



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA-R07-OAR-2019-0532; FRL-10000-21-Region 7]

Air Plan Approval; Iowa, Kansas, Missouri, Nebraska and Approval of Operating Permit Program for Iowa and Nebraska; Definition of Chemical Process Plants under State Prevention of Significant Deterioration Regulations and Operating Permit Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the State Implementation Plans (SIP) for Iowa, Kansas, Missouri and Nebraska and is also proposing to approve revisions to the Operating Permit Programs for Iowa and Nebraska. The SIP revisions incorporate changes to the definition of chemical process plants under the States' Prevention of Significant Deterioration (PSD) regulations and change the same definition in the approved State operating permit programs. Consistent with an EPA regulation completed in 2007, this action approves several States' rules that modify the definition of chemical process plant to exclude ethanol manufacturing facilities that produce ethanol by natural fermentation processes. This will clarify that the PSD major source applicability threshold in the SIPs for these ethanol

plants is 250 tons per year (tpy) (rather than 100 tpy) and removes the requirement to include fugitive emissions when determining if the source is major for PSD. In addition, this action approves changes to Iowa's and Nebraska's Title V operating permit programs that remove the requirement to include fugitive emissions when determining if a source is major for Title V. The EPA concludes that the changes to the State rules described herein are approvable because they are consistent with EPA regulations governing State PSD and Title V programs and will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171 of the Clean Air Act (CAA)), or any other applicable requirement of the CAA.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2019-0532 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking

process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7714; email address stone.william@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to EPA.

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2019-0532, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be

Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. What is Being Addressed in this Document?

The EPA is proposing to approve revisions to SIPs received by EPA from Iowa on November 15, 2007, Kansas on November 23, 2009, Missouri on December 7, 2009, and March 20, 2019, and Nebraska on August 28, 2007, and September 11, 2018. The EPA is also proposing to approve Iowa and Nebraska's Operating Permit Program revisions. These revisions conform the State rules to changes to EPA regulations reflected in the EPA's final rule entitled "Prevention of Significant Deterioration, Nonattainment New Source Review (NA NSR), and Title V: Treatment of Certain Ethanol Production Facilities Under the "Major Emitting Facility" Definition" (hereinafter referred to as the "2007

Ethanol Rule”) as published in the **Federal Register** on May 1, 2007 (72 FR 24059). The 2007 Ethanol Rule amends the PSD definition of “major stationary source” to exclude certain ethanol facilities from the “chemical process plant” source category and clarifies that the PSD major source applicability threshold for certain ethanol plants is 250 tpy (rather than 100 tpy). The 2007 Ethanol Rule also removed the requirement to include fugitive emissions when determining if the source is major for PSD and Title V permitting. On October 21, 2019, the EPA responded to a petition for reconsideration of the 2007 Ethanol Rule, and the EPA denied the petition with respect to the revisions of the PSD Regulations reflected in that rule (as described in more detail below). The EPA is now proposing to approve these SIPs and operating permits program revisions that are based on a part of the 2007 Ethanol Rule.

III. Background

A. PSD Permitting Thresholds for Chemical Processing Plants

Under the CAA, there are two potential thresholds for determining whether a source is a major emitting facility that is potentially subject to the construction permitting requirements under the PSD program; one threshold is 100 tpy per pollutant, and the other is 250 tpy per pollutant. Section 169(1) of the CAA lists twenty-eight source categories that qualify as major emitting facilities if their emissions exceed

the 100 tpy threshold. If the source does not fall within one of twenty-eight source categories listed in section 169, then the 250 tpy threshold is applicable.

One of the source categories in the list of twenty-eight source categories to which the 100 tpy threshold applies is chemical process plants. Since the Standard Industrial Classification (SIC) code for chemical process plants includes facilities primarily engaged in manufacturing ethanol fuel, the EPA and States had previously considered such facilities to be subject to the 100 tpy thresholds.

As a result of this classification, pursuant to the EPA regulations adopted under section 302(j), chemical process plants were also required to include fugitive emissions for determining the potential emissions of such sources. Thus, prior to promulgation of the 2007 Ethanol Rule, the classification of fuel and industrial ethanol facilities as chemical process plants had the effect of requiring these plants to include fugitive emissions of criteria pollutants when determining whether their emissions exceed the applicability thresholds for the PSD and non-attainment NSR permit programs.

B. Title V Permitting Thresholds for Chemical Processing Plants

The CAA also establishes requirements for determining whether sources must obtain Title V operating permits. All major

sources and sources subject to specific CAA requirements must obtain such permits. For purposes of the Title V operating permit program, a major source is defined as any source that has actual or potential emissions at or above the major source thresholds reflected in other parts of the CAA. Under the general definition of "major stationary source" in section 302(j) of the CAA, the major source threshold for any air pollutant is 100 tons/year. Under the NSR program, lower thresholds for major sources can apply in nonattainment areas depending on the pollutant and severity of the nonattainment area classification. In addition, the major source thresholds for "hazardous air pollutants" (HAP) are 10 tons/year for a single HAP or 25 tons/year for any combination of HAP. A source with emissions that exceed one of these thresholds (as applicable) is required to obtain a Title V operating permit.

Section 502 of the CAA and EPA regulations provide that sources that belong to one of twenty-eight categories listed in 40 CFR 70.2 must include fugitive emissions in determining whether they exceed the 100 tpy major source threshold for any "air pollutant." This list of twenty-eight source categories may also be included in approved state operating permit regulations.

C. Ethanol Rule

On May 1, 2007, the EPA published in the **Federal Register** the 2007 Ethanol Rule (72 FR 24060). This final rule amended the EPA's PSD and NA NSR regulations to exclude ethanol manufacturing facilities that produce ethanol by natural fermentation processes from the "chemical process plants" category under the regulatory definition of "major stationary source".

This change to the EPA's NSR regulations affected the threshold used to determine PSD applicability for these ethanol production facilities, clarifying that such facilities were subject to the 250 tpy major source threshold. The 2007 Ethanol Rule also included changes to other provisions which established that ethanol facilities need not count fugitive emissions when determining whether such a source is "major" under the Federal PSD, NA NSR, and Title V permitting programs.

D. Petitions for Review and Reconsideration of the 2007 Ethanol Rule

On July 2, 2007, the National Resources Defense Council (NRDC) petitioned the D.C. Circuit to review the 2007 Ethanol Rule. On that same day, the EPA received a petition for administrative reconsideration and request for stay of the 2007 Ethanol Rule from NRDC. On March 27, 2008, the EPA denied NRDC's 2007 administrative petition for reconsideration.

On March 2, 2009, the EPA received a second petition for reconsideration and request for stay from NRDC.

In 2009 NRDC also filed a petition for judicial review challenging the EPA's March 27, 2008, denial of NRDC's 2007 administrative petition in the D.C. Circuit. This challenge was consolidated with NRDC's challenge to the 2007 Ethanol Rule. In August of 2009, the D.C. Circuit granted a joint motion to hold the case in abeyance, and the case has remained in abeyance.

On October 21, 2019, the EPA partially granted and partially denied NRDC's 2009 administrative petition for reconsideration. Specifically, the EPA granted the request for reconsideration with regard to NRDC's claim that the Ethanol Rule did not appropriately address the CAA section 193 anti-backsliding requirements for nonattainment areas.

IV. What SIP Revisions are being Proposed by the EPA?

The EPA is proposing to approve revisions to SIPs received from Iowa on November 15, 2007; Kansas on November 23, 2009; Missouri on December 7, 2009, and March 20, 2019; and Nebraska on August 28, 2007, and September 11, 2018. These revisions adopt language that is the same or consistent with that contained in the EPA's 2007 Ethanol Rule. (72 FR 24060, May 1, 2007). The EPA is not taking action on any revisions with respect to Nonattainment New Source Review. The State regulations that EPA is proposing to approve exclude ethanol

production facilities that produce ethanol by natural fermentation from the "chemical process plants" category. The revisions thus clarify that an ethanol facility is subject to a PSD major source threshold of 250 tpy and that such sources need not count fugitive emissions to determine potential emissions that are compared to this threshold. The revisions proposed for approval in this action do not affect Nonattainment New Source Review.

The EPA is proposing to approve the following SIP revisions:

Iowa

Iowa Administrative Code 567-33.3(1) - Definitions "Major Stationary Source": "Any one of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: ...chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140)..."

Chapter 33 of the Iowa Administrative Code, which contains Iowa's PSD regulations, applies to new or modified "major stationary sources", as that term is defined in 567-33.3(1). As stated above, 567-33.3(1) was revised to exclude ethanol production facilities from the "chemical process plants" major stationary source category such that ethanol facilities emitting

less than 250 tpy of a regulated air pollutant are not subject to PSD. The State effective date of Iowa's revision to the definition of "chemical process plants" in chapter 33.3(1) is October 4, 2007.

Iowa's definition of "major stationary source" also states that "(t)he fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this rule whether it is a major stationary source, unless that source belongs to one of the categories of stationary sources listed (in the definition of "major stationary source")...". As such, fugitive emissions from ethanol facilities are not considered in determining whether the facility is subject to PSD.

Kansas

Kansas Administrative Regulations 28-19-350 - Prevention of significant deterioration (PSD) of air quality. This regulation adopts by reference 40 CFR 52.21, as revised and amended on July 1, 2011, (76 FR 43507) and October 25, 2012, (77 FR 65107 (see 77 FR 65118 - 77 FR 65119)) with exceptions.

The term "major stationary source" is defined in 40 CFR 52.21(b)(1)(i)(a) as any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included

in NAICS codes 325193 or 312140). Title 40 CFR 52.21(b)(1)(iii) excludes fugitive emissions from ethanol production facilities from the "chemical process plants" category such that fugitive emissions are not considered in determining whether the facility is subject to PSD.

The State effective date of Kansas' incorporation by reference of EPA's 2007 revision of the definition of "chemical process plants" in 40 CFR 52.21(b)(1)(i)(a) is October 23, 2009. Because Kansas has adopted 40 CFR 52.21 by reference, ethanol facilities emitting less than 250 tpy of a regulated air pollutant are not subject to PSD, and fugitive emissions from ethanol facilities are not considered in determining whether the facility is subject to PSD.

Missouri

Missouri Code of State Regulations (CSR) 10 CSR 10-6.060, Construction Permits Required. Section (8), Attainment and Unclassified Area Major Permits, has been revised to incorporate all the paragraphs of 40 CFR 52.21 by reference promulgated as of July 1, 2018, other than (a) Plan disapproval, (q) Public participation, (s) Environmental impact statements, and (u) Delegation of authority.

The term "major stationary source" is defined in 40 CFR 52.21(b)(1)(i)(a) as any of the following stationary sources

of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140). Title 40 CFR 52.21(b)(1)(iii) excludes fugitive emissions from ethanol production facilities from the "chemical process plants" category such that fugitive emissions are not considered in determining whether the facility is subject to PSD.

Because Missouri has adopted 40 CFR 52.21 by reference, ethanol facilities emitting less than 250 tpy of a regulated air pollutant are not subject to PSD, and fugitive emissions from ethanol facilities are not considered in determining whether the facility is subject to PSD.

Missouri also revised 10 CSR 10-6.060, Construction Permits Required, section 7, *Nonattainment Area Major Permits*. Section (7)(A) has been added as follows:

(A) Definitions. Solely for the purposes of this section, the following definitions apply to terms in place of definitions for which the term is defined elsewhere, including the reference to 40 CFR 52.21 in paragraph (7)(B)6. of this rule.

Section (7) (A) (1) has been added as follows:

1. Chemical process plant – These plants include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140.

Section 7(B) (6) of 10 CSR 10-6.060 excludes fugitive emissions from potential to emit calculations if the source is listed in 40 CFR 52.21(i) (1) (vii) (a) through (aa). However, Missouri's revision to section (7), by adding section (7) (A) and section (7) (A) (1), results in the inclusion of quantifiable fugitive emissions from ethanol production facilities in determining the potential to emit for nonattainment new source review permits.

Nebraska

Nebraska Title 129 - Chapter 2 - Definition of Major Source - Section 008.01: "Any of the following stationary sources which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: ...chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140)".

Chapter 19 of title 129, which contains Nebraska's PSD regulations, applies to the construction of any new "major stationary source" or the major modification of any existing

"major stationary source", as that term is defined in chapter 2, Section 008. As stated above, section 008.01 was revised, with a State effective date of February 6, 2008, to exclude ethanol production facilities from the "chemical process plants" major stationary source category such that ethanol facilities emitting less than 250 tpy of a regulated air pollutant are not subject to PSD. In addition, chapter 19, sections 005.05, 006.03, and 016.02 exclude fugitive emissions from ethanol production facilities in determining whether the facility is subject to PSD.

In addition to the revisions to chapter 2, in their submittals from November 19, 2010 and September 11, 2018, Nebraska requests for the EPA to approve changes to chapter 17, section 001.02T. These changes relate to the definition of chemical process plants under minor NSR. The EPA is not taking any action on these changes.

V. What Operating Permit Plan Revisions are being Proposed by the EPA?

The EPA is proposing to approve the following revisions to Iowa and Nebraska's Operating Permit Program (title V) which result in the exclusion of fugitive emissions title V threshold calculations for certain ethanol facilities:

Iowa

Iowa Administrative Code 567-22.100 - Definitions for Title V Operating Permits: Iowa revised the explanation of "chemical process plants" that is contained in the definition of "stationary source categories" as follows: "...(20) Chemical process plants - The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140".

Iowa's title V regulation at 567-22.101 requires any major source to obtain a title V operating permit. 567-22.100 defines "major source" as, among other things, a source that directly emits or has the potential to emit 100 tpy or more of any air pollutant subject to regulation, including fugitive emissions unless the source belongs to one of the stationary source categories listing in chapter 22. As stated above, 567-22.100 was revised to exclude ethanol production facilities from the "chemical process plants" category such that fugitive emissions are not considered in determining whether the facility is subject to title V permitting.

Nebraska

Nebraska title 129 - chapter 2 - Definition of Major Source - section 002.20 is revised as follows: "Chemical process plants - The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural

fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140”.

Nebraska’s title V regulation, title 129 chapter 5 - Operating Permits - When Required, requires any “major source” as defined in chapter 2 to apply for a Class I (major source) Operating permit. Chapter 2 section 002 defines “major source” as “...a major stationary source of air pollutants is one that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator of EPA).” The rule goes on to state that “...fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of this subsection, unless the source belongs to one of the following categories of stationary source[.]” As stated above, chapter 2, section 002.20 was revised to exclude ethanol production facilities from the “chemical process plants” category such that fugitive emissions are not considered in determining whether the facility is subject to title V permitting.

Kansas and Missouri did not submit revisions to amend their respective title V operating permit regulations and therefore EPA is not taking action to revise Kansas and Missouri’s title V Operating Permit Programs.

VI. Have the Requirements for Approval of a SIP Revision Been Met?

All of the aforementioned regulations are consistent with EPA's PSD program requirements in 40 CFR 51.166 and title V program requirements in 40 CFR part 70, as amended in the 2007 Ethanol Rule. Further, all submissions have met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102.

Iowa published a Notice of Intended Action in the Iowa Administrative Bulletin on August 1, 2007. A public hearing was held on September 5, 2007. The public comment period closed on September 6, 2007. Iowa received six sets of written comments during the public comment period. Iowa provided a response to each public comment but did not change the rule based on the comments.

Kansas published the proposed changes in the Kansas Register May 21, 2009. A public hearing was held on July 29, 2009. Kansas received three comment letters. Only one change was made to the proposed regulations based on public comments and that change was not relevant to this action.

Missouri published the proposed changes in the Missouri Register on December 31, 2008. A public hearing was held on February 3, 2009. Missouri received 15 comments and made changes to the proposed regulations that were not relevant to this

action. Missouri made additional changes to the regulations proposed to be approved by the EPA in this action that were published in the Missouri Register on August 1, 2018. Missouri received thirty-seven comments from nine sources including EPA. Missouri made some changes to the proposed regulations that are relevant to this action based on comments received during the public comment period.

Nebraska published the proposed changes in the Omaha World-Herald on July 13, 2007. A public hearing was held on August 17, 2007. Nebraska did not receive any adverse comments for the proposed changes.

The SIP submissions also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, these revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations. These revisions are also consistent with applicable EPA requirements of title V of the CAA and 40 CFR part 70.

A Technical Support Document (TSD) for each State revision, available as part of this docket, contains an analysis of the potential impact of the SIP and title V revisions on air quality and whether approval of the SIP revisions will interfere with attainment or maintenance of the NAAQS or any other CAA requirement. Existing ethanol plants are listed with information from their permits, including applicable requirements, current

PSD status, and applicable Federal rules that control emissions in lieu of PSD. The existing ethanol plants are mapped along with the ambient air monitors to demonstrate the relationship between ethanol production and air quality.

Emissions from ethanol plants are compared to other emissions data categories for four major pollutants revealing that for the major pollutants associated with ethanol production, ethanol plants make up 1 percent or less of the total anthropogenic emissions of that pollutant in all four States. EPA graphed air quality trends in each State, since the date of promulgation of the 2007 Ethanol Rule, for all criteria pollutants associated with ethanol production. The air quality trends reveal that while ethanol production increased, air quality improved for every pollutant monitored in each of the States.

The EPA also describes requirements for each State's minor source NSR program because the facilities that would be below the 250 tpy PSD major source threshold under this rulemaking will still need to obtain minor source construction permits. EPA further analyzes the impact of increasing the threshold to 250 tpy on ozone and particulate matter (PM) precursors in each State. The analysis for ozone and secondary PM demonstrates that sources of this size will not cause any interference with attainment or maintenance of the standard in these States.

Based on the EPA's analysis in each TSD, the EPA proposes to conclude that approval of this action will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171 of the CAA), or any other applicable requirement of the CAA as required under section 110(1).

VII. What Action is the EPA Taking?

The EPA is proposing to approve revisions to the Iowa, Kansas, Missouri and Nebraska SIPs and the Iowa and Nebraska Operating Permit Programs. We plan to take final action after consideration any comments received on this notice of proposed rulemaking.

The revisions to State rules that EPA proposed to approve change the definition of "major stationary source" under the States' PSD regulations and the Operating Permit Program for Iowa and Nebraska. This action would approve changes to State regulations, which make clear that the PSD applicability threshold for certain ethanol plants is 250 tpy and remove the requirement to include fugitive emissions when determining if an ethanol plant is major for PSD and, in Iowa and Nebraska, title V permitting. The EPA has determined that these revisions are consistent with EPA's PSD and title V regulations and that approval of these revisions is consistent with the requirements of CAA section 110(1) and will not adversely impact air quality.

The EPA's analysis is available in the individual State TSDs that are part of this docket. This proposed action will ensure consistency between the State and federally-approved rules and ensure Federal enforceability of the State's revised air program rules.

VIII. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the Iowa, Kansas, Missouri, and Nebraska Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IX. 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, the 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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 (Public Law 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 the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: October 29, 2019.

James Gulliford,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR parts 52 and 70 as set forth below:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart Q-Iowa

2. In §52.820, the table in paragraph (c) is amended by revising the entry "567-33.3" to read as follows:

§52.820 Identification of plan.

* * * * *

(c) * * *

EPA-Approved Iowa Regulations

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
* * * * *				
Chapter 33—Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality				
* * * * *				
567-33.3	Special Construction Permit Requirements for Major Stationary Sources in Areas Designated Attainment or Unclassified (PSD)	4/18/2018	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	Provisions of the 2010 PM _{2.5} PSD-Increments, SILs and SMCs rule, published in the Federal Register on October 20, 2010, relating to SILs and SMCs that were affected by the January 22, 2013, U.S. Court of Appeals decision are not SIP approved. Iowa's rule incorporating EPA's 2008 "fugitive emissions rule" (published in the Federal Register on December 19, 2008) is not SIP-approved.
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Subpart R-Kansas

3. In §52.870, the table in paragraph (c) is amended by revising the entry "K.A.R. 28-19-350" to read as follows:

§52.870 Identification of plan.

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(c) * * *

EPA-Approved Kansas Regulations

Kansas citation	Title	State effective date	EPA approval date	Explanation
Kansas Department of Health and Environment Ambient Air Quality Standards and Air Pollution Control				
* * * * *				
Construction Permits And Approvals				
* * * * *				
K.A.R. 28-19-350	Prevention of Significant Deterioration (PSD) of Air Quality	12/28/2012	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	Provisions of the 2010 PM _{2.5} PSD-Increments, SILs and SMCs rule relating to SILs and SMCs that were affected by the January 22, 2013, U.S. Court of Appeals decision are not SIP approved. Provisions of the 2002 NSR reform rule relating to the Clean Unit Exemption, Pollution Control Projects, and exemption from recordkeeping provisions for certain sources using the actual-to-projected-actual emissions test are not SIP approved. In addition, we have not approved Kansas rule incorporating EPA's 2008 "fugitive emissions rule" (published in the Federal Register on December 19, 2008).
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Subpart AA-MISSOURI

4. In §52.1320, the table in paragraph (c) is amended by revising the entry "10-6.060" to read as follows:

§52.1320 Identification of plan.

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(c) * * *

EPA-Approved Missouri Regulations

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6-Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10-6.060	Construction Permits Required	3/30/2019	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	<p>Provisions of the 2010 PM_{2.5} PSD - Increments, SILs and SMCs rule relating to SILs and SMCs that were affected by the January 22, 2013 U.S. Court of Appeals decision are not SIP approved.</p> <p>Provisions of the 2002 NSR reform rule relating to the Clean Unit Exemption, Pollution Control Projects, and exemption from recordkeeping provisions for certain sources using the actual-to-projected-actual emissions projections test are not SIP approved.</p> <p>In addition, we have not approved Missouri's rule incorporating EPA's 2008 "fugitive emissions rule" (published in the Federal Register on December 19, 2008).</p> <p>Although exemptions previously listed in 10 CSR 10-6.060 have been transferred to 10 CSR 10-6.061, the Federally-approved SIP continues to include the following exemption, "Livestock and livestock handling systems from which the only potential contaminant is odorous gas."</p> <p>Section 9, pertaining to hazardous air pollutants, is not SIP approved.</p>

Missouri citation	Title	State effective date	EPA approval date	Explanation
				EPA previously approved the 3/30/2016 State effective date version of 10 CSR 10-6.060, with the above exceptions, in a Federal Register document published October 11, 2016. EPA is only approving Section 7, subsection 7(A)(1), and Section 8 from the 3/30/2019 State effective date version of 10 CSR 10-6.060. All remaining revisions to the 3/30/2019 version of 10 CSR 10-6.060 are not SIP approved.
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Subpart CC-Nebraska

5. In §52.1420, the table in paragraph (c) is amended by revising the entry "129-2" to read as follows:

§52.1420 Identification of plan.

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(c) * * *

EPA-Approved Nebraska Regulations

Nebraska citation	Title	State effective date	EPA approval date	Explanation
STATE OF NEBRASKA				
Department of Environmental Quality				
Title 129-Nebraska Air Quality Regulations				
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129-2	Definition of Major Source	2/6/2008	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	
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PART 70-STATE OPERATING PERMIT PROGRAMS

6. The authority citation for part 70 continues to read as follows:

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

7. Appendix A to part 70 is amended by:

- a. Adding paragraph (u) under "Iowa".
- b. Adding paragraph (q) under "Nebraska; City of Omaha; Lincoln-Lancaster County Health Department".

The additions read as follows:

APPENDIX A TO PART 70-APPROVAL STATUS OF STATE AND LOCAL OPERATING PERMITS

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Iowa

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(u) The Iowa Department of Natural Resources submitted revisions to Iowa Chapter 22.100 "Definitions for Title V

Operating Permits” on November 15, 2007. The State revised the definition of “Stationary source categories” by revising the definition of “Chemical process plants” such that fugitive emissions from certain ethanol production facilities are not considered in determining whether the facility is subject to Title V permitting. The State effective date is October 4, 2007. The proposed revision effective date is **[date 30 days after date of publication of the final rule in the Federal Register]**.

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Nebraska; City of Omaha; Lincoln-Lancaster County Health Department

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(q) The Nebraska Department of Environmental Quality submitted revisions to the Nebraska Administrative Code, title 129, chapter 2, section 002.20 on November 19, 2010. Chapter 2, section 002.20 was revised to exclude ethanol production facilities from the definition of “chemical process plants” such that fugitive emissions are not considered in determining whether the facility is subject to Title V permitting. The State effective date is February 6, 2008. The proposed revision effective date is **[date 30 days after date of publication of the final rule in the Federal Register]**.

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[FR Doc. 2019-23979 Filed: 11/8/2019 8:45 am; Publication Date: 11/12/2019]