

claim. The Agency notes that a final rule may vary from the proposal. To the extent that manufacturers have labeled their products consistent with the proposed requirements, and the final requirements differ from what the Agency proposed, manufacturers will be required to change their labels to conform to the final rule.

### III. How To Submit Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 8, 2011.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2011-20406 Filed 8-10-11; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2011-0470, FRL-9450-8]

#### Approval and Promulgation of Implementation Plans; Iowa: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the Iowa State Implementation Plan (SIP) relating to regulation of Greenhouse Gases (GHGs) under Iowa's Prevention of Significant Deterioration (PSD) program. This revision was submitted by the Iowa Department of Natural Resources (IDNR) to EPA on December 22, 2010. It is intended to align Iowa's regulations with the "PSD and Title V Greenhouse Gas Tailoring Final Rule." EPA is proposing to approve the revision because the Agency has made the preliminary determination that the SIP revision, already adopted by Iowa as a final effective rule, is in accordance with the Clean Air Act (CAA or Act) and EPA regulations regarding PSD permitting for GHGs.

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

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2011-0470, by one of the following methods:

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

2. *E-mail:* [gonzalez.larry@epa.gov](mailto:gonzalez.larry@epa.gov).

3. *Fax:* (913) 551-7844.

4. *Mail:* Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101.

5. *Hand Delivery or Courier:* Mr. Larry Gonzalez, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R07-OAR-2011-0470. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an 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 information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

*Docket:* All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the Iowa 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) 551-7047; *e-mail address:* [gonzalez.larry@epa.gov](mailto:gonzalez.larry@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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

On December 22, 2010, IDNR 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 Iowa Environmental Protection Commission. These adopted rules became effective in the Iowa Administrative Code on that date. These amendments establish thresholds for GHG emissions in Iowa's PSD and Title V regulations at the same emissions thresholds and in the same

time-frames as those specified by EPA in the “PSD and Title V Greenhouse Gas Tailoring Final Rule” (75 FR 31514), hereafter referred to as the “Tailoring Rule,” ensuring that smaller GHG sources emitting less than these thresholds will not be subject to permitting requirements for GHGs that they emit. The amendments to the SIP clarify the applicable thresholds in the Iowa SIP, address the flaw discussed in the “Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans Final Rule,” 75 FR 82536 (December 30, 2010) (the “PSD SIP Narrowing Rule”), and incorporate state rule changes adopted at the state level into the Federally-approved SIP. In today’s notice, pursuant to section 110 of the CAA, EPA is proposing to approve these revisions into the Iowa SIP.<sup>1</sup>

## II. What is the background for the PSD SIP approval proposed by EPA in today’s notice?

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

### A. GHG-Related Actions

EPA has recently undertaken a series of actions pertaining to the regulation of GHGs that, although for the most part distinct from one another, establish the overall framework for today’s proposed action on the Iowa SIP. Four of these actions include, as they are commonly called, the “Endangerment Finding” and “Cause or Contribute Finding,” which EPA issued in a single final action,<sup>3</sup> the “Johnson Memo Reconsideration,”<sup>4</sup> the “Light-Duty

Vehicle Rule,”<sup>5</sup> and the “Tailoring Rule.” Taken together and in conjunction with the CAA, these actions established regulatory requirements for GHGs emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, subjected GHGs emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis. EPA took this last action in the Tailoring Rule, which, more specifically, established appropriate GHG emission thresholds for determining the applicability of PSD requirements to GHG-emitting sources.

PSD is implemented through the SIP system. In December 2010, EPA promulgated several rules to implement the new GHG PSD SIP program. Recognizing that some states had approved SIP PSD programs that did not apply PSD to GHGs, EPA issued a SIP Call and, for some of these states, a Federal Implementation Plan (FIP).<sup>6</sup> Recognizing that other states had approved SIP PSD programs that do apply PSD to GHGs, but that do so for sources that emit as little as 100 or 250 tpy of GHG, and that do not limit PSD applicability to GHGs to the higher thresholds in the Tailoring Rule, EPA issued the PSD SIP Narrowing Rule. Under that rule, EPA withdrew its approval of the affected SIPs to the extent those SIPs covered GHG-emitting sources below the Tailoring Rule thresholds. EPA based its action primarily on the “error correction” provisions of CAA section 110(k)(6).

<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 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 Iowa’s SIP already authorizes Iowa to regulate GHGs once GHGs became subject to PSD requirements on January 2, 2011, Iowa is not subject to the SIP Call or FIP.

### B. Iowa’s Actions

On July 20, 2010, Iowa provided a letter to EPA, in accordance with a request to all states from EPA in the Tailoring Rule, with confirmation that the State of Iowa has the authority to regulate GHGs in its PSD program. The letter also confirmed Iowa’s intent to amend its air quality rules for the PSD program for GHGs to match the thresholds set in the Tailoring Rule. See the docket for this proposed rulemaking for a copy of Iowa’s letter.

In the PSD SIP Narrowing Rule, published on December 30, 2010, EPA withdrew its approval of Iowa’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, Iowa’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 proposed 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 require assurances of adequate resources, and thereby addresses the flaw in the SIP that led to the PSD SIP Narrowing Rule. Specifically, CAA section 110(a)(2)(E) includes as a requirement for SIP approval that states provide “necessary assurances that the State \* \* \* will have adequate personnel [and] funding \* \* \* to carry out such [SIP].” In the Tailoring Rule, EPA established higher thresholds for PSD applicability to GHG-emitting sources 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 Iowa, 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 Iowa, 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

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

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

<sup>1</sup> EPA intends to address Iowa’s December 22, 2010, request to approve revisions to the Title V program relating to GHGs in a subsequent rulemaking.

<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 (Apr. 2, 2010).

their SIP.<sup>10</sup> Accordingly, for each affected state, including Iowa, 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>

### III. What is EPA's analysis of Iowa's proposed SIP revision?

On December 22, 2010, IDNR submitted a revision of its regulations to EPA for processing and approval into the SIP. This SIP revision puts in place the GHG emission thresholds for PSD applicability set forth in EPA's Tailoring Rule. EPA's approval of Iowa's SIP revision will incorporate the revisions of the Iowa regulations into the Federally-approved SIP. Doing so will clarify the applicable thresholds in the Iowa SIP.

The State of Iowa's December 22, 2010, proposed SIP revision establishes thresholds for determining which stationary sources and modification projects become subject to permitting requirements for GHG emissions under Iowa's PSD program. Specifically, Iowa's December 22, 2010, proposed SIP revision includes changes—which are already effective—to Iowa's Administrative Code, revising the subrule 33.3(1) definition of “regulated New Source Review (NSR) pollutant” to specifically define the term “subject to regulation” for the PSD program, and to define “greenhouse gases (GHGs)” and “tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e).” Additionally, the amendments to subrule 33.3(1) 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.

Iowa 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 72 FR 27056 (May 14, 2007). The changes to Iowa's PSD program regulations are substantively the same as the Federal

provisions amended in EPA's Tailoring Rule. As part of its review of Iowa's submittal, EPA performed a line-by-line review of Iowa's proposed revision and has preliminarily determined that it is consistent with the Tailoring Rule.

### IV. Proposed Action

Pursuant to section 110 of the CAA, EPA is proposing to approve Iowa's December 22, 2010 revisions to the Iowa SIP, relating to PSD requirements for GHG-emitting sources. Specifically, Iowa's December 22, 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 revision is approvable because it is in accordance with the CAA and EPA regulations regarding PSD permitting for GHGs.

If EPA does approve Iowa's changes to its air quality regulations to incorporate appropriate thresholds for GHG permitting applicability into Iowa's SIP, then section 52.822(b) of 40 CFR part 52, as included in EPA's PSD SIP Narrowing Rule—which codifies EPA's limiting its approval of Iowa's PSD SIP to not cover the applicability of PSD to GHG-emitting sources below the Tailoring Rule thresholds—is no longer necessary. In today's proposed action, EPA is also proposing to amend section 52.822(b) of 40 CFR part 52 to remove this unnecessary regulatory language.

### V. Statutory and Executive Order Reviews

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

- Are not “significant regulatory actions” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and are therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011);
- Do not impose an information collection burden under the provisions

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

### List of Subjects in 40 CFR Part 52

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

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

Dated: August 3, 2011.

**Karl Brooks,**

*Regional Administrator, Region 7.*

[FR Doc. 2011–20455 Filed 8–10–11; 8:45 am]

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

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

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