

§ 52.1670 Identification of plan. (c) \* \* \*

EPA-APPROVED NEW YORK STATE REGULATIONS

New York State regulation	State effective date	Latest EPA approval date	Comments
Title 6:			
Part 217, Motor Vehicle Emissions:			
Subpart 217-1, Motor Vehicle Enhanced Inspection and Maintenance Program Requirements Until December 31, 2010.	12/5/10	2/28/12 [Insert page number where the document begins]	
Subpart 217-4, Inspection and Maintenance Program Audits Until December 31, 2010.	12/5/10	2/28/12 [Insert page number where the document begins]	
Subpart 217-6, Motor Vehicle Enhanced Inspection and Maintenance Program Requirements Beginning January 1, 2011.	12/5/10	2/28/12 [Insert page number where the document begins]	
Title 15: Part 79, "Motor Vehicle Inspection Regulations"			
Sections 79.1-79.15, 79.17, 79.20, 79.21, 79.24, 79.25 .....	12/29/10	2/28/12 [Insert page number where the document begins]	

[FR Doc. 2012-4470 Filed 2-27-12; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2010-0696-201202; FRL-9635-6]

**Approval and Promulgation of Implementation Plans; Tennessee: Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule Revision**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a revision to the State Implementation Plan (SIP), submitted by the State of Tennessee, through the Tennessee Department of Environmental Conservation (TDEC), Air Pollution Control Division, to EPA on August 30, 2010, for parallel processing. TDEC submitted the final version of this SIP revision on January 11, 2012. The SIP revision approved by today's action adopts into Tennessee's SIP rules impacting the regulation of greenhouse gases (GHGs) under Tennessee's New Source Review (NSR) Prevention of Significant Deterioration (PSD) program. Specifically, the SIP revision establishes appropriate emission thresholds for determining which new stationary sources and modification projects become subject to

Tennessee's PSD permitting requirements for GHG emissions. This rule incorporates state law changes into the federally approved SIP, and specifically clarifies the applicable thresholds in the Tennessee SIP for GHG PSD requirements. EPA is approving Tennessee's January 11, 2012, SIP revision because the Agency has made the determination that this SIP revision is in accordance with the Clean Air Act (CAA or Act) and EPA regulations, including regulations pertaining to PSD permitting for GHGs. Additionally, EPA is responding to adverse comments received on EPA's November 5, 2010, proposed approval of Tennessee's August 30, 2010, draft SIP revision.

**DATES:** *Effective Date:* This rule will be effective March 29, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2010-0696. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information 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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for further information. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the Tennessee SIP, contact Ms. Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Ms. Bradley's telephone number is (404) 562-9352; email address: [bradley.twunjala@epa.gov](mailto:bradley.twunjala@epa.gov). For information regarding the Tailoring Rule, contact Ms. Heather Abrams, Air Permits Section, at the same address above. Ms. Abrams' telephone number is (404) 562-9185; email address: [abrams.heather@epa.gov](mailto:abrams.heather@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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- I. What is the background for this final action?
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## I. What is the background for this final action?

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 today's final action on the Tennessee 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>1</sup> the "Johnson Memo Reconsideration,"<sup>2</sup> the "Light-Duty Vehicle Rule,"<sup>3</sup> and the "Tailoring Rule."<sup>4</sup> 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.

On August 30, 2010, in response to the Tailoring Rule and earlier GHG-related EPA rules, TDEC submitted a draft revision to EPA for approval into the Tennessee SIP to establish appropriate emission thresholds for determining which new or modified stationary sources become subject to Tennessee's PSD permitting requirements for GHG emissions. Subsequently, on November 5, 2010, EPA published a proposed rulemaking to approve Tennessee's August 30, 2010, SIP revision under parallel processing. See 75 FR 68265. Specifically, Tennessee's August 30, 2010, draft SIP revision includes changes to TDEC's Air Quality Regulations, Chapter 1200-03-09-.01(4)—*Construction and Operating Permits, Prevention of Significant Deterioration*. The changes to Chapter 1200-03-09-.01(4)—*Construction and Operating Permits, Prevention of Significant Deterioration* address the thresholds for GHG permitting applicability. Detailed background information and EPA's rationale for the proposed approval are provided in

<sup>1</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>2</sup> "Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs." 75 FR 17004 (April 2, 2010).

<sup>3</sup> "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule." 75 FR 25324 (May 7, 2010).

<sup>4</sup> "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule." 75 FR 31514 (June 3, 2010).

EPA's November 5, 2010, **Federal Register** notice.

On December 30, 2010, EPA published a final rule which narrowed its previous approval of PSD programs as applicable to GHG-emitting sources in SIPs for 24 states, including Tennessee.<sup>5</sup> See 75 FR 82536 (PSD Narrowing Rule). Specifically, in the PSD Narrowing Rule, EPA withdrew its previous approval of Tennessee's SIP to the extent it applied PSD to GHG-emitting sources below the thresholds in the final Tailoring Rule.

The effect of the PSD Narrowing Rule on the approved Tennessee SIP was to establish that new and modified sources are subject to PSD permitting requirements for their GHG emissions only if they emit GHGs at or above the Tailoring Rule's emission thresholds. As a result of today's action approving Tennessee's adoption of the appropriate GHG permitting thresholds into its SIP, paragraph (d) in 40 CFR 52.2222, as included in EPA's Narrowing Rule, is no longer necessary. Thus, today's action also amends 40 CFR 52.2222 to remove this unnecessary regulatory language.

EPA's November 5, 2010, proposed approval was contingent upon Tennessee providing EPA with a final SIP revision that was not changed significantly from the revision proposed for approval by EPA in the November 5, 2010, proposed rulemaking. See 75 FR 68265. Tennessee provided its final SIP revision on January 11, 2012. There are minor differences between Tennessee's draft and final SIP submittals due to changes made by TDEC in response to comments made by EPA during the public comment period.<sup>6</sup> A summary of the changes is provided below.

First, TDEC chose not to adopt a proposed revision to the definition of "significant" at rule 1200-03-09-.01(4)(b)24(ii), which would have added a cross-reference to the definition of "subject to regulation." The proposed change was not necessary to incorporate the Tailoring Rule thresholds into Tennessee's SIP, and Tennessee's existing regulatory language at rule 1200-03-09-.01(4)(b)24(ii) (which remains unchanged) is consistent with EPA's regulations. The second difference between the draft and final SIP revision was the correction of a typographical error in draft rule 1200-03-09-.01(4)(b)46(v) (changing the

<sup>5</sup> "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas-Emitting Sources in State Implementation Plans." 75 FR 82536 (December 30, 2010).

<sup>6</sup> See Tennessee's August 30, 2010, GHG draft SIP submittal cover letter Docket ID: EPA-R04-OAR-2010-0696-0002.

citation to "subpart (iv)(b)47(iv)" to "subpart (iv)"). There are no other differences between Tennessee's August 30, 2010, draft SIP revision, and the final SIP revision submitted on January 11, 2012.

## II. What is EPA's response to comments received on this action?

EPA received two sets of comments on the November 5, 2010, proposed rulemaking to approve revisions to Tennessee's SIP. One set of comments, provided by the Sierra Club, was in favor of EPA's November 5, 2010, proposed action. The other set of comments, provided by the Air Permitting Forum, raised concerns with final action on EPA's November 5, 2010, proposed action. A full set of the comments provided by both the Sierra Club and Air Permitting Forum (hereinafter referred to as "the Commenter") is provided in the docket for today's final action. The comments can be accessed at [www.regulations.gov](http://www.regulations.gov) using Docket ID No. EPA-R04-OAR-2010-0696. A summary of the adverse comments and EPA's responses are provided below.

Generally, the adverse comments fall into four categories. First, the Commenter asserts that PSD requirements cannot be triggered by GHGs. Second, the Commenter expresses concerns regarding a footnote in the November 5, 2010, proposal describing EPA's previously announced intention to narrow its prior approval of some SIPs to ensure that sources with GHG emissions that are less than the Tailoring Rule's thresholds will not be obligated under federal law to obtain PSD permits prior to a SIP revision incorporating those thresholds. The Commenter explains that the planned SIP approval narrowing action—which has now resulted in the PSD Narrowing Rule—"is illegal." Third, the Commenter states that EPA has failed to meet applicable statutory and executive order review requirements. Lastly, the Commenter states: "EPA should explicitly state in any final rule that the continued enforceability of these provisions in the Tennessee SIP is limited to the extent to which the federal requirements remain enforceable." EPA's response to these four categories of comments is provided below.

*Comment 1:* The Commenter asserts that PSD requirements cannot be triggered by GHGs. In its letter, the Commenter reiterates EPA's statement that without the Tailoring Rule thresholds, PSD will apply as of January 2, 2011, to all stationary sources that emit or have the potential to emit,

depending on the source category, either 100 or 250 tons of GHG per year. The Commenter also reiterates EPA's statement that beginning January 2, 2011, a source owner proposing to construct any new major source that emits at or above the GHG applicability levels, or modifies any existing major source that emits at or higher than the GHG applicability levels, or modify any existing major source in a way that would increase GHG emissions, would need to obtain a PSD permit that addresses these emissions before construction could begin. In raising concerns with the two aforementioned statements, the Commenter states: "[n]o area in the State of Tennessee has been designated attainment or unclassifiable for greenhouse gases (GHGs), as there is no national ambient air quality standard (NAAQS) for GHGs. Therefore, GHGs cannot trigger PSD permitting." The Commenter notes that it made this argument in detail in comments submitted to EPA on the Tailoring Rule and other related GHG rulemakings. The Commenter attached those previously submitted comments to its comments on the proposed rulemaking related to this action. Finally, the Commenter states that "EPA should immediately provide notice that it is now interpreting the Act not to require that GHGs trigger PSD and allow Tennessee to rescind that portion of its rules that would allow GHGs to trigger PSD."

*Response 1:* EPA established the requirement that PSD applies to all pollutants newly subject to regulation, including non-NAAQS pollutants such as GHGs, in earlier national rulemakings concerning the PSD program, and EPA has not re-opened that issue in this rulemaking. In an August 7, 1980, rulemaking at 45 FR 52676, 45 FR 52710–52712, and 45 FR 52735, EPA stated that a "major stationary source" was one which emitted "any air pollutant subject to regulation under the Act" at or above the specified numerical thresholds; and defined a "major modification," in general, as a physical or operational change that increased emissions of "any pollutant subject to regulation under the Act" by more than an amount that EPA variously termed as de minimis or significant. In addition, in EPA's 2002 NSR Reform rule at 67 FR 80186 and 67 FR 80240 (December 31, 2002), EPA added to the PSD regulations the new definition of "regulated NSR pollutant" (currently codified at 40 CFR 52.21(b)(50) and 40 CFR 51.166(a)(49)); noted that EPA added this term based on a request from a commenter to "clarify which pollutants are covered under the PSD

program;" and explained that in addition to criteria pollutants for which a NAAQS has been established, "[t]he PSD program applies automatically to newly regulated NSR pollutants, which would include final promulgation of an NSPS [new source performance standard] applicable to a previously unregulated pollutant. See 67 FR 80240 and 67 FR 80264. Among other things, the definition of "regulated NSR pollutant" includes "[a]ny pollutant that otherwise is subject to regulation under the Act." See 40 CFR 52.21(b)(50)(d)(iv); 40 CFR 51.166(a)(49)(iv).

EPA disagrees with the Commenter's underlying premise that PSD requirements were not triggered for GHGs when GHGs became subject to regulation as of January 2, 2011. This has been well established and discussed in connection with prior EPA actions, including the Johnson Memo Reconsideration and the Tailoring Rule. In addition, EPA's November 5, 2010, proposed rulemaking action provides the general basis for the Agency's rationale that GHGs, while not a NAAQS pollutant, can trigger PSD permitting requirements. The November 5, 2010, action also refers the reader to the preamble of the Tailoring Rule for further information on this rationale. In that rulemaking, EPA addressed at length the comment that PSD can be triggered only by pollutants subject to the NAAQS, and concluded such an interpretation of the Act would contravene Congress' unambiguous intent. See 75 FR 31560–31562. Further discussion of EPA's rationale for concluding that PSD requirements are triggered by non-NAAQS pollutants such as GHGs appears in the Tailoring Rule Response-to-Comments document ("Prevention of Significant Deterioration and Title V GHG Tailoring Rule: EPA's Response to Public Comments"), pp. 34–41; and in EPA's response to motions for a stay filed in the litigation concerning those rules ("EPA's Response to Motions for Stay," *Coalition for Responsible Regulation v. EPA*, D.C. Cir. No. 09–1322 (and consolidated cases)), at pp. 47–59, and are incorporated by reference here. These documents have been placed in the docket for today's action and can be accessed at [www.regulations.gov](http://www.regulations.gov) using Docket ID No. EPA–R04–OAR–2010–0696.

*Comment 2:* The Commenter expresses concerns regarding a footnote in which EPA describes its previously announced intention to narrow its prior approval of some SIPs. In the footnote, EPA explained that such narrowing would ensure that sources with GHG

emissions that are less than the Tailoring Rule's thresholds are not obligated under federal law to obtain PSD permits during any gap between the effective date of GHG-permitting requirements (January 2, 2011) and the date that a SIP is revised to incorporate the Tailoring Rule thresholds. The Commenter asserts that EPA's narrowing of its prior SIP approvals "is illegal." Further, the Commenter states that "EPA has not proposed to narrow Tennessee's SIP approval here and any such proposal must be explicit and address the action specifically made with respect to Tennessee. EPA cannot sidestep these important procedural requirements."

*Response 2:* While EPA disagrees with the Commenter's assertion that the narrowing approach discussed in EPA's Tailoring Rule is illegal, the narrowing approach was not the subject of EPA's November 5, 2010, proposed rulemaking to approve Tennessee's August 11, 2010, SIP revision. Rather, the narrowing approach was the subject of a separate rulemaking, which was considered and finalized in the PSD Narrowing Rule, an action separate from today's rulemaking. See 75 FR 82536 (December 30, 2010). In today's final action, EPA is acting to approve a SIP revision submitted by Tennessee, and is not otherwise narrowing its approval of prior submitted and approved provisions in the Tennessee SIP. Accordingly, the legality of the narrowing approach is not at issue in this rulemaking.

*Comment 3:* The Commenter states that EPA has failed to meet applicable statutory and executive order review requirements. Specifically, the Commenter refers to the statutory and executive orders for the Paperwork Reduction Act, the Regulatory Flexibility Act (RFA), Unfunded Mandates Reform Act, and Executive Order 13132 (Federalism). Additionally, the Commenter mentions that EPA has never analyzed the costs and benefits associated with triggering PSD for stationary sources in Tennessee, much less nationwide.

*Response 3:* EPA disagrees with the Commenter's statement that EPA has failed to meet applicable statutory and executive order review requirements. As stated in EPA's proposed approval of Tennessee's August 30, 2010, draft SIP revision, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. Accordingly, EPA approval, in-and-of-itself, does not impose any new information collection burden, as defined in 5 CFR 1320.3(b) and (c), that would require additional

review under the Paperwork Reduction Act. In addition, this SIP approval will not have a significant economic impact on a substantial number of small entities, beyond that which would be required by the state law requirements, so a regulatory flexibility analysis is not required under the RFA. Accordingly, this rule is appropriately certified under section 605(b) of the RFA. Moreover, as this action approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandates or significantly or uniquely affect small governments, such that it would be subject to the Unfunded Mandates Reform Act. Finally, this action does not have federalism implications that would make Executive Order 13132 applicable because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

In summary, today's rule is a routine approval of a SIP revision, approving state law, and does not impose any requirements beyond those imposed by state law. To the extent these comments are directed more generally to the application of the statutory and executive order reviews to the required regulation of GHGs under PSD programs, these comments are irrelevant to the approval of state law in today's action. However, EPA provided an extensive response to similar comments in promulgating the Tailoring Rule. EPA refers the Commenter to the sections in the Tailoring Rule entitled "VII. Comments on Statutory and Executive Order Reviews," 75 FR 31601–31603, and "VI. What are the economic impacts of the final rule?," 75 FR 31595–31601. EPA also notes that today's action is not itself the trigger for regulation of GHGs. To the contrary, by helping to clarify that higher PSD applicability thresholds for GHGs apply than would otherwise be in effect under the Act, this rulemaking, as well as EPA's Tailoring Rule, is part of the effort to provide relief to smaller GHG-emitting sources that would otherwise be subject to PSD permitting requirements for their GHG emissions.

*Comment 4:* The Commenter states that "[i]f EPA proceeds with this action, it must condition approval on the continued validity of its determination that PSD can be triggered by or is applicable to GHGs." Further, the Commenter remarks on the ongoing litigation in the U.S. Court of Appeals for the D.C. Circuit. Specifically, regarding EPA's determination that PSD

can be triggered by GHGs or is applicable to GHGs, the Commenter mentions that "EPA should explicitly state in any final rule that continued enforceability of these provisions in the Tennessee SIP is limited to the extent to which the federal requirements remain enforceable." The Commenter notes that if a stay is issued, these requirements should also be stayed.

*Response 4:* EPA believes that it is most appropriate to take actions that are consistent with the federal regulations that are in place at the time the action is being taken. To the extent that any changes to federal regulations related to today's action result from pending legal challenges or other actions, EPA will process appropriate SIP revisions in accordance with the procedures provided in the Act and EPA's regulations. EPA notes that in an order dated December 10, 2010, the United States Court of Appeals for the D.C. Circuit denied motions to stay EPA's regulatory actions related to GHGs. *Coalition for Responsible Regulation, Inc. v. EPA*, Nos. 09–1322, 10–1073, 10–1092 (and consolidated cases), Slip Op. at 3 (D.C. Cir. December 10, 2010) (order denying stay motions).

### III. What is the effect of this final action?

Final approval of Tennessee's January 11, 2012, SIP revision will incorporate the GHG emission thresholds for PSD applicability set forth in EPA's Tailoring Rule (75 FR 31514, June 3, 2010) and adopted as state law, confirming that smaller GHG sources emitting less than these thresholds will not be subject to PSD permitting requirements for GHGs under the approved Tennessee SIP. Pursuant to section 110 of the CAA, EPA is approving the changes made in Tennessee's January 11, 2012, final SIP revision into Tennessee's SIP.

The changes to Tennessee's SIP-approved PSD program that EPA is approving today are to Tennessee's rules which have been formatted to conform to Tennessee's SIP-approved PSD regulation 1200–03–09–.01(4)—*Construction and Operating Permits, Prevention of Significant Deterioration*, but in substantive content the rules that address the Tailoring Rule provisions are the same as the federal rules. EPA performed a line-by-line review of the proposed change to Tennessee's SIP-approved PSD regulations 1200–03–09–.01(4)—*Construction and Operating Permits, Prevention of Significant Deterioration* and has determined that the change is consistent with (and substantively the same as) the change to the federal provisions made by EPA's Tailoring Rule. Furthermore, EPA has

determined that the January 11, 2012, revision to Tennessee's SIP is consistent with section 110 of the CAA. *See, e.g., Tailoring Rule*, 75 FR 31561.

### IV. Final Action

EPA is taking final action to approve Tennessee's January 11, 2012, SIP revision which includes updates to Tennessee's air quality regulation 1200–03–09–.01(4)—*Construction and Operating Permits, Prevention of Significant Deterioration*. Specifically, Tennessee's January 11, 2012, SIP revision clarifies appropriate emissions thresholds for determining PSD applicability with respect to new or modified GHG-emitting sources in accordance with EPA's Tailoring Rule, and incorporates those thresholds in the form in which they are stated in state law. EPA has made the determination that the January 11, 2012, SIP revision is approvable because it is in accordance with the CAA and EPA regulations including regulations pertaining to PSD permitting for GHGs.

As a result of EPA's approval of Tennessee's changes to its air quality regulations to adopt the appropriate thresholds for GHG permitting applicability into Tennessee's SIP, paragraph (d) in Section 52.2222 of 40 CFR part 52, as included in EPA's Narrowing Rule, is no longer necessary. Therefore, this final action amends Section 52.2222 of 40 CFR part 52 by removing 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); 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.

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 30, 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* CAA section 307(b)(2), 42 U.S.C. 7607(b)(2).

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

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

Dated: January 27, 2012.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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 RR—Tennessee**

- 2. Section 52.2220(c) is amended under Chapter 1200-3-9 by revising the entry for “Section 1200-3-9-.01” to read as follows:

**§ 52.2220 Identification of plan.**

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(c) \* \* \*

TABLE 1—EPA-APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
<b>Chapter 1200-3-9 Construction and Operating Permits</b>				
Section 1200-3-9-.01 ...	Construction Permits ...	2/8/2011	2/28/2012 [Insert citation of publication].	EPA is approving Tennessee’s May 28, 2009 SIP revisions to Chapter 1200-3-9-.01 with the exception of the “baseline actual emissions” calculation revision found at 1200-3-9-.01(4)(b)45(i)(III), (4)(b)45(ii)(IV), (5)(b)1(xlvii)(I)(III) and (5)(b)1(xlvii)(II)(IV) of the submittal.
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**§ 52.2222 [Amended]**

- 3. Section 52.2222 is amended by removing paragraph (d).

[FR Doc. 2012-4471 Filed 2-27-12; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 70**

**[EPA-R07-OAR-2011-0995; FRL-9634-8]**

**Approval and Promulgation of Implementation Plans; State of Missouri**

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

**ACTION:** Final rule; notice of administrative change and correction.

**SUMMARY:** EPA is taking final action on administrative changes to the State Implementation Plan (SIP) and the Operating Permits Program. The first revision is an administrative change that codifies EPA’s prior approval of a SIP submission which re-numbers references to the St. Louis City Code local ordinance. The second revision is a correction which reinserts text that