.

(a) *The areas.* (1) The danger zone on Archers Creek (between the Broad River and Beaufort River), Ribbon Creek, and the Broad River shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, adjacent to the existing rifle range. This area is bounded by a line connecting the following coordinates: Commencing from the shoreline at the southernmost portion of the area, at latitude 32°19'59" N, longitude 80°42'54" W, thence to a point at latitude 32°20'05" N, longitude 80°43'16" W, thence to a point at latitude 32°21'40" N, longitude 80°44'54" W, thence to a point at latitude 32°22'20" N, longitude 80°43'52" W, thence to a point on the shoreline at latitude 32°21'34" N, longitude 80°42'48" W, thence follow the mean high water line southwesterly around Horse Island approximately 2.3 nautical miles to a point at latitude 32°21'22" N, longitude 80°42'30" W, thence to a point on the shoreline at latitude 32°20'56" N,

longitude 80°41'50" W, thence follow the mean high water line southwesterly approximately 2.2 nautical miles to terminate at the southernmost portion of the area.

(2) The danger zone on the Broad River shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, adjacent to the existing pistol range. This area is bounded by a line connecting the following coordinates: Commencing from the shoreline at the easternmost portion of the area, at latitude 32°19'36" N, longitude 80°42'34" W, thence to a point at latitude 32°19'23" N, longitude 80°42'50" W, thence to a point at latitude 32°19'06" N, longitude 80°43'31" W, thence to a point at latitude 32°19'28" N, longitude 80°43'54" W, thence to a point at latitude 32°19'59" N, longitude 80°43'28" W, thence to a point on the shoreline at latitude 32°20'10" N, longitude 80°43'10" W, and thence follow the mean high water line southeasterly approximately 0.75 nautical miles to terminate at the easternmost portion of the area.

(b) *The regulations.* (1) All persons, vessels, or other watercraft are prohibited from entering, transiting, anchoring, or drifting within the danger zones described in paragraph (a) of this section when the adjacent rifle or pistol ranges on Parris Island are in use.

(2) Firing over these ranges will normally take place between the hours of 6 a.m. and 5 p.m., Monday through Friday, and from 6 a.m. to 12 p.m. on Saturday, National holidays excepted, and at other times as designated and properly published by the Commanding General, U.S. Marine Corps Recruit Depot Parris Island.

(3) Warning signs indicating the periods when the rifle range is in use will be posted by the entrances to Archers Creek and Ribbon Creek. In addition, warning signs will be placed along the shoreline on the Broad River near the upstream and downstream boundaries of both the rifle range and the pistol range.

(4) Warning flags shall be flown from the top of the lookout tower and on the rifle range and pistol range during actual firing. In addition, a sentry lookout will be on duty during actual firing and a patrol boat will be accessible for clearing the area and warning all approaching vessels of the danger zone and the schedule of firing.

(5) During storms or similar emergencies these areas shall be opened to vessels to reach safety without undue delay for the preservation of life and property.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commanding General, U.S. Marine Corps Recruit Depot Parris Island and/or such persons or agencies as he/she may designate.

Dated: June 10, 2011.

**Michael G. Ensich,**

*Chief, Operations and Regulatory, Directorate of Civil Works.*

[FR Doc. 2011–15091 Filed 6–16–11; 8:45 am]

**BILLING CODE 3720–58–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2010–1024; FRL–9320–4]

### Approval and Promulgation of Air Quality Implementation Plans; Indiana; Prevention of Significant Deterioration Greenhouse Gas Tailoring Rule

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a draft revision to the Indiana State Implementation Plan (SIP), submitted by the Indiana Department of Environmental Management (IDEM) to EPA on December 3, 2010, for parallel processing. The proposed SIP revision modifies Indiana's Prevention of Significant Deterioration (PSD) program to establish appropriate emission thresholds for determining which new stationary sources and modification projects become subject to Indiana's PSD permitting requirements for their greenhouse gas (GHG) emissions. EPA is proposing approval of Indiana's December 3, 2010, SIP revision because the Agency has made the preliminary determination that this SIP revision is in accordance with the Clean Air Act (CAA) and EPA regulations regarding PSD permitting for GHGs.

**DATES:** Comments must be received on or before July 18, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2010–1024, by one of the following methods:

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

2. *E-mail:* [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).

3. *Fax:* (312) 692–2450.

4. *Mail:* Pamela Blakley, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: Pamela Blakley, Chief, Air Permits Section, Air Programs Branch (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-2010-1024. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. 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://](http://www.regulations.gov)

[www.regulations.gov](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 Sam Portanova, Environmental Engineer, at (312) 886-3189 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT**: Sam Portanova, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3189, [portanova.sam@epa.gov](mailto:portanova.sam@epa.gov).

**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?
- II. Indiana's Submittal for Parallel Processing
- III. What is the background for this proposed action?
- IV. What is EPA's analysis of Indiana's proposed SIP revision?
- V. What action is EPA taking?
- VI. Statutory and Executive Order Reviews

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

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. Indiana's Submittal for Parallel Processing**

On December 3, 2010, IDEM submitted a draft SIP revision request to EPA to establish appropriate emission thresholds for determining which new or modified stationary sources become subject to Indiana's PSD permitting requirements for GHG emissions. Final approval of this SIP revision request will be consistent with the provisions of EPA's Tailoring Rule,<sup>1</sup> which established appropriate GHG emission thresholds for determining the applicability of PSD requirements to GHG-emitting sources, ensuring that smaller GHG sources emitting less than these thresholds are not subject to permitting requirements. Pursuant to section 110 of the CAA, EPA is proposing to approve this revision into the Indiana SIP.

Because this draft SIP revision is not yet state-effective, Indiana requested that EPA "parallel process" the SIP revision. Under this procedure, the EPA Regional Office works closely with the state while developing new or revised regulations. Generally, the state submits a copy of the proposed regulation or other revisions to EPA before concluding its rulemaking process. EPA reviews this proposed state action and prepares a proposed rulemaking action. EPA publishes this proposed rulemaking in the **Federal Register** and solicits public comment in approximately the same timeframe during which the state finalizes its rulemaking process.

After Indiana submits the formal state-effective SIP revision request, EPA will prepare a final rulemaking action for the SIP revision. If changes are made to the SIP revision after EPA's proposed rulemaking, such changes must be acknowledged in EPA's final rulemaking action. If the changes are significant, then EPA may be obliged to repropose the action.

**III. What is the background for this proposed action?**

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

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

<sup>2</sup> "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning

### 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 this proposed action on the Indiana 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, and so 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>

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 notice 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 (Dec. 13, 2010). EPA has begun making findings of failure to submit that would apply in any state unable to submit the required SIP revision by its deadline, and finalizing 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

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 tons per year (tpy) of GHG, and that do not limit PSD applicability to GHGs to the higher thresholds in the Tailoring Rule, EPA issued the GHG 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. Indiana’s Actions

On July 23, 2010, Indiana provided a letter to EPA, in accordance with a request to all states from EPA in the Tailoring Rule, with confirmation that the state has the authority to regulate GHGs in its PSD program. The letter also confirmed that current Indiana rules require regulating GHGs at the existing 100/250 tpy threshold, rather than at the higher thresholds set in the Tailoring Rule. See the docket for this proposed rulemaking for a copy of Indiana’s letter.

In the SIP Narrowing Rule, published on December 30, 2010, EPA withdrew its approval of Indiana’s SIP, among other SIPs, to the extent that 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, Indiana’s current approved SIP provides the state with authority to regulate GHGs, but only at and above the Tailoring Rule thresholds; and Federally requires new and modified sources to receive a PSD permit based on GHG emissions only if they emit at or above the Tailoring Rule thresholds.

Indiana is currently in the process of amending its state regulations to also incorporate the Tailoring Rule thresholds, and has submitted its draft regulations to EPA for parallel processing. Indiana is seeking to revise its SIP to incorporate expected state regulatory changes adopted at the local level into the Federally-approved SIP.

Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan,” 75 FR 82246 (December 30, 2010). Because Indiana’s SIP already authorizes Indiana to regulate GHGs once GHGs become subject to PSD requirements on January 2, 2011, Indiana is not subject to the proposed 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).

Doing so will clarify the applicable thresholds in the Indiana SIP.

The basis for this SIP revision is that limiting PSD applicability to GHG sources to the higher thresholds in the Tailoring Rule is consistent with the SIP provisions that provide required assurances of adequate resources, and thereby addresses the flaw in the SIP that led to the 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 on grounds that 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 Indiana, asserted that it did have adequate resources to do so.<sup>9</sup>

In the SIP Narrowing Rule, EPA found that the affected states, including Indiana, had a flaw in their SIPs 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 Indiana, 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 to only sources at or above the Tailoring Rule thresholds.<sup>12</sup>

### IV. What is EPA’s analysis of Indiana’s proposed SIP revision?

The regulatory revisions that IDEM submitted for parallel processing on December 3, 2010, establish thresholds for determining which stationary sources and modifications become subject to permitting requirements for GHG emissions under Indiana’s PSD program. Specifically, the submittal includes changes to Indiana’s PSD

<sup>8</sup> Tailoring Rule, 75 FR 31,517/1.

<sup>9</sup> SIP Narrowing Rule, 75 FR 82,540/2.

<sup>10</sup> *Id.* at 82,542/3.

<sup>11</sup> *Id.* at 82,544/1.

<sup>12</sup> *Id.* at 82,540/2.

regulations at 326 Indiana Administrative Code (IAC) 2-2-1 and 326 IAC 2-2-4.<sup>13</sup>

Indiana is currently a SIP-approved state for the PSD program, and has incorporated EPA's 2002 NSR reform revisions (67 FR 80186) for PSD into its SIP (72 FR 33395). In a letter provided to EPA on July 23, 2010, Indiana notified EPA of its interpretation that the state currently has the authority to regulate GHGs under its 326 IAC 2-2 PSD regulations. The current Indiana program (adopted prior to the promulgation of EPA's Tailoring Rule) applies to major stationary sources (having the potential to emit at least 100 tpy or 250 tpy or more of a regulated NSR pollutant, depending on the type of source) or modifications undertaken in areas designated attainment or unclassifiable with respect to the NAAQS.

Indiana has revised 326 IAC 2-2-1 to add GHG-related language to the definitions of "regulated NSR pollutant" and "significant" and to add a new definition for "subject to regulation." We find these revisions to be consistent with the Tailoring Rule.

In 326 IAC 2-2-4, Indiana has added language that says the air quality analysis requirements of this section shall not apply with respect to GHGs. This does not affect the air quality-related requirements elsewhere in the PSD rule, including requirements for source information (326 IAC 2-2-10), additional impact analysis (326 IAC 2-2-7), or additional requirements for sources impacting Federal Class I areas (326 IAC 2-2-14). We find this revision to be approvable.

#### V. What action is EPA taking?

EPA is proposing to approve Indiana's December 3, 2010, SIP submittal, relating to PSD requirements for GHG-emitting sources in 326 IAC 2-2-1 and 326 IAC 2-2-4. Specifically, Indiana's December 3, 2010, 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 submittal is approvable because it is in accordance with the CAA and EPA regulations regarding PSD permitting for GHGs.

<sup>13</sup> Attachment A to the December 3, 2010, submittal includes revisions to 326 IAC 2-7 to add GHG provisions to Indiana's Title V regulations. However, these regulations are not part of the SIP and IDEM has not included 326 IAC 2-7 in the December 3, 2010, request for SIP approval. IDEM intends to make a separate submittal requesting approval of the 326 IAC 2-7 regulatory revisions.

If EPA does approve Indiana's changes to its air quality regulations to incorporate the appropriate thresholds for GHG permitting applicability into Indiana's SIP, then 40 CFR 52.773(k), as included in EPA's SIP Narrowing Rule, which codifies EPA's limiting its approval of Indiana's PSD SIP to not cover the applicability of PSD to GHG-emitting sources below the Tailoring Rule thresholds, is no longer necessary. In this proposed action, EPA is also proposing to amend 40 CFR 52.773 to remove this unnecessary regulatory language.

#### VI. 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 Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, and Reporting and recordkeeping requirements.

Dated: June 9, 2011.

**Susan Hedman,**

*Regional Administrator, Region 5.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Chapter I

[EPA-HQ-OPP-2010-0197; FRL-8877-9]

RIN 2070-ZA11

### Pesticides; Policies Concerning Products Containing Nanoscale Materials; Opportunity for Public Comment

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

**ACTION:** Proposed policy statement.

**SUMMARY:** EPA seeks comment on several possible approaches for obtaining information about what nanoscale materials are present in registered pesticide products. Under one approach, EPA would use section 6(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to obtain information regarding what nanoscale material is present in a registered pesticide product and its potential effects on humans or the environment. If EPA adopts this approach, 40 CFR 152.50(f)(3) would also require the inclusion of such information with any application for registration of a pesticide product that contains a nanoscale material. Under an alternative approach, EPA would obtain such information using Data Call-In notices (DCIs) under FIFRA section 3(c)(2)(B). If EPA adopts this alternate approach, EPA would also